



NSW Health Procurement Procedures (Goods & Services)

June 2022 (Version 1.0)



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Section 1

About these Procedures

1.1 Purpose

These Procedures outline the relevant roles and responsibilities for procurement within NSW Health and provide guidance on how to procure goods and services and manage contractual arrangements with suppliers.

These Procedures are an extension of the NSW Health Procurement (Goods and Services) Policy Directive and provide further context and detail on procurement procedures at NSW Health.

These Procedures apply to all NSW Health agencies including:

- local health districts
- statutory health corporations (specialty networks and pillar organisations)
- statewide health service and shared service organisations of the Health Administration Corporation including NSW Ambulance, NSW Health Pathology, Health Protection NSW, HealthShare NSW, eHealth NSW and Health Infrastructure
- the Ministry of Health, Health Professional Councils Authority and Mental Health Review Tribunal.

1.2 Using these Procedures

1.2.1 Interpretation

These Procedures set out mandatory requirements, as well as recommended good practice procedures.

The terms **'must'** and **'must not'** mean that the requirement is mandatory.

The terms **'should'** and **'recommended'** mean, whilst not mandatory, the requirement is recommended good practice depending on the circumstances.

1.2.2 References

A reference to **'NSW Health'** is a reference to all agencies comprising NSW Health (in accordance with the non-exhaustive list in [section 1.1](#)).

References to **'you'** and **'your agency'** are used interchangeably throughout these Procedures and refer to the NSW Health agency you are conducting procurement for, or on behalf of.

These Procedures make references to **'your procurement delegate'**, **'your financial delegate'** and **'your contracting delegate'**. For more information on delegations, see [section 2.4](#). If you are unsure how these delegates fit within your agency's delegations structure, please contact the [Strategic Procurement Branch](#) for guidance.

1.2.3 Supplementary information

The following icons are used to show supplementary information:



provides a link to the [NSW Government Procurement Policy Framework](#) for more information.



provides a link to the relevant NSW Government or NSW Health policy or procedure document.



means there is an associated template to be used.



means there is an example or tip.



means an approval is required before proceeding to the next step.

All dollar values and thresholds in these Procedures are in Australian currency and are **exclusive of GST** (unless otherwise stated).

1.3 What is procurement?

'Procurement' is the process of identifying the need to purchase goods and services, selecting suppliers and contracting and placing orders. It also includes the disposal of goods that are unserviceable or no longer required.

NSW Health takes a risk-based approach to procurement. This means that the procedures to be followed are informed by the value and/or risk of the procurement, such that more detailed procedures will be required for procurements which are either high value and/or high risk.

As such, the roles and responsibilities of NSW Health agencies, stakeholders and clinical experts depend on the value and/or level of risk of the procurement.

1.4 What these Procedures do not cover

These Procedures **do not** apply to:

- grants covered by the Policy Directive *Administration of NSW Health Grant Funding for Non-Government Organisations* (PD2019_013). That policy provides detailed guidance on the differences between grants (not covered by these Procedures) and procurements (which are covered by these Procedures)
- sponsorships, which are covered by the Policy Directive *Sponsorships Policy – NSW Health* (PD2005_415)
- investments (or divestments), with further information provided in *Information Bulletin*

Financial Services and Banking Providers (IB2021_044)

- financial loans
- leases of real property (however leases of goods, including medical equipment, are covered by these Procedures). More information on leases of real property is available in the Policy Directive *Management and control of Health Administration Corporation owned Real Property* (PD2020_033) and the Policy Directive *Accommodation – Health Owned – Requests from External Organisations* (PD2009_061)
- disposals of real property, which is addressed in the Policy Directive *Real Property Disposal Framework* (PD2012_039)
- statutory appointments and the engagement of employees (however, engagements of contractors and consultants are covered by these Procedures)
- procurement of services and/or associated infrastructure through public-private partnerships. Refer to [section 8.3](#) and the [NSW Public Private Partnership Guidelines](#) for information on procurement through public-private partnerships
- procurement of construction and infrastructure projects (however the procurement of goods and services within those construction and infrastructure projects are covered by these Procedures – see [section 2.3.2](#)). [Health Infrastructure](#) maintains information on procurement of construction and infrastructure projects and can provide access to the [Health Infrastructure Knowledge Suite](#).

1.5 Affiliated health organisations

Affiliated health organisations (listed in Schedule 3 of the *Health Services Act 1997*) are non-profit, religious, charitable or other non-government organisations which provide health services and are recognised as part of the public health system, for example St Vincent's Hospital Sydney Limited.

Affiliated health organisations are not bound by the *Public Works and Procurement Act 1912* or these Procedures, but are expected to ensure they achieve value for money and conduct procurement in accordance with the objectives of effective procurement (in accordance with [section 3.1](#)).

Affiliated health organisations may:

- engage HealthShare NSW or eHealth NSW to undertake approach to market activities
- use whole-of-government contracts, prequalification schemes and procurement lists and whole-of-health contracts as eligible buyers to procure goods or services.

1.6 Commencement of these Procedures

These Procedures commence and apply to all procurement activities on and from 1 August 2022 unless an alternative transitional arrangement has been approved by the NSW Health Chief Financial Officer (approval has been provided for contract management activities of HealthShare NSW, eHealth NSW and NSW Health Pathology under [section 7](#) commencing and applying in line with agreed implementation timelines).

NSW Health agencies are encouraged to apply these Procedures at an earlier date, where practical.

1.7 Changes to these Procedures

These Procedures may be amended from time to time with approval from the NSW Health Chief Financial Officer.

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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Section 2

Procurement framework

2.1 NSW Government procurement framework

The *Public Works and Procurement Act 1912* is the overriding legal framework for procurement by NSW Government agencies. Among other things, the Act:

- establishes the NSW Procurement Board
- requires NSW Government agencies (including NSW Health agencies) to procure goods and services in accordance with:
 - any applicable policies and directions of the NSW Procurement Board
 - the terms of its accreditation (if any) by the NSW Procurement Board
 - the principles of probity and fairness.

The NSW Procurement Board is responsible for developing and implementing a government-wide strategic approach to procurement.

The core policy issued by the NSW Procurement Board is the [NSW Government Procurement Policy Framework](#). NSW Health agencies **must** comply with the mandatory parts of the NSW Framework and other NSW Procurement Board [Directions](#).

NSW Health agencies **must** also comply with all other applicable laws and government policies including:

- all relevant NSW Health policies and procedures
- all the agency's relevant policies and procedures, including delegations manuals (noting that there are usually separate financial, contracting and procurement delegations)
- all relevant NSW Premier's Memoranda and NSW Treasurer's Directions
- all relevant NSW Government policies.

2.2 NSW Health procurement framework

2.2.1 Whole-of-government procurement accreditation

The Health Administration Corporation and the Ministry of Health are accredited by the NSW Procurement Board to conduct procurement on their own behalf or on behalf of another government agency. Procurements are to be undertaken in line with approved budgets, financial and procurement delegations.

The Secretary, NSW Health has delegated this authority to the chief executives of HealthShare NSW, eHealth NSW, Health Infrastructure and to the NSW Health Chief Procurement Officer to conduct procurements of goods and services.

eHealth NSW is responsible for conducting procurement of ICT-related goods and services (excluding ICT-related goods and services part of construction and infrastructure projects which are conducted by Health Infrastructure).

HealthShare NSW is responsible for conducting procurement of all other goods and services (excluding goods and services part of construction and infrastructure projects which are conducted by Health Infrastructure).

Health Infrastructure is responsible for conducting construction and infrastructure projects in accordance with its accreditation under the Procurement Board's Accreditation Program for Construction Procurement including goods and services part of those construction and infrastructure projects.

The **Ministry of Health** is the 'system manager' for procurement within NSW Health. Among other things, it is responsible for providing strategic oversight of the procurement of goods and services.

2.3 Procurement governance

2.3.1 HealthShare NSW and eHealth NSW

Unless you are using an existing procurement arrangement (see [section 5](#)), you **must** refer procurements valued above \$250,000 to the following shared services to conduct the procurement:

- HealthShare NSW (all procurement except ICT-related procurements)
- eHealth NSW (ICT-related procurements).¹

Further requirements regarding an increased role for eHealth NSW on some or all ICT-related procurements may be made by the NSW Health Chief Procurement Officer.

Procurements valued at \$30 million or more are to be approved by the NSW Health Chief Procurement Officer and conducted by HealthShare NSW (all procurement except ICT-related procurements), eHealth NSW (ICT-related procurements) or Health Infrastructure (goods and services part of construction and infrastructure projects).

Procurements to establish or renew whole-of-government and whole-of-health contracts are to be approved by the NSW Health Chief Procurement Officer and conducted by HealthShare NSW (all procurement except ICT-related procurements) or eHealth NSW (ICT-related procurements). Approval of the Minister is also required before entering into a whole-of-government contract.

The NSW Health Chief Procurement Officer may grant exemptions to some policy or procedural requirements where there is a specific clinical or technical need or there are otherwise exceptional circumstances. Refer to [section 8.11](#) for further information.

2.3.2 Health Infrastructure

Construction and infrastructure projects often include the procurement of goods and services.

2.3.2.1 Using existing procurement arrangements

Health Infrastructure will conduct all procurement of goods and services which form part of construction and infrastructure projects. In doing so, Health Infrastructure **must** use an existing procurement arrangement (in accordance with [section 5](#)) if the existing procurement arrangement covers the goods or services required (unless Health Infrastructure is permitted to procure outside existing procurement arrangements in accordance with [section 2.3.2.2](#)).



If the Health Infrastructure procurement for goods and services is valued at \$30 million or more, you **must** obtain approval from the NSW Health Chief Procurement Officer.

2.3.2.2 Outside existing procurement arrangements

Health Infrastructure may conduct procurement of goods and services as part of construction and infrastructure projects outside an existing procurement arrangement (in accordance with [section 6](#)) if:

- the goods or services required are not covered by an existing procurement arrangement, or
- Health Infrastructure can obtain better value for money outside existing procurement arrangements (noting that value for money is to be assessed from a whole of system perspective, including by taking into account capital purchase, recurrent cost and other relevant considerations).

In procuring under this [section 2.3.2.2](#), Health Infrastructure **must**:

- engage with (but not necessarily procure through) HealthShare NSW (for all procurement except ICT-related procurements) and/or eHealth NSW (for ICT-related procurements)
- obtain approval of the Procurement Plan from the NSW Health Chief Procurement Officer (after HealthShare NSW and/or eHealth NSW endorsement of that plan) before commencing the approach to market, **and**
- obtain approval of the Evaluation Report from the NSW Health Chief Procurement Officer (after HealthShare NSW and/or eHealth NSW endorsement of that report) before awarding the contract.

¹ This does not apply to the Ministry of Health or Health Professional Councils Authority, which may conduct procurements valued at more than \$250,000 on their own behalf. This also does not apply to Health Infrastructure (refer to [section 2.3.2](#) for more information).

2.4 Agency delegations and authorisations

Each NSW Health agency's delegation framework is designed to reflect its organisational structure and provide a mechanism to assign authorities which reflect legislation and policy.

An agency's delegation framework usually provides for:

- **(financial delegate)** a financial authority to specified persons to spend the agency's money
- **(contracting delegate)** a separate authority to specified persons to sign agreements binding your agency.

This document also refers to **procurement delegates**. These persons are authorised to approve procurement activities for your agency (such as approving Procurement Plans, Evaluation Plans, Evaluation Reports and authorising the release of approach to market documentation). The role of a procurement delegate is **not** the same as the role of a contracting delegate, although they may be the same designated officer. The contracting delegate is the person who has authority to execute the contract.

2.5 Enforceable procurement provisions

2.5.1 Application

The *Public Works and Procurement Act 1912* establishes a regime for enforceable procurement provisions that arise from obligations under Australia's international trade agreements. The enforceable procurement provisions define requirements for procurements conducted by certain government agencies.

The NSW Procurement Board has given effect to the enforceable procurement provisions by issuing the *Enforceable Procurement Provisions Direction (PBD 2019-05) (EPP Direction)* under the *Public Works and Procurement Act 1912*.

Government agencies listed in Schedule 1 of the EPP Direction are required to comply with the enforceable procurement provisions when conducting covered procurements.

The Ministry of Health is the only NSW Health agency listed in Schedule 1 of the EPP Direction and therefore the only NSW Health agency required to comply with the EPP Direction (unless a NSW Health agency is conducting a covered procurement on behalf of the Ministry of Health as outlined in [section 2.5.4](#)).

2.5.2 Covered procurements

The EPP Direction applies to the procurement of goods and services on behalf of the Ministry of Health and other listed government agencies:

- if the estimated maximum value of a proposed procurement contract is, or exceeds, the relevant procurement threshold for the procurement (currently \$680,000 for goods or non-construction services)
- if no reasonable attempt at estimating the value of the procurement has been made, or
- if the value of the procurement cannot be estimated.

Except in limited circumstances (refer to clause 15 of the EPP Direction), covered procurements **must** use:

- an open approach to market
- a procurement panel established by an open approach to market, or
- a procurement list established under the board direction.

Where a covered procurement is being conducted, you **must** follow the **level 3** procurement process in these Procedures.

2.5.3 Exemptions

The EPP Direction does not apply to the procurement of goods and services listed in Schedule 2 of the EPP Direction.

Exempt procurements include the procurement of:

- health and welfare services
- blood and blood-related products, including plasma derived products
- research and development services.

Schedule 3 of the EPP Direction also exempts certain measures and preferences, allowing agencies to continue to comply with procurement-connected policies such as the *Aboriginal Procurement Policy* and the *Small and Medium Enterprise and Regional Procurement Policy*.

Exempt measures and preferences include:

- a preference to benefit small and medium enterprises
- a measure for the health, welfare, or economic and social advancement of Indigenous people
- a measure, including an environmental measure, necessary to protect human, animal or plant life or health.

The NSW Health Chief Procurement Officer cannot grant exemptions to complying with the EPP Direction for covered procurements.

2.5.4 Covered procurement conducted on behalf of the Ministry of Health

The provisions of the EPP Direction relating to the procurement **must** be complied with if another government agency or third party (including HealthShare NSW or eHealth NSW) is conducting a procurement of goods and services:

- on behalf of the Ministry of Health, or any other listed government agency
- that is valued at more than the relevant procurement threshold
- where there are no exemptions applicable to the procurement

This also applies to any whole-of-health or whole-of-government contracts established and managed by NSW Health agencies that may be used by the Ministry of Health or other agencies covered by the EPP Direction.

2.5.5 Complaints concerning enforceable procurement provisions

Contravention of an enforceable procurement provision can be the subject of a written complaint under the *Public Works and Procurement Act 1912* and potential legal proceedings in the NSW Supreme Court.



Remember that you **must** comply with requirements to notify the Ministry of Health General Counsel when a significant legal matter arises. Refer to Policy Directive *Significant Legal Matters and Management of Legal Services* (PD2017_003) for more information.

Section 3 Effective procurement, probity and fairness

3.1 Objectives of effective procurement

There are five key objectives which guide every procurement decision you make.

You can find more information on these objectives of effective procurement at buy.nsw.gov.au.

1. Value for money

Achieving 'value for money' is not the same as getting the lowest price.

This involves making a balanced assessment of financial and non-financial factors such as quality, fitness for purpose, capability, capacity and the potential benefits and risks.

Consider ways to integrate the principles of value based healthcare into the value for money assessment through outcomes-focused specifications, evaluation criteria and contractual performance measures.

You may assess value by using an equation like:

$$\text{Lifetime benefits} - \text{Total lifetime costs} = \text{Value for money}$$

2. Fair and open competition

Promoting fair and open competition often leads to better results, but it does not necessarily mean you should let go of reliable relationships.

Provide suppliers with access to the same procurement information at the same time and in a timely manner.

Taking into account prevailing market conditions can help you understand whether you can make cost-savings or whether prices are likely to increase.

3. Easy to do business

Making NSW Health an 'easy place to do business' attracts a broad supply base.

Notify the market on [NSW eTendering](#) as early as possible about upcoming opportunities to let them work through our processes and to cost their work accurately.

4. Innovation

Seeking out innovative solutions and efficiencies can lead to more cost-efficient and better value goods and services.

Engage with the market as early as possible and in an appropriate way to help foster innovative ways that goods or services can be supplied.

5. Economic development, social outcomes and sustainability

'Promoting economic development, social outcomes and sustainability' means giving all potential suppliers a fair go, while also respecting each of their interests.

Integrate sustainability principles into your procurement where possible.

First consider SMEs whenever you are permitted to directly purchase goods or services from a supplier, including from a prequalification scheme, procurement list or panel contract, for procurements valued up to \$3 million.

3.1.1 Value based healthcare

Value based healthcare means continually striving to improve the health outcomes that matter most to patients, patient and clinician experience, and service efficiency and effectiveness.

Procurement can support value based healthcare by focusing on patient outcomes and service delivery when planning and managing procurements. Outcomes-based specifications developed in consultation with clinicians and patients (to the extent possible), tied to outcomes-focused contract performance measures, can help to deliver high quality healthcare and ensure resources are allocated optimally.

For relevant procurements, for example when commissioning new or improved services, NSW Health agencies **should** consider integrating the principles of value based healthcare into the value for money assessment through outcomes-focused specifications and evaluation criteria. These in turn should flow into contract performance measures that prioritise patient and clinician feedback and outcomes.

The NSW Health website provides further information on [value based healthcare](#).

3.2 Ethical and professional conduct

3.2.1 Probity and fairness

NSW Health procurement processes are required to be fair, transparent, reasonable, ethical and to emphasise probity. They **should** be as simple as possible and clearly communicated to all relevant suppliers.

The context, contract value, risk and type of goods and services will determine the complexity of the process used for the procurement.

The following probity principles from ICAC's [Direct Negotiations: Guidelines for Managing Risks](#) **must** govern your procurement decision-making:

Fairness – treating suppliers equally and giving suppliers equal access

Impartiality – ensuring conflicts of interest are identified and managed, and that the process is free from any actual, perceived or future bias

Accountability – ensuring decisions are justified and defensible, and are in accordance with legislation and policies and procedures, such as the Policy Directive *NSW Health Code of Conduct* (PD2015_049) and standards of 'fair dealing'

Transparency – keeping complete and accurate records, providing clear and accessible information about procurement processes, and complying with government information and contract disclosure obligations while safeguarding confidential information

Value for money – considering whole-of-life costs and benefits of each procurement based on a balanced assessment of quality, cost, capability, capacity, risk, operating and maintenance costs, disposal costs or revenue, and other relevant factors.

3.2.2 NSW Health Code of Conduct



The Policy Directive *NSW Health Code of Conduct* (PD2015_049) applies to all staff and activities of NSW Health, including procurement and contract management activities, and **must** be complied with at all times.

3.2.3 NSW Health Conflicts of Interest and Gifts and Benefits



The NSW Health Policy Directive *Conflicts of Interest and Gifts and Benefits* (PD2015_045) requires that staff perform their duties in a fair and unbiased way and not make decisions which are affected by bias, self-interest or personal gain. This involves avoiding actual, potential or perceived conflicts of interest and not accepting gifts of a non-token nature.

3.2.3.1 Identifying, declaring and managing conflicts of interest

NSW Health staff are responsible for identifying and declaring conflicts of interest in accordance with the NSW Health Policy Directive *Conflicts of Interest and Gifts and Benefits* (PD2015_045).

Options to manage conflicts of interest are dependent on the type of conflict, the circumstances of the matter and an objective assessment of it.

Procurement is a higher risk area when it comes to conflicts of interest. It is for this reason confidentiality and conflict of interest undertakings are sought.



In addition to the requirements of the NSW Health Policy Directive *Conflicts of Interest and Gifts and Benefits* (PD2015_045), for **level 2** and **level 3** procurements, each person involved in the procurement process **must** complete the *Confidentiality and Conflict of Interest Undertaking* before any involvement in the procurement.

People involved in the procurement process include:

- the procurement team (e.g. staff, contractors, advisers and consultants)
- the evaluation committee members and any other committee members (e.g. steering committee members).

Declarations **must** be disclosed to the evaluation committee members and confirmed at the start of each evaluation and steering committee meeting, and updated as necessary.

Outside of scheduled meetings, declarations **must** be revisited regularly and updated if a team member becomes aware of an emerging conflict of interest.

Other than disclosures to the evaluation committee and other key participants in the evaluation process (for example, steering committee members), declarations are to be treated confidentially and filed securely with the procurement records in the agency's record management system.

Further information about conflicts of interest is available from the [Independent Commission Against Corruption](#).

3.2.3.2 Gifts and benefits from suppliers



The NSW Health Policy Directive *Conflicts of Interest and Gifts and Benefits* (PD2015_045) applies in respect of gifts and benefits from suppliers.

Offers of *any* gift (including token gifts) **must** be declared, managed and documented in your agency's gifts and benefits register (or equivalent).

Staff **must** be particularly mindful of the heightened probity risks of accepting gifts and benefits in the context of procurement and not accept any gift or benefit during a procurement.

3.2.4 Supplier Code of Conduct

The NSW Government has committed to the highest ethical standards when conducting procurement activities and expects its suppliers and their supply chains to do the same.

Suppliers to NSW Government, including suppliers to NSW Health, are expected to comply with the [Supplier Code of Conduct](#). It sets out ethical standards for suppliers and information on matters such as gifts and benefits, conflicts of interest, environmental sustainability, sponsorship, labour practices and human rights.

3.2.5 Recordkeeping and protection of confidential information

Appropriate records **must** be kept in relation to procurement planning, management and decision-making in accordance with the *State Records Act 1988*.

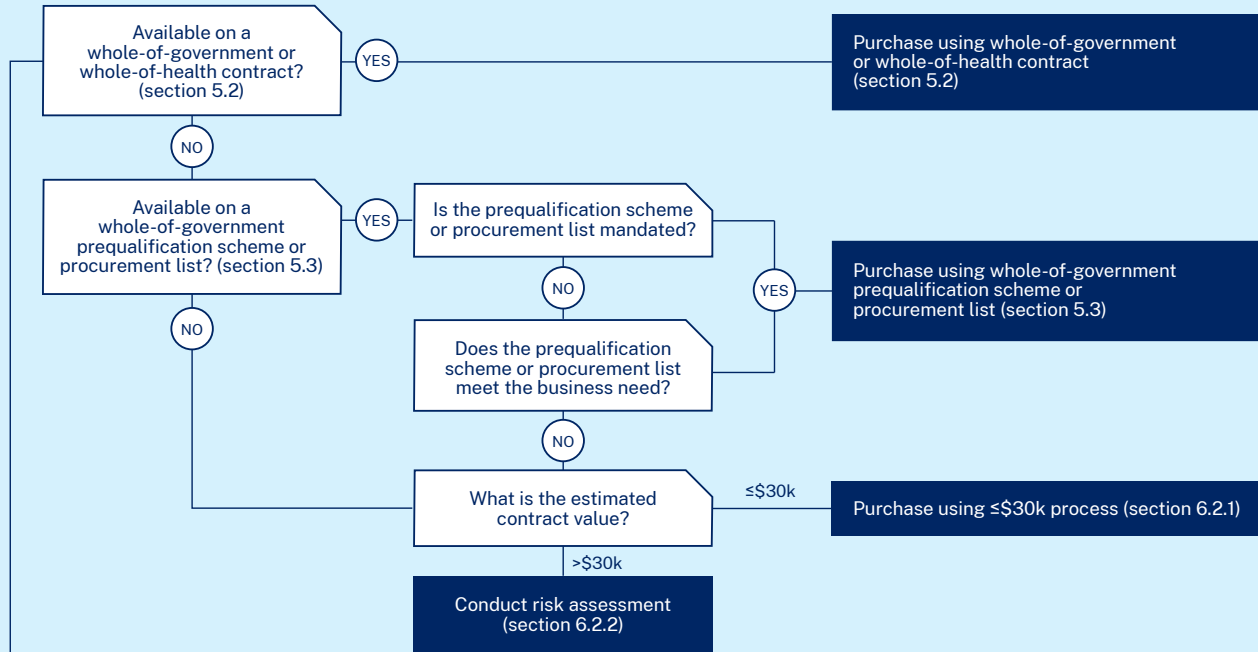
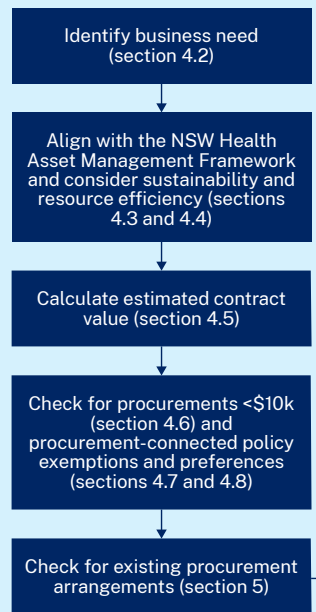
Accurate and complete procurement records are required for audit purposes, and are critical if there is a procurement complaint, a dispute with a supplier or legal action relating to a procurement process or contract.

All confidential information that is provided by suppliers, including as part of approach to market responses, **must** be treated fairly, impartially and securely.

Confidential information includes suppliers' commercially sensitive information that could compromise fair competition between suppliers. This can include 'trade secrets', pricing structures, profit margins, new ideas and strategies, non-publicly available financial information or staffing structures, intellectual property and unique ways of providing goods or services.

Confidential information **must** only be accessed by key participants in the evaluation process on a need to know basis only, and after they have completed a *Confidentiality and Conflict of Interest Undertaking*.

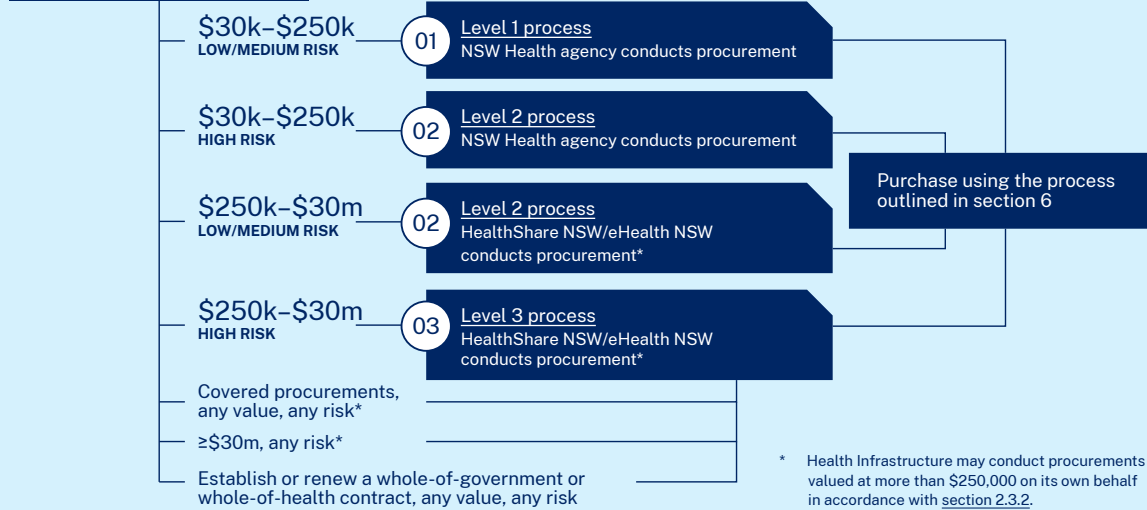
Section 4 Getting started



4.1 Flowchart for getting started

The steps outlined in the flowchart are indicative only and aimed at providing an example of steps typically undertaken at this stage of a procurement. Additional requirements apply for procurements valued at \$30 million or more, or to establish or renew a whole-of-government or whole-of health contract (refer to sections 6.2.3.3 and 6.2.3.4 for more information).

Find out more information by clicking on the tiles.



* Health Infrastructure may conduct procurements valued at more than \$250,000 on its own behalf in accordance with section 2.3.2.

4.2 Identify business need

The first step before commencing any procurement is to identify the business need for the goods or services, including present and future needs.

Some ways to do that includes:

- assessing whether the spend is required
- identifying and understanding your internal stakeholders' needs
- engaging those stakeholders to win their commitment to your procurement strategy
- brainstorming different ideas on what your agency requires from the procurement and exploring alternatives for delivering the same outcome
- determining and agreeing to the business need.

Further information and tools on identifying business needs are included at buy.nsw: <https://buy.nsw.gov.au/buyer-guidance/get-started/best-practice-procurement/plan>.

4.3 Align with the NSW Health Asset Management Framework

The *NSW Health Asset Management Framework* defines the way NSW Health manages its assets. Assets are non-financial assets, meaning their value is drawn from their physical net worth or potential market value.

Assets include, but are not limited to, land, buildings, medical equipment, vehicles, air conditioning systems, lifts, ICT hardware and other digital equipment, software, leased assets, and cultural and heritage collections. Assets can be tangible, such as medical equipment, or intangible, such as software. In procurement terms, assets are classed as 'goods', meaning they can be legally owned.

The NSW Government's *Asset Management Policy for the NSW Public Sector (TPP 19-07)* requires public sector agencies to adopt a whole-of-government and whole-of-lifecycle approach to procuring and managing assets, including maintaining an asset register and preparing a Strategic Asset Management Plan and Asset Management Plan/s.

NSW Health agencies **must** ensure that asset investments, and consequently any planned asset procurements, are based on a balance of cost, risk and performance, and align with the strategic priorities of NSW Health and the *NSW Health Asset Management Framework*.

The Policy Directive *Asset Management (PD2020_038)* requires that each NSW Health agency maintain a local Strategic Asset Management Plan and Asset Management Plan/s. These plans identify current and future asset management and investment needs, guide new asset investments and will inform asset procurement planning.

In accordance with the *NSW Health Asset Management Framework*, NSW Health agencies **must** consider whole-of-lifecycle asset management requirements, costs and benefits when developing the asset procurement strategy, assessing value for money and establishing contract management requirements.

The Policy Directive *Asset Management (PD2020_038)* provides advice on the asset management principles for NSW Health and the *Asset Management Policy for the NSW Public Sector (TPP 19-07)* provides further information on asset management requirements for government agencies.

4.4 Consider sustainability and resource efficiency

4.4.1 Sustainable procurement

The *ISO Standard 20400 Sustainable Procurement* defines sustainable procurement as 'the process of making purchasing decisions that meet an organisation's needs for goods and services in a way that benefits not only the organisation but society as a whole, while minimising its impact on the environment'.

Sustainable procurement encompasses the NSW Government's social and economic policies covered in [sections 4.7](#) and [4.8](#) along with initiatives that prioritise environmental sustainability such as those outlined from [section 4.4.2](#).

4.4.2 The NSW Government Resource Efficiency Policy



The *NSW Government Resource Efficiency Policy* requires public sector agencies to use resource-efficient technologies and services to reduce costs and support the NSW Government's sustainability goals including the *Net Zero Plan Stage 1: 2020-2030*. It sets minimum standards and targets to drive resource efficiency across the public sector.

The [NSW Government Resource Efficiency Policy](#) is the principal driver of environmentally sustainable procurement for NSW Government agencies. Mandatory energy, water efficiency and air emission standards apply to a range of goods and services commonly procured by NSW government agencies including:

- electrical appliances including whitegoods, televisions, pool pumps, commercial electrical equipment and air conditioning equipment
- ICT hardware, printers, photocopiers and DVD players
- owned or leased light vehicles, including fuel efficiency standards and a 10% target for new or leased general passenger fleet cars to be electric or hybrid vehicles. This is increasing to 30% by 2023, under the Net Zero Plan
- water using appliances
- surface coatings and other VOC emitting products such as adhesives, sealants, carpets and carpet underlays
- electricity purchases. A minimum 6% GreenPower requirement applies to electricity purchases by government agencies, **excluding** local health districts. This is implemented through the whole-of-government electricity contracts by default.

You **must** ensure relevant goods and services comply with the minimum standards set out in the [NSW Government Resource Efficiency Policy](#) when procuring these items.

The policy also requires that, where possible, you **should** purchase copy, stationery and print publication paper with post-consumer recycled content, and non-recycled paper from sustainable sources.

4.4.3 Reducing waste and using sustainable materials

4.4.3.1 Circular Economy Principles



The [NSW Circular Economy Policy Statement](#) promotes circular economy principles in procurement decisions. The circular economy is based on the following key principles:

- design out waste and pollution
- keep products and materials in use
- regenerate natural systems.

You are encouraged to consider the product lifecycle when planning a procurement, including ways you can extend the life of goods or assets, and build repurposing, recycling or sustainable disposal strategies into the product specifications.

You **should** also consider whole-of-lifecycle costs and benefits when assessing value for money, including repurposing or disposal costs or revenue, if quantifiable at the time of the procurement. This aligns with the requirement to consider asset lifecycle costs, performance and risk under the Policy Directive [Asset Management \(PD2020_038\)](#) and the [Asset Management Policy for the NSW Public Sector \(TPP 19-07\)](#).

4.4.3.2 Plastic Reduction

The [NSW Plastics Action Plan](#) identifies commitments by the NSW Government to limit the impact of harmful plastics and address the problem of plastic waste in NSW.

These commitments include phasing out certain single-use and problematic plastics. The [Plastic Reduction and Circular Economy Act 2021](#) bans the supply of lightweight plastic bags from 1 June 2022, and other single-use plastic items such as straws, food-service items (including items made from expanded polystyrene), and cotton buds from 1 November 2022.

The Act provides exceptions including for some medical applications and in certain settings for people with a disability or medical need. Further information is available from the [Department of Planning, Industry and Environment](#).

NSW Health agencies are encouraged to consider measures to minimise plastic waste and promote compliance with the [Plastic Reduction and Circular Economy Act 2021](#), such as considering ways to:

- minimise the use of single-use and non-recyclable plastics
- reduce unnecessary single-use packaging
- encourage suppliers to use, or increase the amount of, recycled content in plastic packaging and products
- encourage suppliers to use plastic that is recyclable, compostable or reusable, if it is feasible and safe to do so.

4.4.3.3 Recycled content

In conjunction with the [NSW Plastics Action Plan](#), the NSW Government's broader waste and sustainability aims are addressed in the [NSW Waste and Sustainable Materials Strategy 2041](#). An aim of the strategy is to increase government procurement of local recycled material such as plastic and rubber in indoor and outdoor furniture and soft surfaces.

The strategy commits the government to requiring that public sector agencies preference products that contain recycled content, including building materials and office fit outs and supplies, on an 'if not, why not' basis. When introduced, agencies will need to preference recycled content where there is no significant additional cost or negative impacts on performance and the environment.

While this policy change is not yet in place, NSW Health agencies may choose to consider ways to increase the use of recycled content in suitable products or packaging, in support of the government's waste mitigation strategy.

4.5 Calculate estimated contract value

4.5.1 Application

You **must** calculate a genuine, estimated contract value for the goods or services to be procured. Unless specified otherwise, the value is to be calculated exclusive of GST.

The estimated contract value is the total maximum estimated spend under the contract over the life of the contract, including any options, extensions, renewals, premiums, fees, commissions, interest and other revenue streams that might be provided for in the proposed contract.

Where the estimated contract value increases during the procurement process such that it passes a relevant procurement threshold (e.g. estimated contract value of <\$30,000 transpired to be >\$30,000), you **must** notify the NSW Health Chief Procurement Officer or your procurement delegate who may advise further steps to be taken.

4.5.2 Order 'splitting'



The [Approved Procurement Arrangements \(PBD 2021-04\)](#) provide that you **must not** 'split' your procurement to avoid reaching the next procurement threshold.

If your agency undertakes more than one procurement with the same supplier for the same goods or services within a reasonable period of time, the value of all the procurements are to be added together to calculate the estimated contract value.

4.6 Procurement valued at \$10,000 or less

The [Approved Procurement Arrangements \(PBD 2021-04\)](#) allow agencies to procure goods and services valued at \$10,000 or less directly from any supplier, regardless of whether they are available on an existing procurement arrangement.

You **must** still ensure the goods or services meet all applicable quality, safety, security and regulatory requirements and that the rates are reasonable and consistent with normal market rates.

4.7 Check for procurement-connected policy exemptions

4.7.1 Policy exemptions

Procurement-connected policies seek to support the NSW Government's policy objectives through the government's procurement activities. For example, these policies might make it easier for agencies to contract with targeted supplier types, or require agencies to include those targeted suppliers in certain types of procurement.

Procurement-connected policy exemptions may be available depending on the size or nature of your procurement or the supplier you choose.



You **must** still achieve value for money for any procurements using these exemptions. You **must** also continue to ensure procurements meet quality and security requirements and comply with applicable regulations, certifications or licences, for example inclusion on the Australian Register of Therapeutic Goods.


The types of suppliers that are covered by policy exemptions are listed in [section 4.7.2](#). To find organisations that may be covered by these exemptions, you can:


- check the [NSW Government Supplier Hub](#), as suppliers have the opportunity to identify themselves as a targeted supplier type by updating their profiles
- contact the [NSW Procurement Service Centre](#) to access verified lists of exempt suppliers such as recognised Aboriginal businesses.

4.7.2 Exempt supplier procurement types

4.7.2.1 Aboriginal businesses


For procurements valued up to \$250,000, you may purchase directly from an Aboriginal business, including where there is a whole-of-government arrangement in place, based on one quote. The Aboriginal business does not need to be a member of a prequalification scheme or procurement list to qualify.


 Refer to the [Aboriginal Procurement Policy](#) for more information.

-  When utilising this exemption, remember that you **must**:
- obtain one written quote
 - meet applicable quality, safety, security and regulatory requirements
 - obtain approval by your financial and contracting delegates.

4.7.2.2 SME and regional suppliers

You may buy directly from a small or medium enterprise or regional supplier, including where there is an existing procurement arrangement in place (see [section 5](#)), for goods and services valued at up to \$150,000.

 Refer to the [Small and Medium Enterprise and Regional Procurement Policy](#) for more information.


-  When utilising this exemption, remember that you **must**:
- obtain one written quote
 - meet applicable quality, safety, security and regulatory requirements
 - obtain approval by your financial and contracting delegates.

4.7.2.3 Australian disability enterprises

You may procure goods and services of any value from an approved Australian disability enterprise, also known as a disability employment organisation, provided that procurement objectives are met and value for money can be documented.

You are not required to use existing whole-of-government or whole-of-health contracts when buying from an approved Australian disability enterprise.


Refer to [Australian disability enterprises](#) at [buy.nsw](#) for more information.


-  When utilising this exemption, you **must**:
- obtain one written quote
 - meet applicable quality, safety, security and regulatory requirements
 - obtain approval by your financial and contracting delegates
 - for procurements valued at more than \$250,000, obtain approval by the NSW Health Chief Procurement Officer.

4.7.2.4 ICT/Digital small or medium enterprises

If your procurement is valued up to \$150,000, you may buy direct from a small or medium enterprise, regardless if the supplier is on the ICT Services Scheme (SCM0020) or a mandated contract.

If your procurement is valued between \$150,000 and \$250,000, you may buy directly from a small or medium enterprise on the ICT Services Scheme (SCM0020), regardless of whole-of-government contracts in place (except suppliers on the Telecommunications Purchasing Arrangements (Contract 2210)).

 For more information, refer to the [ICT/Digital SME Procurement Commitments](#).

 When utilising this exemption, remember that you **must**:

- obtain one written quote
- meet applicable quality, safety, security and regulatory requirements
- obtain approval by your financial and contracting delegates
- use the ICT Purchasing Framework (refer to section 6.13.8.2 and *Mandated use of ICT Purchasing Framework* (PBD 2021-02)).


4.8 Check for procurement-connected policy preferences


4.8.1 Policy preferences

In addition to the procurement-connected policy exemptions, NSW Health agencies are to consider procuring from certain suppliers for relevant procurements.

4.8.1.1 Aboriginal businesses

For procurements valued up to \$250,000 where feasible, you **should** first consider purchasing from an Aboriginal business, even when there is a prequalification scheme or whole-of-government contract in place.

 Some Aboriginal businesses are small or medium enterprises, so you could meet the requirements of the 'SME First' policy preference (refer [4.8.1.2](#) below) when providing first consideration to an Aboriginal business.


 Refer to the [Aboriginal Procurement Policy](#) for more information.

4.8.1.2 'SME First' initiative

You **must** first consider purchasing from a small or medium enterprise, for procurements valued at up to \$3 million, whenever procurement policies allow you to buy directly from one supplier.

The small or medium enterprise supplier **must** still meet all necessary evaluation criteria including value for money, quality, capability, price, regulatory and security requirements where applicable.

If there is no small or medium enterprise available, or the small or medium enterprise cannot meet the requirements of the procurement, you may then consider quotes from other suppliers.

 Refer to the [Small and Medium Enterprise and Regional Procurement Policy](#) for more information.

4.8.1.3 Social enterprises

Social enterprises are organisations that are led by an economic, social, cultural, or environmental mission consistent with a public or community benefit and is recognised by an appropriate organisation such as Social Traders.

You are encouraged to consider buying from social enterprises to support economic and social change for disadvantaged people.

Social enterprises can be small businesses, small or medium enterprises, Aboriginal businesses and Australian disability enterprises, and if so, qualify for the purchasing preferences and initiatives under their respective policies.

Section 5

Using existing procurement arrangements

5.1 What are existing procurement arrangements?

Existing procurement arrangements can help you to streamline your procurement process and award the contract quicker.

Existing procurement arrangements are:

- whole-of-government and whole-of-health contracts (see [section 5.2](#))
- whole-of-government prequalification schemes and procurement lists (see [section 5.3](#))
- agreements managed by other NSW Government or NSW Health agencies (see [section 5.4](#)).

In some instances, the NSW Procurement Board or NSW Health mandates that you use an existing procurement arrangement if it covers the goods or services you require.

Where an existing procurement arrangement is not mandated it is **recommended** that preference is given to them as:

- a capability assessment has been conducted on the supplier
- the supplier has already agreed to the standard set of terms and conditions.

Further information on NSW Government procurement arrangements can be found at buy.nsw.gov.au/buyer-guidance/plan/before-you-approach-the-market/government-arrangements.

NSW Health agencies can use existing procurement arrangements directly (regardless of value and without support from HealthShare NSW or eHealth NSW).

5.2 Whole-of-government and whole-of-health contracts

Whole-of-government and whole-of-health contracts are established for commonly used goods or services by the NSW Government or NSW Health where particular suppliers are appointed to supply defined goods and services for a set period of time. These contracts reduce risk and administrative demands by allowing you to purchase from qualified suppliers using pre-negotiated terms and conditions including price.




You **must** use whole-of-government or whole-of-health contracts for obtaining goods or services to which those contracts apply in accordance with the *Approved Procurement Arrangements (PBD 2021-04)*.

Limited exceptions and exemptions apply, including:

- where a procurement-connected policy exemption is utilised (see [section 4.7](#))
- where the goods or services are valued at \$10,000 or less (see [section 4.6](#))
- to the extent of any inconsistency with a decision of Cabinet or any Cabinet Standing Committee (see [section 8.4](#))
- where the NSW Health Chief Procurement Officer has approved an exemption (see [section 8.11](#)).

The list of [whole-of-government contracts](#) is available at [buy.nsw](#), and the list of [whole-of-health contracts](#) on the [Procurement Portal](#) (access restricted to NSW Health).

 When using a whole-of-government or whole-of-health contract, follow the purchasing procedures that apply to those contracts, if specified. In all other cases, you may purchase directly from the contracted supplier in accordance with the price, terms and conditions of the contract.


5.3 Whole-of-government prequalification schemes and procurement lists

5.3.1 About prequalification schemes and procurement lists

Prequalification schemes and procurement lists assist agencies to find suppliers who are prequalified to work with government. Prequalification schemes can cover an extensive range of goods and services, and so may be broken down into specific categories or capabilities.

For each prequalification scheme and procurement list, guidelines and rules have been established to manage the respective risks. Where risk increases, so does the level of supplier assessment and the requirements of the procurement process.

While suppliers must meet minimum requirements to join the prequalification schemes and procurement lists, pricing is not assessed. You **must** consider value for money when engaging a supplier through a prequalification scheme or procurement list.

 'Prequalification schemes' containing categories of goods or services covered by the *Enforceable Procurement Provisions Direction (PBD 2019-05)* have now been converted to procurement lists that comply with the requirements of the direction.

5.3.2 When to use prequalification schemes or procurement lists

 NSW Health agencies **must** use the whole-of-government prequalification schemes or procurement lists mandated by the NSW Procurement Board in the *Approved Procurement Arrangements (PBD 2021-04)* for obtaining goods or services to which those prequalification schemes or procurement lists apply. Limited exceptions and exemptions apply.

You can find the list of [whole-of-government prequalification schemes and procurement lists](#) at [buy.nsw](#).


5.3.3 Minimum levels of competition

'Minimum levels of competition' means the minimum number of quotes required when conducting procurements of defined values as specified by the rules of the prequalification scheme or procurement list.

When using a whole-of-government prequalification scheme or procurement list, comply with the specified rules and procedures including minimum levels of competition.

Where the minimum levels of competition are not stated in the prequalification scheme or procurement list, you **must** ensure you achieve value for money, including taking the following steps:

- for goods or services valued at \$10,000 or less, no written quote is required
- for goods or services valued more than \$10,000 and less than or equal to \$250,000, at least one written quote **must** be obtained
- for goods or services valued at more than \$250,000, at least three written quotes **must** be obtained.

 A summary of the minimum levels of competition for whole-of-government prequalification schemes and procurement lists is available on the [Procurement Portal](#).

5.3.4 Performance and Management Services Scheme

The Performance and Management Services Scheme (SCM0005) is the default arrangement for the engagement of non-ICT professional services, including consulting services, project management, audit and procurement services.

The scheme aims to:

- streamline the competitive tendering process by prequalifying suppliers with demonstrated track records in the provision of certain performance and management services
- enhance probity standards and quality assurance by allowing for third party assessment of suppliers.

The Procurement Board has not mandated the scheme for whole-of-government use, however it is **recommended** that NSW Health agencies use the scheme to engage professional services providers. It provides a comprehensive list of prequalified suppliers, including all major consultancy and accounting firms, and can significantly streamline the procurement process for professional services engagements, such as for probity services.

5.3.4.1 Standard commercial framework

The NSW Government has introduced the standard commercial framework for the Performance and Management Services Scheme (SCM0005). The framework aims to deliver better commercial outcomes, including cost savings for buyers when engaging professional service providers. Suppliers are asked to accept the standard commercial framework when joining the scheme.

The standard commercial framework applies to 13 of the 15 engagement types under the scheme. For the engagement types where the standard commercial framework applies and the supplier has accepted the standard commercial framework, you **must** take the following steps:

- for engagements valued up to or equal to \$250,000, obtain one written quote, or
- for engagements valued at more than \$250,000, obtain at least three written quotes.

For the engagement types where the framework applies, but the supplier has not accepted the standard commercial framework, or for engagements that do not comply with any element of the framework, you **must** take the following steps:

- for engagements valued up to or equal to \$250,000, obtain one written quote, or
- for engagements valued at more than \$250,000, obtain at least three written quotes, **and**
- for engagements of any value, obtain approval from the Secretary, NSW Health to engage the supplier before awarding the contract.

NSW Health agencies **must** keep records of all engagements that do not comply with any element of the standard commercial framework.

Standard NSW Health agency financial and procurement approval processes **must** also be followed when using the standard commercial framework.



The standard commercial framework requirements for the Performance and Management Services Scheme (SCM0005), and a list of suppliers that have not accepted the Standard Commercial Framework, are provided in *Engagement of professional services suppliers* (PBD 2021-03).

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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5.3.5 ICT Services Scheme

The ICT Services Scheme (SCM0020) offers a list of suppliers prequalified to provide a range of ICT-related goods and services.

The NSW Procurement Board has mandated that NSW Government agencies use the ICT Services Scheme for all applicable procurements in the Approved Procurement Arrangements (PBD 2021-04). However, if a whole-of-government contract for supply of specific ICT goods or services exists (for example, Microsoft, Oracle or end-user devices) then ICT buyers must use those whole-of-government arrangements in accordance with the Approved Procurement Arrangements (PBD 2021-04).

The ICT Services Scheme (SCM0020) provides an extensive list of prequalified suppliers across 18 categories of ICT goods and services. It encompasses software, hardware, cloud services, telecommunications services and equipment, and ICT professional services, amongst other categories.

5.3.5.1 Approved procurement arrangements

The approved procurement arrangements for the ICT Services Scheme (SCM0020) are listed in the Approved procurement arrangements for the ICT Services Scheme (PBD 2020-05).

Except as specified below for telecommunications and ICT consulting, you must take the following steps when engaging suppliers using the ICT Services Scheme:

- for procurements valued up to or equal to \$250,000, obtain one written quote, or
for procurements valued at more than \$250,000, obtain at least three written quotes.

In both cases where the supplier has accepted the framework, NSW Health agencies must use the ICT Purchasing Framework contract templates.

The ICT Purchasing Framework comprises the:

- Core& contracts for use with low risk ICT procurements value at \$1 million or less
MICTA/ICTA contracting framework for use with high risk ICT procurements and ICT procurements valued at more than \$1 million.

For more information on the contracting framework, refer to the Mandated use of ICT Purchasing Framework (PBD 2021-02).

Guidelines on assessing risk in ICT/ Digital sourcing and an ICT risk assessment toolkit are provided in the ICT Services Scheme (SCM0020).

5.3.5.2 Compliance with the Enforceable Procurement Provisions Direction

Additional requirements apply for procurements under the ICT Services Scheme by agencies covered by the Enforceable Procurement Provisions Direction (PBD 2019-05). The Ministry of Health is currently the only NSW Health agency that is covered by the direction.

For procurements by or for the Ministry of Health, and valued at \$680,000 or more, you must:

- obtain at least three written quotes
provide justification in the approach to market documentation for limiting the number of suppliers invited to provide quotes, in line with section 14.1 of the ICT Services Scheme Rules
ensure the suppliers invited to quote are selected in compliance with section 14.2 of the ICT Services Scheme Rules.

5.3.5.3 ICT consulting commercial framework

The ICT Services Scheme (SCM0020) includes an ICT consulting commercial framework which applies to ICT consulting engagements.

For engagements that comply with the ICT consulting commercial framework, follow the standard process for engagements under the ICT Services Scheme (refer to [section 5.3.5.1](#)).

Where engagements do not comply with the ICT consulting commercial framework, or the supplier has not accepted the framework, you **must**:

- obtain at least three written quotes
- obtain approval from the Secretary, NSW Health or Chief Financial Officer. In obtaining approval, you **must** outline why the work cannot be undertaken under the ICT consulting commercial framework.

5.3.5.4 Procurement of telecommunications

The requirements for telecommunications procurement are provided in *Telecommunications Procurement* (PBD-2019-02).

Telecommunications goods and services valued up to or equal to \$100,000 may be purchased using the ICT Services Scheme by obtaining one quote.

Telecommunications goods and services valued at more than \$100,000 **must** be purchased using the Telecommunications Purchasing Arrangements ([Contract 2210](#)). You **must**, when purchasing using this contract:

- purchase the lowest price offer, **or**
- obtain at least three quotes and conduct a value for money assessment.

5.3.5.5 Obtain ICT procurement advice

Due to the complex and technical nature of the ICT Services Scheme (SCM0020), it is **recommended** that first-time or occasional buyers obtain support from their NSW Health agency procurement team and/or the ICT Procurement team in eHealth NSW.

It is also important to consider security risks when purchasing ICT goods or services, particularly cloud services, software, networked equipment, equipment that uses firmware, and any other 'as a service' categories. Completing a [Supplier Security Assessment Questionnaire](#) can help you assess these risks.

However, it is **recommended** that, for relevant ICT procurements, you obtain advice on ICT security risks from your NSW Health agency's ICT or procurement teams, or from eHealth NSW, before engaging a new supplier.

5.4 Procurement arrangements managed by other NSW Government agencies

Other NSW Government agencies may maintain their own prequalification schemes, procurement lists and panel contracts.

NSW Health agencies may be able to purchase from these procurement arrangements using piggyback provisions.

You can view the list of NSW Government [agency contracts](#) at [buy.nsw](#) or on the contract registers on [NSW eTendering](#). NSW Government [agency schemes](#) are listed at [buy.nsw](#).

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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Section 6

Outside existing procurement arrangements

6.1 Approach to market

For procurements where there is no existing procurement arrangement available (such as a whole-of-government or whole-of-health contract, whole-of-government prequalification scheme or procurement list or procurement-connected policy exemption), you will need to approach the market in accordance with this [section 6](#).

The steps that you will need to follow when approaching the market depend on the value and/or the risk profile of the procurement.

6.2 Step to commence procurements and identify responsible agency

6.2.1 Steps to commence procurements valued at \$30,000 or less

For procurements valued at \$30,000 or less, you **must** undertake the following steps:

For goods or services valued at \$5,000 or less:

- no written quote is required
- use a PCard (if permitted by your agency).

For goods or services valued at less than \$10,000, no written quote is required.

For goods or services valued between \$10,000 and \$30,000 (inclusive), one written quote is required.

You **must** meet applicable quality, safety, security and regulatory requirements. You are to check for any additional local arrangements, including obtaining approval by the relevant persons if required by your agency.

In this [section 6](#), you are only required to comply with [sections 6.1](#) and [6.2.1](#) for procurements valued at \$30,000 or less. The remainder of this [section 6](#) does not apply.

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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6.2.2 Steps to commence procurements valued at more than \$30,000

For procurements valued at more than \$30,000, you **must** complete the Risk Assessment Tool to determine your procurement level (level 1, level 2 and level 3).

The Risk Assessment Tool uses the value and level of risk of the procurement to determine a procurement level as follows:

Procurement level	Value and risk
Level 1	<ul style="list-style-type: none"> valued between \$30,000 and \$250,000 assessed as low or medium risk.
Level 2	<ul style="list-style-type: none"> valued between \$30,000 and \$250,000 assessed as high risk. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> valued between \$250,000 and \$30 million assessed as low or medium risk.
Level 3	<ul style="list-style-type: none"> valued between \$250,000 and \$30 million assessed as high risk. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> valued at more than \$30 million assessed as low, medium or high risk. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> is any value, any risk and for establishing or renewing a whole-of-government or whole-of-health contract and/or covered procurement.

6.2.3 Identify responsible NSW Health agency

You need to identify which NSW Health agency is responsible for undertaking the procurement activities.



Remember, the NSW Health agency responsible for undertaking the procurement may be different from the agency which ultimately executes and enters into a contract with the supplier. For more information on delegations, see [section 2.4](#).

6.2.3.1 Procurements valued at \$250,000 or less

NSW Health agencies are responsible for conducting their own procurements valued at \$250,000 or less.

The NSW Health agency conducting the procurement is responsible for ensuring that appropriate governance structures are in place.

6.2.3.2 Procurements valued at more than \$250,000

Procurements outside of existing procurement arrangements that are valued at more than \$250,000 **must** be referred to HealthShare NSW or eHealth NSW to conduct the procurement.

The Ministry of Health may conduct procurements valued at more than \$250,000 on its own behalf, in consultation with the Strategic Procurement Branch. The Health Professional Councils Authority also may conduct procurements valued at more than \$250,000 on its own behalf. Health Infrastructure may conduct procurements valued at more than \$250,000 on its own behalf in accordance with [section 2.3.2](#).

NSW Health agencies **should** inform HealthShare NSW or eHealth NSW that they are intending to commence a procurement project valued at more than \$250,000 before starting the planning stage.

6.2.3.3 Procurements valued at \$30 million or more



In addition to the requirements for procurements valued at more than \$250,000, the following additional requirements apply to procurements valued at \$30 million or more:

- NSW Health agencies, including HealthShare NSW and eHealth NSW **must** consult with the Ministry of Health in the early procurement planning stages
- the NSW Health Chief Procurement Officer **must** approve the:
 - Procurement Plan
 - Evaluation Report.

6.2.3.4 Procurements to establish or renew a whole-of-government or whole-of-health contract

Procurements to establish or renew a whole-of-government or whole-of-health contract are conducted by HealthShare NSW or eHealth NSW. These procurements **must** follow the process for **level 3** procurements detailed in this [section 6](#).



When establishing or renewing a whole-of-government or whole-of-health contract, HealthShare NSW or eHealth NSW:

- **must** consult with the Ministry of Health in the early stages of procurement planning
- **must** obtain the approval of the NSW Health Chief Procurement Officer for the:
 - Procurement Plan
 - Evaluation Report.

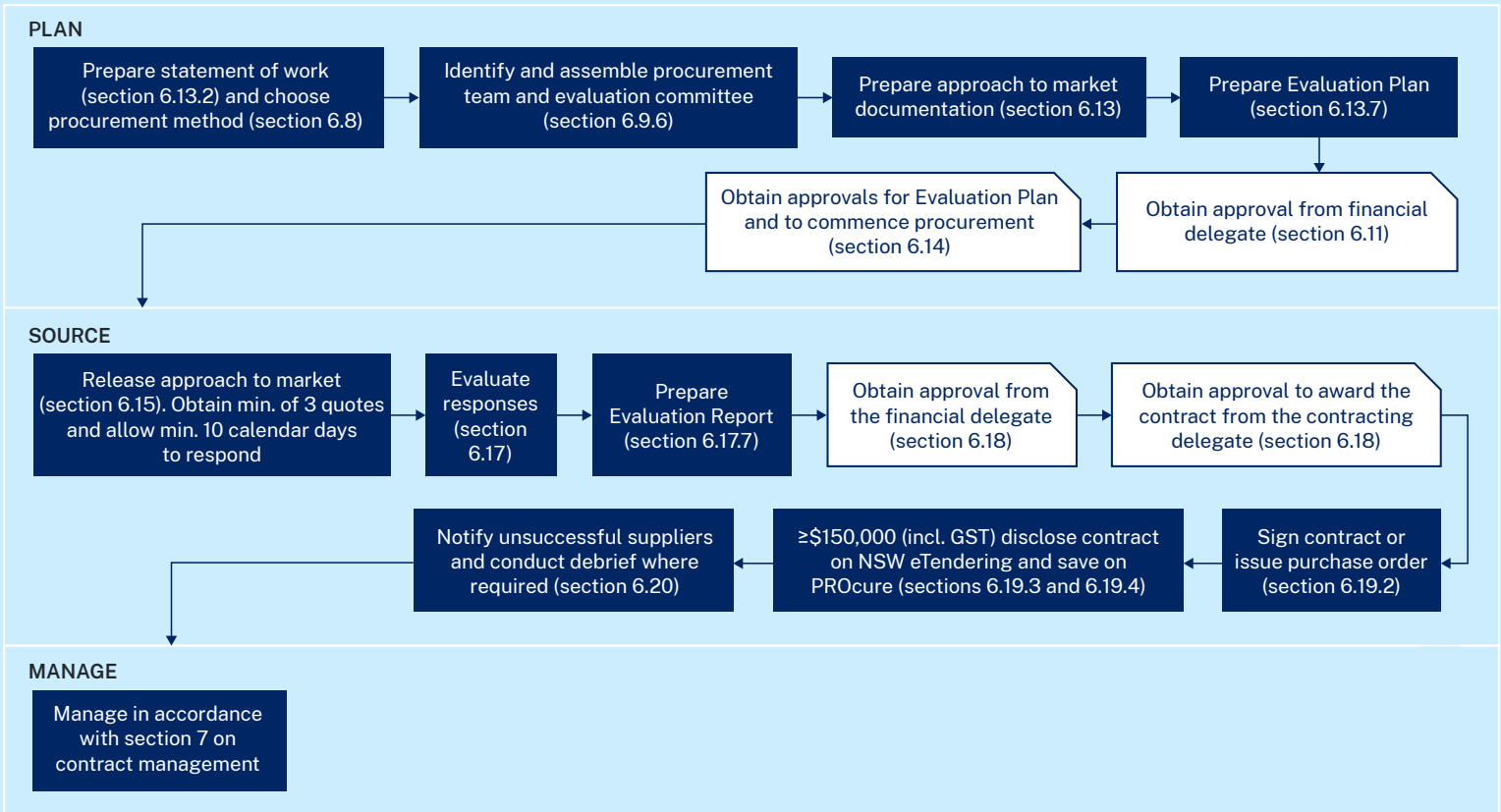
Approval of the Minister is also required before entering into a whole-of-government contract (see [section 8.4.2](#)).

HealthShare NSW and eHealth NSW **must** ensure the procurement process used to establish or renew whole-of-government contracts complies with the *Enforceable Procurement Provisions Direction (PBD 2019-05)* (unless an exemption outlined in Schedule 2 of the *Enforceable Procurement Provisions Direction (PBD 2019-05)* applies).

6.3 Flowchart for level 1 procurements

The steps outlined in the flowchart below are indicative only and aimed at providing an example of steps typically undertaken at this stage of a **level 1** procurement.

\$30k-\$250k
LOW/MEDIUM RISK



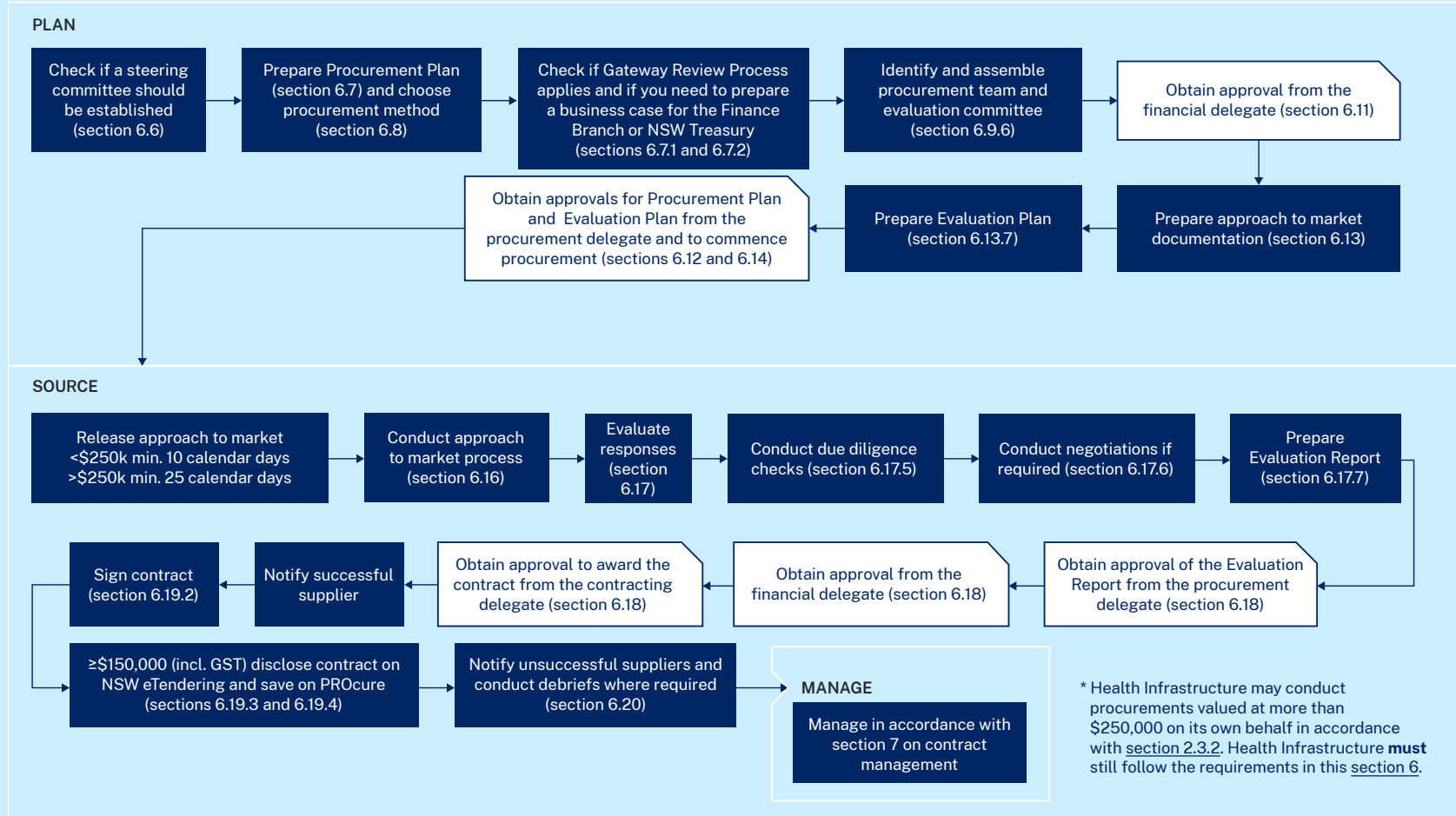
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6.4 Flowchart for level 2 procurements

The steps outlined in the flowchart below are indicative only and aimed at providing an example of steps typically undertaken at this stage of a **level 2** procurement.

\$30k–\$250k | **\$250k–\$30m**
 HIGH RISK | LOW/MED RISK

Unless you are using an existing procurement arrangement:
 <\$250k – NSW Health agency conducts procurement
 >\$250k – HealthShare NSW or eHealth NSW (ICT) conducts procurement*



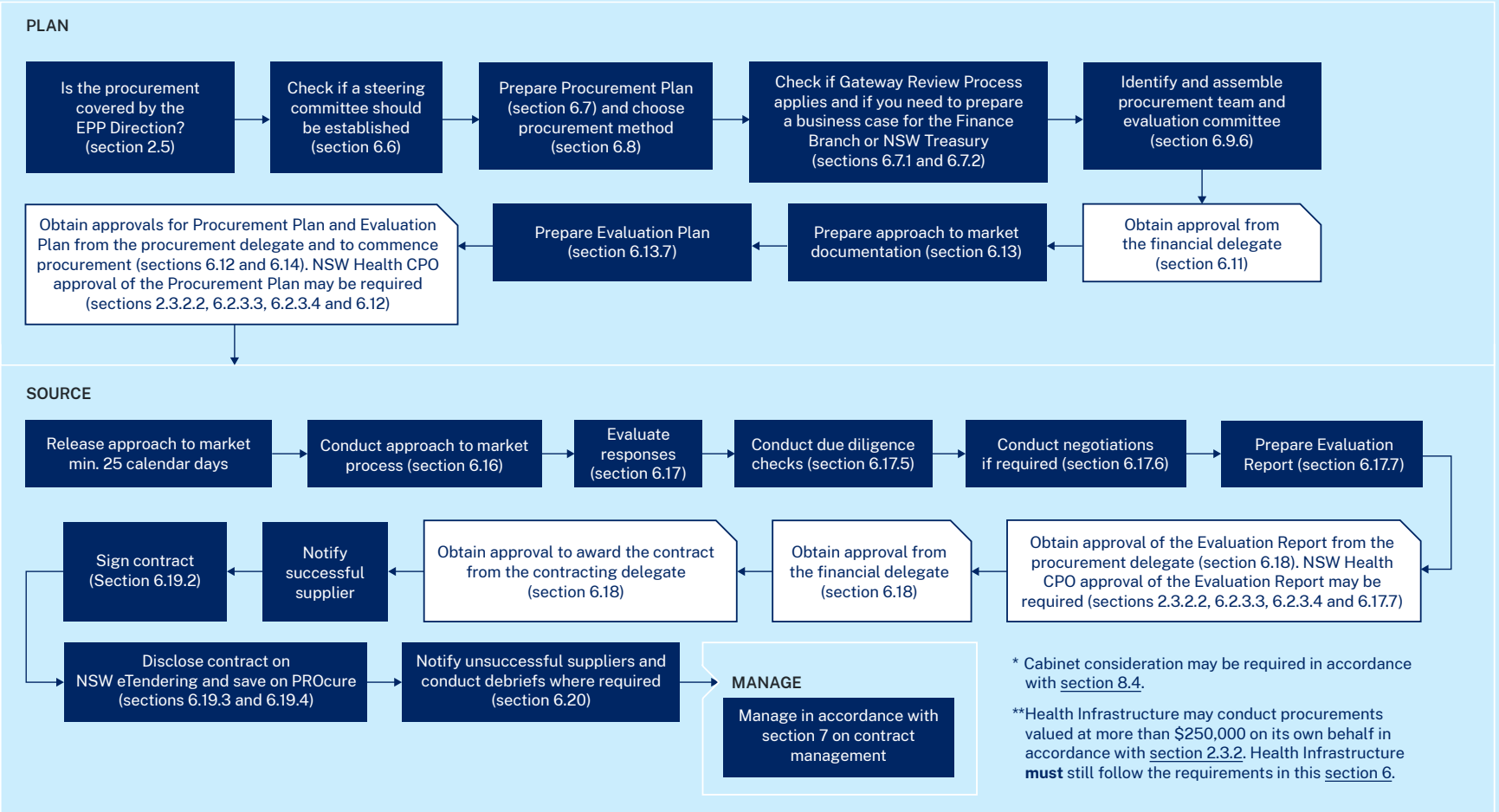
6.5 Flowchart for level 3 procurements

The steps outlined in the flowchart below are indicative only and aimed at providing an example of steps typically undertaken at this stage of a **level 3** procurement.

\$250k–\$30m
HIGH RISK

- Covered procurements, any value, any risk
- ≥\$30m, any risk
- Establishing or renewing a whole-of-government or whole-of-health contract, any value, any risk*

• HealthShare NSW or eHealth NSW (ICT) conducts procurement**



6.6 Check if a steering committee should be established

NSW Health agencies **should** consider establishing a steering committee based on the complexity, value and risk profile of the procurement.

Alternatively, it may be appropriate to use existing governance structures, such as your agency’s procurement committee (or equivalent), in place of a project-specific steering committee.

Steering committee members **should** represent all key stakeholders, including:


- project sponsor
- a clinical representative for medical-related procurements
- end-users, if not covered by the clinical representative
- senior agency representatives.

The steering committee **should** include a HealthShare NSW or eHealth NSW representative if HealthShare NSW or eHealth NSW are undertaking or managing the procurement.

6.7 Prepare Procurement Plan

The Procurement Plan, sometimes known as a ‘procurement strategy’ or ‘procurement business case’, provides the context, scope and strategy for a planned procurement.

The complexity, value and risk profile of the procurement determines the length and level of detail in the Procurement Plan.

 For **level 2** and **level 3** procurements valued at over \$250,000, you **must** prepare a Procurement Plan. You **should** use the *Procurement Plan Template*, or your NSW Health agency’s equivalent (if available), and complete all applicable parts.

For procurements valued at \$30 million or more, the Procurement Plan **must** be approved by the NSW Health Chief Procurement Officer.

A Procurement Plan is not required for a **level 1** procurement.

6.7.1 Check if Gateway Review Process applies

The Gateway Review Process (**Gateway**) is a NSW Government-wide project assurance process that provides independent assurance using peer reviews at key decision points, or gates, in a project or program’s lifecycle.


Gateway is applied to government investment decisions, categorised as capital projects, ICT projects and major recurrent projects (being expenditure that is predominantly neither a capital

infrastructure nor an ICT investment). The application of Gateway to individual projects is determined by the risk profile of the project.

Certain capital, ICT and major recurrent projects **must** be registered with the relevant Gateway coordination agency as summarised in the table below:

Estimated contract value	Project type	Gateway coordination agency
≥\$5 million	ICT	Department of Customer Service
≥\$10 million	Capital	Infrastructure NSW
≥\$100 million over 4 years, or ≥\$50 million pa	Major recurrent	NSW Treasury

Gateway does not apply to **level 1** procurements, or when establishing a new standing offer or panel contract.

 Further information on Gateway can be found in the *NSW Gateway Policy (TPP17-01)* and on the [Treasury Investor Assurance](#) site.

6.7.2 Check if you need to prepare a business case for the Finance branch or NSW Treasury

A business case may be required if additional funding, beyond the business unit or agency’s budget allocation, is required for a project or procurement. A business case may be required to secure additional funds from the Finance branch in your NSW Health agency, from the Financial Services and Asset Management division in the Ministry of Health, or from NSW Treasury.


Level 1 procurements are unlikely to require a business case given these are procurements valued below \$250,000 and low or medium risk.

For **level 2** and **level 3** procurements:

- you may need to prepare a business case to submit to your Finance branch or the Ministry of Health if you require additional funding, beyond existing budget allocations, for a project or procurement
- you may need to prepare a Treasury business case if you are procuring a significant new investment or project that requires new funding commitments outside the State Budget or Forward Estimates, for submission to Treasury and the Expenditure Review Committee of Cabinet²
- you may need to prepare a Treasury business case if your procurement is subject to Gateway.

If you are unsure if your project requires a business case, consult with your Finance branch, the Financial Services and Asset Management Division of the Ministry of Health, or with the NSW Health agency advisers in Treasury.

Standing offers and panel contracts are not subject to Gateway and do not require a business case as no expenditure is committed until a buyer procures through the contract.



NSW Treasury provides further guidance on [Treasury business cases](#).

6.8 Choose procurement method

For all procurement levels (**level 1**, **level 2** and **level 3**), you need to determine which of the following methods is most suitable for your procurement:

- open approach to market
- limited approach to market, or
- direct source and negotiation.

Alternative procurement approaches, for example competitive dialogue or reverse auctions, may also be used subject to the NSW Health Chief Procurement Officer approving the Procurement Plan under the exemption provisions in [section 8.11](#).

6.8.1 Open approach to market

The open approach to market involves releasing information to the open market on [NSW eTendering](#) without restricting which suppliers might respond to you.

You **must** use an open approach to market for **level 2** procurements valued at more than \$250,000 and **level 3** procurements of any value

unless a procurement-connected policy exemption applies (see [section 4.7](#)) or the NSW Health Chief Procurement Officer approves an exemption (see [section 8.11](#)).³

6.8.2 Limited approach to market

The limited approach to market method involves directly inviting three or more suppliers of your choice to participate in your procurement.

Level 1 and **level 2** procurements valued at \$250,000 or less, may use a limited approach to market.

When using a limited approach to market for **level 1** or **level 2** procurements valued at \$250,000 or less, you **must** obtain a minimum of three quotes unless a procurement-connected policy exemption applies ([section 4.7](#)) or the NSW Health Chief Procurement Officer approves an exemption ([section 8.11](#)).

Level 2 procurements valued at more than \$250,000 and **level 3** procurements, **must not** use a limited approach to market, unless a procurement-connected policy exemption applies ([section 4.7](#)) or the NSW Health Chief Procurement Officer approves an exemption ([section 8.11](#)).

In addition to the above, if you use a limited approach to market for a procurement over \$250,000, you **should** record:

- value of the goods or services
- type of the goods or services
- conditions that justified the use of the limited approach to market.

² Treasury determines business case requirements based on the strategic importance, risk profile and value of a project. As a general guide, projects valued under \$10 million **should not** require a Treasury business case.

³ See also [section 8.4](#) for procurement approved by Cabinet or a Cabinet Standing Committee which may have alternative requirements.

6.8.3 Direct source and negotiation

The direct source and negotiation approach, sometimes called 'direct dealing', is used to approach one supplier only.

You **must** obtain an exemption from the NSW Health Chief Procurement Officer before directly sourcing from a supplier, unless a procurement-connected policy exemption applies ([section 4.7](#)).

When conducting direct source and negotiation for **level 2** and **level 3** procurements, it is **recommended** that you adopt the same techniques that would be used in a competitive process such as:

- developing evaluation criteria and conducting a formal evaluation of the supplier's offer
- requiring the supplier to demonstrate the merits of the goods or services
- agreeing on key contractual terms such as how contract variations and non-performance (including dispute resolution and termination) will be managed.

When using direct source and negotiation, you **must** ensure that you can still achieve value for money. For example, confirming that the price you have been quoted is on par with market rates.

Further information on direct source and negotiation can be found in the NSW Government's [Direct Dealing Guidelines](#) and ICAC's [Direct Negotiations: Guidelines for Managing Risks](#).



For procurements valued at up to \$3 million, whenever you are permitted to directly source and negotiate, you **must** first consider a small or medium enterprise supplier (refer to [section 4.8.1.2](#)).

6.9 Decide on approach to market method

6.9.1 Identify the market

Understanding the capability and capacity of the market to supply goods or services will help to inform all procurement levels (**level 1**, **level 2** and **level 3**) how to identify suitable suppliers.

You **should** ensure that you have sufficient knowledge of the market to act as an informed buyer taking into account the value, risk profile and strategic impact of the procurement.

If the market cannot be clearly identified, pre-market testing is **recommended**.

6.9.2 Conduct pre-market testing

There is no set process for pre-market testing, and it can take many forms, however the six main methods of pre-market testing, sometimes known as 'industry engagement methods' are:

- horizon scanning
- market sounding
- market creation
- bidder conferences
- indicative approach to market
- concept viability.

The pre-market testing method chosen for your procurement **should** be based on your procurement goals, timeframes and resources available.

Before conducting pre-market testing, you **should** advise suppliers that participation is not compulsory and that any information provided will not be used to assess suppliers (or advantage or disadvantage any supplier).

You **should** record any information provided, or items discussed with suppliers, so that other suppliers participating in any subsequent procurement process can be provided with the same information to maintain information equity.

This includes recording any notes made during meetings held with suppliers.

You can find information on [pre-market testing](#) at [buy.nsw](#).

Whilst pre-market testing can be valuable for all procurement levels (**level 1**, **level 2** and **level 3**), probity and process risks **must** be managed.

Among other things, this means that you **should not**:

- use pre-market testing to shortlist suppliers
- require compulsory participation
- use pre-market testing to obtain final pricing data
- share confidential information relating to one supplier with another
- use the information collected from the pre-market testing to the advantage or disadvantage of any supplier.

Where highly sensitive information is to be shared with the market, it is **recommended** that potential suppliers are required to enter into a confidentiality deed.

To reduce the potential for complaints of bias and favouritism from suppliers not invited to participate in pre-market testing activities you **should**:

- complete the relevant section of the *Procurement Plan Template* (or your agency's equivalent) which justifies:
 - how and why those suppliers invited to participate in pre-market testing will be selected
 - how fairness and impartiality for any subsequent approach to market for non-participating suppliers will be maintained
- use an open approach on [NSW eTendering](#) for more formal pre-market testing methods (such as a request for information).

6.9.3 Select single-staged or multi-staged approach

The complexity, value and risk profile of your procurement will determine which staged approach is best to use.

You can find more information on [approaches to market](#) at [buy.nsw](#).

6.9.4 Single-staged approach

A single-staged approach involves one step, such as inviting suppliers to respond to a request for tender.

You may use a single-staged approach for all procurement levels (**level 1**, **level 2** and **level 3**).

6.9.5 Multi-staged approach

A multi-staged approach involves more than one step, such as shortlisting suppliers after an expression of interest, and then inviting those shortlisted suppliers to respond to a request for tender.

A multi-staged approach may be more appropriate than a single-staged approach for **level 2** and **level 3** procurements where:

- there is high value or high risk
- there could be a large number of supplier responses
- responses are likely to take significant time and resources to prepare and evaluate, or
- the approach to market might be progressively refined.

6.9.6 Identify and assemble procurement team

To deliver a successful procurement across all procurement levels (**level 1**, **level 2** and **level 3**), you need to ensure that you have the right team members at each stage of the procurement process. For a low risk and straightforward procurement, only a small team may be required (for example 1–2 team members⁴).

The team **should** have the necessary and relevant skills to plan, draft and evaluate proposals, or else be supported through the process by more experienced team members.

Different team members may have different roles and responsibilities at different times. Equally, some team members may have more than one role in the team.

When identifying and assembling your procurement team, considerations **should** include:

- relevant procurement expertise
- technical knowledge of the requirement
- management skills (including the time required to draft the specification/scope of works/contract requirements)
- contract knowledge
- understanding of probity requirements and compliance
- any conflicts of interest.

Subject-matter experts may be identified to advise on, or support, particular aspects and/or participate in the evaluation.

Team members will need to ensure they have the capacity to attend to, and prioritise, procurement requirements in accordance with the proposed timeline.

A team briefing **should** be held at an early stage to brief members on responsibilities and probity requirements. This is also an opportunity for the procurement team to raise any early declarations of conflicts of interest. Additional briefings may be required where members are brought on during the project.

⁴ An evaluation committee may potentially consist of one person for a very simple, very low value **level 1** procurement, subject to probity considerations.

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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6.9.6.1 Evaluation committee

All levels of procurement (level 1, level 2 and level 3) must identify and assemble an evaluation committee with the necessary and relevant skills to evaluate the supplier proposals. The size of the evaluation committee should align with the value and risk of the procurement, preferably with:

- (for procurements valued between \$30,000 and \$250,000) a minimum of two members to support the probity of the process
- (for procurements valued over \$250,000) a minimum of three members to support the probity of the process.

6.9.6.2 Consultants

Where consultants are required to advise or support the procurement process, for all procurement levels (level 1, level 2 and level 3), it is recommended you engage consultants via the Performance and Management Services Scheme (SCM0005).

6.9.7 Probity advisers

A probity adviser provides probity advice in the course of a procurement and can make recommendations regarding compliance with probity requirements.


Probity advisers may be internal or external to NSW Health (i.e. consultants).

The engagement of external probity advisers should be the exception rather than the rule. If used, external probity advisers must be selected from the approved specified personnel of prequalified probity suppliers on the Performance and Management Services Scheme (SCM0005).

The following criteria may inform your decision to engage a probity adviser:

- where the integrity of the process (or part of it) may be called into question, such as a direct source and negotiation or other alternative procurement process
- where the project is potentially sensitive
- to avoid a perception of bias or favouritism
- where the process is very complex
- where substantial costs are involved in preparing submissions
- where the procurement is high value
- where there has been a previous abandoned process or a previous process with complaints.

To ensure probity advisers remain independent and avoid perceptions of bias, you should not repeatedly engage the same probity adviser.

 You can find information on [engaging probity advisers and auditors on buy.nsw](#) and in the [NSW Government Procurement Policy Framework](#).


6.10 Consider modern slavery risks

NSW Government agencies are required to take reasonable steps to ensure the goods and services they procure are not the product of modern slavery.

For level 2 and level 3 procurements, you must conduct a modern slavery risk assessment at the start of the procurement process to identify and understand any modern slavery risks.

The procurement plan must record the outcome of the risk assessment and, if there are high modern slavery risks, identify the risk management actions that will be applied in the procurement process.

Actions may include the use of targeted evaluation criteria, questionnaires or adding a modern slavery clause to the contract (see section 6.13.8.1). Certain large suppliers are required by the Commonwealth Modern Slavery Act 2018 to report and publish annual modern slavery statements, so you may also ask suppliers to provide a copy of their last modern slavery statement to understand actions they are undertaking to assess and address modern slavery risks (see section 8.8.2 for more information on NSW Health's reporting obligations).

 Buy.nsw provides further guidance, including a [risk assessment template](#), [procurement checklist](#), [model tender schedule](#) and [model contract clauses](#).

6.11 Obtain financial approval

You **should** obtain financial approval from your financial delegate prior to obtaining approval to commence the procurement from your procurement delegate.

You **must not** approach the market or suppliers until the appropriate financial approval, or an in-principle commitment for funding from your financial delegate, is received.

You **must** have financial approval before committing expenditure through a contract.

6.12 Obtain Procurement Plan approval

A Procurement Plan is not required for **level 1** procurements. However, if one is used, it **should** be approved by your procurement delegate.

For **level 2** and **level 3** procurements, you **should** obtain approval for your Procurement Plan from your procurement delegate.

Icon: A green circular icon with a checkmark inside a gear. Text: To minimise approval requests, you can obtain Procurement Plan approval at the same time as obtaining approval for the Evaluation Plan, and approval to commence the procurement.

For procurements valued at \$30 million or more, the Procurement Plan **must** be approved by the NSW Health Chief Procurement Officer.

6.13 Prepare approach to market documentation

6.13.1 What to include

For **level 2** and **level 3** procurements, the approach to market documentation **must** include:

- a description of the procurement including the nature, scope and quantity (or estimate) of the goods or services being procured
• an explanation of the procurement process that will be followed (e.g. whether there will be a multi-staged process)
• any dates or the period within which the goods or services are to be delivered, or the duration of the proposed contract
• any mandatory criteria or conditions of participation of suppliers, including any specific documents or certifications
• your agency's contact details for clarifications or enquiries
• time and date of any supplier briefings (if used)
• time and date that responses are due, and how to lodge the response (e.g. return email or upload to NSW eTendering)
• the evaluation criteria to be used in assessing submissions
• any other terms or conditions relevant to the evaluation of submissions.

Level 1 procurements are encouraged to also include this information where applicable.



If you are conducting a covered procurement (see section 2.5.2), your approach to market documentation **must** also include the evaluation criteria to be used in assessing submissions and, if applicable to the evaluation, the relative importance of those criteria.

A simple way to show relative importance of evaluation criteria is by listing them in order of importance, with the most important criterion ranked first and the remainder listed in order of decreasing importance.

6.13.2 Prepare statement of work

In preparing a statement of work (sometimes called 'specifications') for all procurement levels (**level 1**, **level 2** and **level 3**), you **should** clearly describe the performance and/or technical requirements for the goods or services being procured, including any deliverables required.

In doing so, you **should** carefully consider advice from prospective users or clients in NSW Health and consider whole-of-life and asset management principles.

Statements of work can be:

- outcomes-focused (i.e. based on the desired result or the problem to be solved), or
• prescriptive (i.e. setting out the precise goods or services sought).

In either case, the statement of work **should** be clear, succinct and easy to understand.

Value-based healthcare takes an outcomes-based approach, so for value-based healthcare projects or commissioning programs an outcomes-focused statement of work is **recommended**.

Statements of work **should not**:

- be used to create an unnecessary obstacle to trade, or
- require or refer to a particular trademark or trade name, patent, copyright, design or type, specific origin, producer or supplier unless there is no other sufficiently precise or intelligible way of describing the procurement requirement and the specification includes the words or equivalent.



If your procurement includes energy or water-using appliances including electrical appliances, whitegoods, ICT hardware and printers, or VOC-emitting products such as carpets, adhesives or sealants, you **must** consider the requirements of the [NSW Government Resource Efficiency Policy](#) (refer to [section 4.4.2](#) for more information).

6.13.3 Formulate any mandatory criteria requirements and conditions of participation

Mandatory criteria, sometimes called 'conditions for participation', are requirements that suppliers must meet to be considered in the procurement process. Any mandatory criteria **must** be listed in your approach to market documentation.

Mandatory criteria can include:

- holding a specific licence or certification
- signing the *Confidentiality and Conflict of Interest Undertaking* and the *Policy Directive NSW Health Code of Conduct* ([PD2015_049](#)).

Mandatory criteria are usually assessed as 'meets' or 'does not meet'. The assessment is a yes/no process, so you do not need to calculate a score. Subject to the terms of the approach to market documentation, suppliers that do not meet the mandatory criteria often are to be culled from the procurement process and not considered further for that procurement.

Equally, it is important that NSW Health agencies think carefully before selecting mandatory criteria, as failure to comply with mandatory criteria listed may lead to a tender being set aside.

Mandatory criteria **must not** discriminate against suppliers based on business size, location or ownership, or past experience in delivering government contracts, unless approved by the NSW Health Chief Procurement Officer or you are applying an approved policy measure.

6.13.4 Decide on evaluation criteria

Evaluation criteria are developed to assess how well supplier responses meet the statement of work and to also help the procurement team determine what information will be sought from suppliers in approach to market documentation.

Evaluation criteria **should** be specific and written as a statement of NSW Health's expectations.

All procurement levels (**level 1**, **level 2** and **level 3**) **must** have evaluation criteria against which suppliers will be assessed.

For **level 2** and **level 3** procurements, the evaluation criteria **must** be published in the approach to market documentation.

The evaluation criteria that are in the approach to market documentation **must** be identical to the evaluation criteria in the Evaluation Plan. However, the detailed evaluation methodology does not need to be included in the approach to market documentation.

Evaluation criteria for **level 2** and **level 3** procurements are sometimes complex. Preparing a sub-criteria can be used to breakdown criteria into manageable and assessable items and, if used, **must** be published in the approach to market documentation.

You **must not** have a mandatory criteria which requires suppliers to have experience in providing goods and services to the NSW Government or any NSW Government agency, including NSW Health agencies, without an exemption from the NSW Health Chief Procurement Officer.

However, you may take into account a supplier's evidence of government or equivalent experience in scoring the supplier against relevant evaluation criteria.



When preparing evaluation criteria for asset procurements, you **should** take a whole-of-lifecycle approach to assessing the costs and benefits of the new asset.

Note that for medical-related procurements, patient safety **must** be an evaluation criterion.

6.13.5 Include procurement-connected policy requirements

You **must** include additional procurement-connected policy requirements, including specific evaluation criteria, if relevant policy requirements apply to your procurement.

A summary of these procurement-connected policy requirements is outlined from [section 6.13.5.1](#). Whilst this summary will assist you to identify the types of policies which will apply, each policy sets out detailed requirements which should be reviewed in preparing your approach to market documentation. Further information is available on [buy.nsw](#).

6.13.5.1 Summary of procurement-connected policy requirements

Policy	Estimated contract value	Requirements / additional criteria
Small and Medium Enterprise and Regional Procurement Policy	≥ \$3 million	SME and sustainability criteria (10%)
	≥ \$3 million	SME and Local Participation Plan
ICT/Digital SME Procurement Commitments	> \$3 million	Target for suppliers to direct at least 25% of an ICT contract's addressable spend to small or medium enterprises
Aboriginal Procurement Policy	≥ \$7.5 million	Aboriginal Procurement Plan
	≥ \$7.5 million	1.5% Aboriginal participation
Small Business Shorter Payment Terms Policy	≥ \$7.5 million	Large businesses must : <ul style="list-style-type: none"> identify subcontractors include 20 business day payment terms for subcontractors
NSW Government Resource Efficiency Policy	Any value	Ensure relevant goods and services comply with the minimum standards set out in the NSW Government Resource Efficiency Policy

6.13.5.2 Small and Medium Enterprise and Regional Procurement Policy

SME and Sustainability criteria: For contracts valued at more than \$3 million, you **must** include the following non-price evaluation criteria:

- small or medium enterprise participation (minimum 10% weighting)
- support of the NSW Government's economic, ethical, environmental and social priorities (minimum 10% weighting).

If you are not using evaluation criteria weightings, you **must** give appropriate qualitative consideration to small or medium enterprise participation and the NSW Government's economic, ethical, environmental and social priorities.

SME and Local Participation Plan: For contracts valued at more than \$3 million, you **must** ask suppliers to submit an SME and Local Participation Plan, referencing small or medium enterprise and NSW specific content.

The SME and Local Participation Plan can be used to assess the SME and sustainability criteria.

The SME and Local Participation Plan **must** be included in the contract requirements of the successful suppliers, including that they **must** report on the commitments in their respective plans each quarter.

Further guidance and templates for the SME and sustainability criteria, and the SME and Local Participation Plan, are available at [buy.nsw](https://buy.nsw.gov.au/buyer-guidance/source/select-suppliers/supporting-smes): <https://buy.nsw.gov.au/buyer-guidance/source/select-suppliers/supporting-smes>.

6.13.5.3 ICT/Digital small or medium enterprise procurement commitments

25% indirect SME spend target: For ICT contracts valued at \$3 million or more, you **must** include a target for suppliers to direct at least 25% of the contract's addressable spend to small or medium enterprises through subcontracting or supply chain spend (i.e. indirect spend).

Successful suppliers **must** report on their small or medium enterprise subcontracting or supply chain spend at the end of each financial year quarter.

If you award the contract to a small or medium enterprise, this is considered 'direct spend' with a small or medium enterprise. The value of the contract then counts toward NSW Health's 30% small or medium enterprise ICT direct spend target, rather than the indirect target that applies to non-small or medium enterprise suppliers.

Further information is available at buy.nsw or by contacting ICTServices@customerservice.nsw.gov.au.

6.13.5.4 Aboriginal Procurement Policy

Aboriginal Participation Plan: For contracts valued at \$7.5 million or more, you **must**:

- require suppliers to submit an Aboriginal Participation Plan
- include minimum requirements for 1.5% Aboriginal participation (see buy.nsw for further information on how to require the 1.5% Aboriginal participation)
- require suppliers to declare, during the procurement process, whether they have previously participated, or are currently participating, in a NSW Government contract that had Aboriginal participation requirements

and, if applicable, demonstrate their compliance with the requirements. The past performance **should** be considered when assessing Aboriginal participation proposals.

You **should**, whenever feasible, apply a non-price evaluation criteria to assess the plan, so that the response is evaluated on its social commitments.

The Aboriginal Participation Plan **must** be included in the contract requirements for the successful suppliers, including quarterly reporting against the plan.

6.13.5.5 Small Business Shorter Payment Terms Policy

20-day payments for small business: For contracts valued at \$7.5 million or more, you **must** notify suppliers that they may be subject to the [Small Business Shorter Payment Terms Policy](#).

The policy requires large business suppliers to pay small business subcontractors within 20 business days, if they directly contribute to the contract.

Large business suppliers are also required to report twice per financial year on the number of small business subcontractors that they are required to pay within 20 business days, and the total value of those subcontracts.



Further information on implementation requirements and model approach to market and contract clauses is available at buy.nsw.

6.13.5.6 NSW Government Resource Efficiency Policy and environmental outcomes

Resource efficiency and sustainability:

For procurements of certain electrical or water using appliances, VOC emitting products and light passenger vehicles (amongst other items), you **must** ensure the specification and evaluation criteria require compliance with the minimum standards in the [NSW Government Resource Efficiency Policy](#).

Where feasible, you **should** also attempt to:

- minimise the use of single-use and non-recyclable plastics
- reduce unnecessary single-use packaging
- encourage suppliers to use, or increase the amount of, recycled content in plastic packaging and products
- encourage suppliers to use plastic that is recyclable, compostable or reusable, if it is feasible and safe to do so.

You **should** encourage suppliers to comply with the *Plastic Reduction and Circular Economy Act 2021* where possible, noting that the Act allows for the use of single-use and non-recyclable plastics in some medical settings.

You may also wish to consider other strategies to reduce waste and the use of non-renewable resources, or to preference renewable or recycled content, through the procurement process.

6.13.5.7 Modern slavery risks

Modern slavery risks: For procurements with high modern slavery risks, you **should** consider including evaluation criteria that seek information

on suppliers' modern slavery policies, procedures and mitigation strategies, such as the [model tender clauses](#) at [buy.nsw](#).

6.13.6 Provide minimum time limits

6.13.6.1 Application of minimum time limits

Suppliers **must** be provided with reasonable time to respond to any approach to market, consistent with your agency's own reasonable needs. The reasonableness of a time limit will depend on the procurement method and the complexity of the planned procurement.

For a limited approach to market or direct source and negotiation, the **recommended** minimum time period for responses is **10 calendar days**.

For an open approach to market, the **recommended** minimum time period for responses is **25 calendar days**.

For **level 1** and **level 2** procurements valued at less than \$250,000, where you seek a minimum of three quotes by issuing a limited approach to market, the **10 calendar day** minimum time period **should** be used.

For **level 2** and **level 3** procurements valued at more than \$250,000, where you use an open approach to market, the **25 calendar day** minimum time period **should** be used.

This **should** be extended for complex, whole-of-government or whole-of-health procurements, depending on the contract requirements and the ability of the market to respond.

The timeframe for **level 2** and **level 3** procurements valued at more than \$250,000 may be reduced in the following circumstances, but **should not** be less than **10 calendar days**:

- where notice of the procurement was published in the NSW Health Annual Procurement Plan on [NSW eTendering](#) at least 40 calendar days and not more than 12 months before the date of the procurement
- where an open approach to market was undertaken during the period 12 months before the date of the procurement and that open approach to market stated that substantially similar procurements will be the subject of further open approaches to market, or
- where a procurement-connected policy exemption applies (refer to [section 4.7](#)) or the NSW Health Chief Procurement Officer approves an exemption (refer to [section 8.11](#)) allowing you to use a limited approach to market or direct source and negotiation.

There is no set minimum period where there is a genuine urgent need attached to the procurement, e.g. in response to an emergency as per [section 8.5](#).

For 'covered procurements', minimum time periods **must** be assessed against the *Enforceable Procurement Provisions Direction* (see section 23 of the *Enforceable Procurement Provisions Direction* (PBD 2019-05)) which may require minimum time limits of 10 or 25 calendar days depending on factors such as whether the procurement was published in the NSW Health Annual Procurement Plan.



Refer to the [NSW Government Procurement Policy Framework](#) for more information on time limits.

6.13.6.2 Summary of minimum time limits

Min. time period	Procurement method	Procurement level (default)	Procurement level (other)
10 calendar days (subject to enforceable procurement provisions)	<ul style="list-style-type: none"> Limited approach to market (see section 6.8.2) Direct source and negotiation (see section 6.8.3) 	<ul style="list-style-type: none"> Level 1 Level 2 procurement less than \$250,000 	<p>Where using prequalification scheme or procurement list or an exemption for:</p> <ul style="list-style-type: none"> Level 2 procurement more than \$250,000 Level 3
25 calendar days	<ul style="list-style-type: none"> Open approach to market (see section 6.8.1) 	<ul style="list-style-type: none"> Level 2 procurement more than \$250,000 Level 3 	<p>Where using open approach to market for:</p> <ul style="list-style-type: none"> Level 1 Level 2 procurement less than \$250,000
None	<ul style="list-style-type: none"> Emergency procurement (see section 8.5) 	<ul style="list-style-type: none"> Any procurement level (level 1, level 2 or level 3) 	<p>Subject to approval from:</p> <ul style="list-style-type: none"> the Secretary, NSW Health or their nominee under section 4(1) of the <i>Public Works and Procurement Regulation 2019</i>, and your financial delegate with authority under section 9.7(1)(b) of the <i>Government Sector Finance Act 2018</i>.

6.13.7 Prepare Evaluation Plan



Level 1 procurements **should** record the basis of evaluating suppliers.

Level 2 and **level 3** procurements **must** prepare an Evaluation Plan. You **should** use the *Evaluation Plan Template*, or your agency's equivalent, as a base and prepare it at the same time as preparing approach to market documentation.

The complexity, level of detail and length of the Evaluation Plan **should** be tailored to the complexity, value and risk profile of the procurement.

6.13.8 Prepare proposed contract

The purpose of a contract is to set out the obligations of each party. It sets out both the obligations of your agency (e.g. payment requirements) as well as the supplier (e.g. delivery timing of goods or services).

For **level 2** and **level 3** procurements, the approach to market documentation **should** include or identify the proposed contract to be entered into at the conclusion of the procurement process. The proposed contract needs to be 'fit for purpose'. This means that the form of contract proposed is suitable for the type of goods or services being procured, as well as the value and level of risk of the procurement.

Level 1 procurements will usually use a requisition or purchase order to form a contract based on the purchase order terms and conditions and specific order details.

Some template contracts are available for use on the Ministry of Health intranet and HealthShare NSW intranet. Your agency's procurement adviser will be able to assist you with advice on template contracts and terms.

For advice on legal matters (e.g. reviewing contract terms), NSW Health agencies **must** contact their local legal team (if your agency has a local legal team) and/or seek external legal expertise from the [NSW Government Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate). If it would be of assistance, the Ministry of Health's Legal unit can assist in identifying an appropriate firm from the relevant panel.

NSW Health agencies **must** comply with Policy Directive *Significant Legal Matters and Management of Legal Services (PD2017_003)*, including complying with requirements to notify the Ministry of Health General Counsel when a significant legal matter arises.



Contracts **must not** cover a total period exceeding five years (including extension options) without the approval of the NSW Health Chief Procurement Officer.

6.13.8.1 Modern slavery clauses

For **level 2** and **level 3** procurements with high modern slavery risks, you **should** consider including contract clauses that identify supplier obligations to take reasonable steps to ensure that modern slavery is not occurring in its operations or supply chains.

You **should** also consider including an obligation for suppliers to report any breaches, or a right for NSW Health to audit a supplier through its own supplier contracts.



Short and long form [modern slavery model contract clauses](#) are available at [buy.nsw](#).

6.13.8.2 ICT-related contracts

All procurement levels (**level 1**, **level 2** and **level 3**) **must** use the ICT Purchasing Framework when buying ICT-related goods and services.

The ICT Purchasing Framework comprises the:

- [Core& contracts](#)
- [MICTA/ICTA contracting framework](#).

Level 1 and **level 2** procurements assessed as low risk and valued at less than \$1 million may use either the short-form Core& contract templates or the more extensive MICTA/ICTA contract templates.

Level 2 and **level 3** procurements assessed as high risk or valued at \$1 million or more **must** use the MICTA/ICTA contract templates.



The MICTA/ICTA contracting framework is mandated for use by NSW government agencies for all new procurements on and after 1 September 2021. A new procurement does not include a contract extension which is permitted under the terms of an existing contract.



For more information, refer to the [Mandated use of ICT Purchasing Framework \(PBD 2021-02\)](#).

6.13.8.3 Human Services contracts



All procurement levels (**level 1**, **level 2** and **level 3**) **must** use the prescribed template contract, the NSW Government Human Services Agreement when procuring human services from a non-government agency.

For further guidance on human services contracts, refer to NSW Procurement Board Direction *Procuring human services from NGOs (PBD 2017-04)* (Note this Direction does not apply to grant funding – grant administration in NSW Health is subject to NSW Health Policy Directive *Administration of NSW Health Grant Funding for Non-Government Organisations (PD2019_013)*).

6.14 Obtain approvals for Evaluation Plan and to commence procurement

6.14.1 Endorsement of approach to market documentation

The steering committee, if used, **should** endorse the approach to market documentation prior to seeking approval to commence the procurement.

6.14.2 Obtain approval of Evaluation Plan



For **level 1** procurements, you **should** have the basis of evaluation approved by your procurement delegate via email.

For **level 2** and **level 3** procurements, you **must** have the Evaluation Plan approved by your procurement delegate. Any amendments to the Evaluation Plan **must** be approved by your procurement delegate.

For **level 2** and **level 3** procurements, the Evaluation Plan **should** be approved before you release the approach to market documentation, and it **must** be approved before you open or access supplier responses. This will limit any potential suggestion that it was altered in response to a particular supplier.

6.14.3 Obtain approval to commence procurement



For **level 1** procurements, you **should** obtain approval from your procurement delegate to release the approach to market documentation before issuing the documents to suppliers.

For **level 2** and **level 3** procurements, you **must** obtain approval from your procurement delegate to release the approach to market documentation before issuing the documents to suppliers.

6.15 Release approach to market documentation

6.15.1 Before releasing approach to market documentation

Regardless of your procurement level (**level 1**, **level 2** or **level 3**), the way you release your approach to market documentation will depend on your chosen procurement method (see [section 6.8](#) for different methods).

Where possible, before releasing approach to market documentation, you **should** give suppliers as much advance notice as possible of upcoming procurement opportunities. You can give the market advance notice:

- by including the opportunity as a planned procurement in NSW Health's Agency Procurement Plan published on [NSW eTendering](#)

- by publishing a notice of a proposed approach to market on [NSW eTendering](#), or
- through other pre-market testing methods such as 'horizon scanning' or 'market sounding' (refer to [section 6.9.2](#)).

Depending on the approach to market, you **must** give advance notice of a procurement opportunity to all potential suppliers, at the same time, to ensure equal access of opportunity. For example, you are not to notify only a few personal business contacts.

6.15.2 Open approach to market

You **must** publish all open approaches to market (such as requests for tender) electronically on [NSW eTendering](#).

6.15.3 Limited approach to market or direct source and negotiation

For procurements that use a limited approach to market or direct source and negotiation, you may issue the approach to market directly, in writing, to your selected suppliers, subject to maintaining suitable records and security of the responses. Alternatively, you may choose to use [NSW eTendering](#) to issue and manage your limited or direct approach to market.

It is **recommended** that you use the invited tender function on [NSW eTendering](#) to issue, manage and receipt documents for high value and/or sensitive procurements.

If you use email to issue the request, you **should**:

- use a generic team email address rather than a team member’s email address
- use NSW Health’s [secure file transfer system](#) if you are sharing confidential or sensitive information and to receive supplier responses.

If you issue approach to market documentation to suppliers via email, you **should** ensure:

- you save all documentation and correspondence, including the initial request for quotation, in your agency’s record management system to maintain a clear audit trail. You **should** also ensure you record the date the correspondence was sent or received
- you provide the same information to all suppliers, and they each have the same time to respond
- that if you respond to a clarification request, you provide the same information to all other suppliers
- supplier responses are stored securely, and you safeguard the confidentiality of commercially sensitive supplier information at all times.


6.16 Conduct approach to market process

The approach to market process **must** be conducted in accordance with the information provided to suppliers in the approach to market documentation, and the requirements in [sections 6.16 to 6.21](#) **must** be read in that context. Any changes to the approach to market process **must** be notified to the procurement delegate.

6.16.1 Hold supplier information briefings

Supplier information briefings provide potential suppliers with an opportunity to directly engage with NSW Health and to better understand the procurement requirements and processes.

Supplier information briefings are not required for **level 1** or **level 2** procurements, however they **should** be held for **level 3** procurements. You **must** provide information or a pre-approach to market briefing when a reasonable request is made by any supplier.

 Refer to the [NSW Government Procurement Policy Framework](#) for more information on holding supplier information briefings.

Supplier information briefings can be open to any attendee or limited to prospective suppliers. They can also be held with potential suppliers on an individual basis or as a group.

Whilst individual briefings can be valuable, they may carry additional probity risks such as an appearance of bias or preference. Therefore, it is important that all potential suppliers have the same access to information at the same time.



In particular:

- supplier information briefings **should not** alter the approach to market documentation unless confirmed in writing by approach to market addenda issued to all potential suppliers
- you **must** state whether attendance at the supplier information briefing is mandatory
- individual briefings are generally used in a multi-staged procurement, where potential suppliers have already been shortlisted from a previous process
- you **should** provide questions and answers from supplier information briefings to all potential suppliers (subject to the terms of the approach to market documentation, including confidentiality and commercial information requirements)
- due to probity risks, the conditions governing one-on-one briefings **should** be detailed and agreed with suppliers.

6.16.2 Answer clarification questions

You will often receive clarification questions from suppliers about a procurement.

For all procurement levels (**level 1**, **level 2**, and **level 3**), approach to market documentation **should** specify a last date for clarifications from suppliers.

This date **should** be sufficient to allow your agency to respond to questions, and for suppliers to consider the answers in their response.

A minimum of five working days before the closing date for an approach to market is **recommended**.

All communications with suppliers **must** be made through a single point of contact nominated in the approach to market documentation.

In responding to clarification questions, you:

- **should** promptly reply to all reasonable questions and requests from all listed suppliers (subject to the terms of the approach to market documentation, including confidentiality and commercial information requirements)
- **must** answer by way of approach to market addenda issued to all prospective suppliers via [NSW eTendering](#) (or alternative means if NSW eTendering is not used) if your response is intended to change the approach to market documentation (including contract requirements)
- **may** respond directly to simple information requests where this is no ambiguity
- **must not** give information that may give a potential supplier an unfair advantage (if you wish to disclose advantageous information, it is to be made available to all suppliers at the same time)

- **must not** discuss or disclose any other potential supplier's confidential or commercial information (in some limited instances, it may be necessary to amend the potential supplier's questions to protect this information or give the supplier an opportunity to withdraw the questions).

6.16.3 Receive supplier responses

You **must** receive responses through [NSW eTendering](#) if you published your approach to market on NSW eTendering.

For other approaches to market, you **should** communicate with potential suppliers with a generic team email address. It is **recommended** to use NSW Health's [secure file transfer system](#) if you are sharing confidential or sensitive information and to receive supplier responses.

You **must** notify suppliers when their approach to market response has been received to confirm receipt. All potential supplier responses **must** be treated fairly and confidentially.



Remember, your procurement delegate **must** approve the Evaluation Plan before you open or access supplier responses.

6.16.4 Manage late responses

You **must** manage late responses in accordance with your approach to market documentation.

Generally, late responses **should not** be accepted across all procurement levels (**level 1**, **level 2** and **level 3**).

However, you may accept late responses if the delay was due to very exceptional circumstances or an action or failure by NSW Health, and other potential suppliers will not be disadvantaged.

The reasons for accepting a late response **must** be documented, and included in the Evaluation Report.

6.16.5 Manage minimum number of supplier responses



If you are using a limited approach to market and your selected suppliers have not responded in a timely manner, you **must** obtain approval from your procurement delegate before proceeding with fewer than three quotes.

If you seek additional quotes under the same terms as the original request for quote, you **must** provide the same documentation, clarification information and timeframe for suppliers to respond.

6.17 Evaluate responses and select suppliers

6.17.1 Conduct initial screening

For all procurement levels (**level 1**, **level 2** and **level 3**) that have gone to market, the first step in evaluating supplier responses is to conduct an initial screening to:

- confirm the legal entity of potential suppliers
- provide an opportunity to seek clarity from potential suppliers where information is omitted or there are minor discrepancies with approach to market documentation requirements

- exclude submissions that do not meet mandatory criteria such as licences or quality certifications
- identify any qualifications or departures in a submission that may affect all other submissions, or require additional consideration.



You **must** use the initial screening process specified in your Evaluation Plan, if applicable.

6.17.2 Manage alternative submissions

Sometimes, a supplier will provide an alternative submission that proposes a different specification or solution to deliver the procurement objectives.

For all procurement levels (**level 1, level 2 and level 3**), you **must** manage alternative submissions in accordance with your approach to market documentation and only accept alternative submissions if the alternative submission provides a demonstrable advantage to your agency.

Before considering an alternative submission, you **must** ensure the supplier has met any conditions of participation in the approach to market documentation such as providing a conforming response.

If accepted, alternative submissions **should** be assessed and ranked in comparison to conforming submissions, rather than seeking equivalent submissions from other suppliers.

6.17.3 Evaluate and ask further clarification questions

For all procurement levels (**level 1, level 2 and level 3**) that have gone to market, after being screened and/or shortlisted, you **must** evaluate supplier responses in accordance with the approach to market documentation and the Evaluation Plan (noting that the methodology and scoring process **must** be identical) and based on the information provided in the supplier's response.

All evaluation decisions **must** be recorded, including justifications for eliminating or shortlisting responses based on the evaluation criteria.

When evaluating suppliers' responses, you may also seek to clarify certain aspects of a response.

6.17.3.1 Ask further clarification questions

Clarification questions are issued to address uncertainties, inconsistencies or ambiguities of a response. They **must not** be used as a negotiation tool. A response to the clarification necessarily requires some additional information or change to address the issue raised. This is appropriate and can be taken into account.

However, clarification to improperly improve a response (address deficiencies), or a clarification response that provides new and additional information other than what is necessary to resolve the issue/ambiguity, **should not** be permitted.

A written record **must** be kept of any such clarifications.

6.17.3.2 Assess pricing

Assessing price is an important step in evaluating a supplier's response.

It is best practice to assess pricing separately to the technical evaluation (often referred to as a 'two envelope' system), and to only provide pricing information to the technical or non-price evaluation committee/s once the technical or non-price evaluation is complete.

Alternatively, you may conduct price evaluation and technical evaluation in parallel, provided that pricing is not available to the team evaluating the technical non-price criteria.

If there are concerns about the price (such as that the procurement is priced exceptionally low compared with other responses) further clarifications may be sought. This, however, **should not** be the catalyst to allow a potential supplier to adjust their pricing.

6.17.4 Shortlist suppliers

The purpose of shortlisting is to remove responses that no longer have a chance of success in order to use resources efficiently for the evaluation of remaining responses. For **level 2 and level 3** procurements, you **should** only shortlist suppliers if it is included in, or permitted by, the Evaluation Plan.

When shortlisting potential suppliers, the evaluation criteria **must** be applied fairly and equitably. Once shortlisted, you may also request any additional information such as reference checks and other forms of due diligence.



For **level 2** and **level 3** procurements, you **must** complete the *Evaluation Report Template*, or your agency's equivalent, after shortlisting the preferred suppliers (see [section 6.17.7](#)).

6.17.5 Conduct due diligence checks

Conducting due diligence means independently verifying that the shortlisted supplier:

- is who they claim to be
- has the capacity, capability and expertise to deliver the goods or services
- meets supplier conduct requirements, including modern slavery reporting requirements
- has made accurate statements in their response
- has the required insurances
- understands the requirements and obligations under the contract.

Contracting with suppliers who do not meet minimum standards exposes NSW Health, and the NSW Government, to unacceptable legal and reputational risks.

All procurement levels (**level 1**, **level 2** and **level 3**) **should** conduct thorough due diligence checks, which may include, one or a combination of the following, depending on the value and risk profile of the contract:

- conducting reference checks, including past performance on government contracts (if applicable)

- confirming mandated insurances are current and meet specified requirements
- confirming any mandatory licences, certifications or other qualifications are up to date and legitimate
- checking for product recalls or adverse safety findings, including recall or suspension of therapeutic goods by the Therapeutic Goods Administration
- conducting media searches and a general web search, including the ICAC website
- checking the [Fair Trading Complaints Register](#) for penalties or action against the supplier
- conducting site inspections and visits
- conducting supplier presentations
- conducting litigation checks (past or current, civil or criminal)
- confirming the supplier has provided a current Modern Slavery Statement to the [Commonwealth Government Modern Slavery Register](#), if it is an entity with annual consolidated revenue of \$100 million or more, or
- conducting a final merit and risk assessment (or similar) where any risks have been identified during the evaluation process.

For **level 2** and **level 3** procurements, due diligence checks and outcomes **should** be documented in the Evaluation Report. Any decision to exclude a supplier on the basis of due diligence checks **should** be made in accordance with conditions of participation in the approach to market documents, the Evaluation Plan and the [Supplier Code of Conduct](#).

6.17.6 Decide if negotiations are appropriate

6.17.6.1 Application

Negotiations are the process of arriving at an agreement on the terms of the contract, through discussion between your agency and the preferred supplier (or shortlisted suppliers). Negotiations can be appropriate for all procurement levels (**level 1**, **level 2** and **level 3**) where there is an opportunity to improve value for money, or if none of the supplier responses are acceptable but have the potential to become so.

In the latter case, you **should** choose to conduct negotiations with the supplier that provided you with the closest conforming response.

6.17.6.2 Negotiation Plan


Price is often the starting point for many procurement negotiations, however it is also an opportunity to negotiate better terms in a range of aspects such as technical support, risk management and timeframes.



If you choose to conduct negotiations for a **level 1** procurement, you **should** either:


- prepare a Negotiation Plan, using the *Negotiation Plan Template* (or your agency's equivalent),
- keep a record of negotiations, to later include in the Evaluation Report.

For **level 1** procurements, the Negotiation Plan/record of negotiations does not need to be approved.

 For **level 2** and **level 3** procurements, you **should** prepare a Negotiation Plan, using the *Negotiation Plan Template* (or your agency’s equivalent), except in cases where only simple negotiations are expected.

 The Negotiation Plan **should** be approved by your procurement delegate before negotiations commence for **level 2** and **level 3** procurements.

6.17.6.3 Negotiation outcomes


 For negotiations during **level 2** and **level 3** procurements, the reasons for conducting negotiations and summary of negotiations and negotiation outcomes **must** be recorded in the Evaluation Report. Alternatively, the *Negotiation Report Template* (or your agency’s equivalent) may be used and attached to the Evaluation Report.

6.17.6.4 Negotiated contract terms

Any changes to contract terms that are proposed during negotiations, **must** be approved by your procurement delegate. It is also **recommended** that you seek legal advice by contacting your local legal team (if your agency has a local legal team) and/ or the [NSW Government Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as


appropriate). If it would be of assistance, the Ministry of Health’s Legal unit can assist in identifying an appropriate firm from the relevant panel.

Pay particular attention to any approach to market assumptions or qualifications, variations to liability, insurance, warranty or guarantee provisions, or other clauses that may impact the risk profile of the contract or weaken NSW Health’s contractual position.

 Remember that you **must** comply with requirements to notify the Ministry of Health General Counsel when a significant legal matter arises. Refer to Policy Directive *Significant Legal Matters and Management of Legal Services (PD2017_003)* for more information.

6.17.7 Prepare Evaluation Report

6.17.7.1 Application

 For **level 1** procurements, you **should** document the outcome of the evaluation.

For **level 2** and **level 3** procurements, you **must** prepare an Evaluation Report using the *Evaluation Report Template* (or your agency’s equivalent).

As with the Evaluation Plan, the length and complexity of the Evaluation Report **should** match the value and risk profile of the procurement. A short email may be appropriate for **level 1** procurements.

The Evaluation Report **should** include:

- a comparative assessment of supplier responses, including the evaluation criteria
- any changes made to the evaluation process and reasons, such as treatment of late responses or qualifications and departures in responses
- any negotiated changes to contract terms, or the Negotiation Report (if used)
- the final deed, or contract identifying any negotiated amendments
- the final contract price, noting any variation from the estimated cost in the Procurement Plan and/or previous contracts
- the indicative cost savings and/or other benefits of the new contract
- any supplier responses which were removed (for example, due to non-conformance or shortlisting)
- endorsement by the evaluation committee.

The outcome of the evaluation **should** be approved by your procurement delegate for **level 1** procurements.

The Evaluation Report **must** be approved by your procurement delegate for **level 2** and **level 3** procurements.

For procurements valued at \$30 million or more, the Evaluation Report **must** be approved by the NSW Health Chief Procurement Officer.

6.17.7.2 Consensus and dissenting opinions

The evaluation committee **should** use a collaborative approach to reaching consensus on the successful supplier.

If the full evaluation committee cannot reach a consensus, a dissenting member may provide

a dissenting opinion to your procurement delegate. This **must** be in writing and provide objective reasons for a different recommendation.

6.18 Obtain approvals to award contract



Before awarding the contract, all procurement levels (**level 1**, **level 2** and **level 3**) **must**:

- obtain approval from your financial delegate that funds are available for the contract price
- obtain approval to award the contract from your contracting delegate. The submission for final approval **must** include the final Evaluation Report.

6.18.1 Identify benefits of awarding the contract

Level 3 procurements **must** identify the benefits of awarding the contract when seeking approval.

It is **recommended** that you identify the benefits of awarding the contract when seeking approval for **level 2** procurements if significant benefits or cost savings are identified.

You are not required to identify benefits for **level 1** procurements.

6.19 Award contract

6.19.1 Finalise contract

For all procurement levels (**level 1**, **level 2** and **level 3**), the terms which comprise the contract **must** be clearly identifiable.

As noted in [section 6.13.8](#), the contract **should** have been included or identified in the approach to market documentation, and finalising the contract often involves completing relevant fields of that contract to insert the supplier's details and price.



Check that the supplier's contracting entity (for example, company name and ABN) is the same as the supplier entity which was assessed as part of the tender process.

Where relevant, the contract issued to the successful suppliers **should** include:

- any negotiated changes approved by your procurement delegate
- SME and Local Participation Plan and Aboriginal Participation Plan (if applicable)
- 20-day payment obligations for small business subcontractors (if applicable).

6.19.2 Issue and execute contract

Once all financial delegate and contracting delegate approvals are in place, in order to create a contract for all procurement levels (**level 1**, **level 2** and **level 3**), appropriate contract formation steps **must** be taken between the NSW Health agency and the supplier.

For all procurement levels (**level 1**, **level 2** and **level 3**), you **must** issue and execute the contract with the successful supplier. **Level 1** procurements will usually use a requisition or purchase order to form a contract based on the purchase order terms and conditions and specific order details.

Generally, contracts will be executed by the parties in counterparts. Executing a contract in counterparts means each party executes an identical version of the contract, which are then exchanged. Where execution of the contract by way of counterparts is proposed, you **should** ensure this is permitted under the contract.

When the supplier has returned the signed contract, it **should** be checked for consistency with the version signed by your procurement delegate.

You **must** retain for your records a copy/copies of the contract executed by all parties.

6.19.3 Disclose contract on NSW eTendering

You **must** disclose all contracts valued at \$150,000 (incl. GST) or more on NSW eTendering within 45 working days of becoming effective. This applies to all procurement levels (**level 1**, **level 2** and **level 3**).

The contract information **must** be published on [NSW eTendering](#) for at least 20 working days or until the contract is complete, whichever is longer.

The information to be disclosed varies depending on the procurement process and value of the contract. You can find more on disclosure obligations at buy.nsw: <https://buy.nsw.gov.au/buyer-guidance/source/after-awarding-a-contract/disclosure-obligations>.

6.19.4 Save contract on PROcure

All contracts valued at \$150,000 (incl. GST) or more, and associated documents **must** be saved on [PROcure](#) or, for whole-of-health contracts, on [Portt Discover](#). This applies to all procurement levels (**level 1**, **level 2** and **level 3**).

6.20 Notify and debrief unsuccessful suppliers

You **must** notify unsuccessful suppliers in writing, at which time you **should** offer a debrief across all procurement levels (**level 1**, **level 2** and **level 3**).

You **must** provide a debrief if a reasonable request is made by an unsuccessful supplier.

Debriefs **should**:

- acknowledge the unsuccessful supplier's effort in submitting the response
- give a summary of the procurement process
- describe the performance of the supplier's submission against the evaluation in general terms
- clearly state the strengths and weaknesses of the supplier's submission against each criterion
- explain how future submissions could be improved
- answer any questions or concerns
- not disclose any information about other suppliers' submissions, whether successful or unsuccessful, or their rankings.

Debriefs **must not**:

- disclose any other supplier's conditional or commercial information, including price structures or funding models, or
- become a debate about individual scores for individual categories.

6.21 Terminate procurement

If, following evaluation, there are no complying responses, no responses that provide value for money or negotiations cannot be successfully completed on terms acceptable to NSW Health, the approach

to market can be terminated. This applies to all procurement levels (**level 1**, **level 2** and **level 3**).



The decision to terminate an approach to market **must** be approved by your procurement delegate.

Approaches to market may be terminated during the procurement for similar reasons.

Where a procurement is terminated, all potential suppliers **should** be notified of the termination.

6.22 Keep records

You **must**, at the conclusion of the approach to market process, confirm all records are up to date, are saved into your agency's record management system, and ready to handover to the contract management agency or team (refer to [section 7.2](#) to determine the contract management agency).

Records include:

- contract planning documents including the Procurement Plan and Evaluation Plan
- approach to market documents including the request for tender or request for quotation, clarifications, supplier responses and any supporting documentation
- evaluation documentation such as scoresheets, adviser reports, price analysis, evaluation committee meeting notes and any notes/minutes of meetings with suppliers
- the Evaluation Report and approval to award the contract

- the project and evaluation committee's conflict of interest declarations and any other probity-related documentation
- signed and executed contracts or deeds.

This applies to all procurement levels (**level 1**, **level 2** and **level 3**).

6.23 Identify benefits and lessons learnt

For **level 3** procurements, information on benefits delivered throughout the procurement process and ongoing delivery actions **must** be recorded in the Evaluation Report and communicated to the contract manager.

If significant benefits or cost savings are delivered through a **level 2** procurement process, these **should** also be recorded and communicated to the contract manager.

The contract manager is responsible for recording benefits realisation actions in the Contract/Panel Management Plan, or preparing a benefits realisation plan, as detailed in [section 7.3.11](#). The contract manager is also responsible for ongoing monitoring of benefits delivery.

Similarly, it may be appropriate to review the procurement and record lessons learnt in a project closure report to support ongoing capability development. Preparing a project closure report is not required for **level 1** procurements, however it is recommended for **level 2** and **level 3** procurements to help improve the NSW Health procurement system and ongoing capability development.

Section 7

Contract management

7.1 Purpose

Contract management is the process of managing executed contracts and is a continuation of the procurement process outlined in [sections 4, 5 and 6](#).

Contract management covers all activities from the start to end of the contract term. Effective contract management is vital to ensure that all parties to a contract effectively and efficiently meet their commitments and obligations.

It also ensures that:

- operational and financial performance is maximised
- benefits are delivered
- risks are adequately managed so that value for money is achieved.

This [section 7](#) requires you to conduct certain minimum activities depending on the contract value and/or method of procurement (i.e. whether or not the contract was procured using an existing procurement arrangement). However, NSW Health agencies do retain discretion to determine that specific suppliers or contracts require an increased level of management to mitigate risk, safeguard critical business processes, deliver strategic outcomes and/or minimise performance impacts on end-users or patients.

7.1.1 Managing contracts valued less than \$30,000

For contracts valued at less than \$30,000, active contract management is not required except to confirm that the goods and services are received on time and for the agreed price.

7.1.2 Managing contracts established using existing procurement arrangements

Contracts established using existing procurement arrangements (see [section 5](#)) require operational contract management at the local level to:

- confirm that the goods and services are received on time and for the agreed price
- confirm that the goods and services comply with the terms or rules of the existing procurement arrangement (referred to in this [section 7](#) as the 'standing offer')
- raise any minor issues with the supplier in the first instance.

Where an issue is ongoing or significant, such as non-compliance with the contract, it **should** be reported to the category manager (for whole-of-health contracts) or the [NSW Procurement Service Centre](#) (for whole-of-government contracts and whole-of-government prequalification schemes and procurement lists).

7.1.3 Managing contracts established outside of existing procurement arrangements

Contracts established outside existing procurement arrangements (see [section 6](#)) for all procurement levels (**level 1, level 2 and level 3**), **must** be managed in accordance with [section 7.2](#) onwards.

Standing offers for whole-of-health contracts and whole-of-government contracts managed by NSW Health **must** also be managed in accordance with [section 7.2](#) onwards.

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7.2 Key roles in contract management

7.2.1 Contract management roles according to contract type

A summary of the contract management roles according to contract type is as follows:

Contract type	Contract owner	Sourcing agency ⁵	Contract management agency	Contract implementation agency	Local operational management
Contract using a whole-of-government or whole-of-health contract⁶	LHD, network or other NSW Health agency	LHD, network or other NSW Health agency	NSW Procurement or Department of Customer Service (ICT) or HealthShare NSW	LHD, network or other NSW Health agency (if required)	LHD, network or other NSW Health agency (if required)
Contract established using a whole-of-government prequalification scheme or procurement list⁶	LHD, network or other NSW Health agency	LHD, network or other NSW Health agency (with support from eHealth NSW or HealthShare NSW if required)	NSW Procurement or Department of Customer Service (ICT)	LHD, network or other NSW Health agency	LHD, network or other NSW Health agency
Contracts outside existing procurement arrangements > \$250,000	LHD or other NSW Health agency	HealthShare NSW or eHealth NSW (local tenders and contracts team) ⁷	LHD, network or other NSW Health agency	LHD, network or other NSW Health agency	LHD, network or other NSW Health agency
Contracts outside existing procurement arrangements ≤ \$250,000⁸	LHD or other NSW Health agency	LHD or other NSW Health agency	LHD or other NSW Health agency	LHD or other NSW Health agency	LHD or other NSW Health agency
Whole-of-government contract (standing offer)	NSW Procurement or Department of Customer Service (ICT) ⁹	NSW Procurement or Department of Customer Service (ICT) ⁹	NSW Procurement or Department of Customer Service (ICT) ⁹	HealthShare NSW or eHealth NSW (for NSW Health agencies)	LHD, network or other NSW Health agency
Whole-of-health contract (standing offer)	HealthShare NSW	HealthShare NSW	HealthShare NSW	HealthShare NSW <u>and</u> LHD, network or other NSW Health agency	LHD, network or other NSW Health agency

⁵ The 'sourcing agency' listed in this column is subject to [section 2.3](#) which contains more information on identifying the sourcing agency.

⁶ Includes transactions using purchase orders and/or the Health catalogue.

⁷ Except the Ministry of Health and Health Professional Councils Authority, which act as the contract owner, sourcing agency and contract management agency for their contracts.

⁸ Includes contracts established using a purchase order or PCard.

⁹ Or other NSW government department nominated by the NSW Procurement Board.

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7.2.2 Description of contract management roles

A summary of the contract management roles referred to in [section 7.2.1](#) is as follows:

Role	Description
Contract owner	The NSW Health agency that has signed the contract (often called the 'Principal' or 'Agency'). The contract owner is responsible for approving contract award, executing the contract on behalf of NSW Health, and approving any contract variations and/or extensions.
Sourcing agency	The NSW Health agency that undertook the approach to market process up to contract award, including evaluating supplier submissions and selecting the successful supplier.
Contract management agency	The NSW Health agency responsible for contract management activities detailed in this section 7 . This includes carrying out contract administration activities, applying the Supplier Segmentation Framework, performance management and supplier relationship management for applicable contracts.
Contract implementation agency	The NSW Health agency responsible for implementing a new contract across NSW Health (for whole-of-government and whole-of-health contracts) or at the local agency level (where the agency is the contract owner and for whole-of-health contracts). More than one agency may be involved in contract implementation activities if the contract is used by multiple agencies.
Local operational management	The NSW Health agency using a contract at a local level, whether the contract was established using existing procurement arrangements or outside those arrangements. Operational management includes ordering goods or services, taking delivery, paying supplier invoices and managing stock levels and inventories.

7.3 Contract set-up

7.3.1 Determine the contract management agency

The first step in contract management is to determine which NSW Health agency is responsible for managing the contract, using the table in [section 7.2.1](#).

7.3.2 Identify and assemble contract implementation team

For **level 1** procurements, contract implementation is often straightforward and can be performed by the officer who conducted the procurement. A contract implementation team is not usually required for these contracts.

For **level 2** and **level 3** procurements, the contract management agency **should** identify and assemble a contract implementation team.

The contract implementation team will comprise staff from the contract management agency, but contract management agencies are also encouraged to liaise with staff from other relevant NSW Health agencies. NSW Health agencies **must** work with HealthShare NSW or eHealth NSW when implementing whole-of-government or whole-of-health contracts at the agency level.

The composition of the contract implementation team will vary across NSW Health agencies and contracts depending on the contract type, category, complexity, and risk profile. Note that different team members may have different roles and responsibilities at different times. Equally, some team members may have more than one role in the contract implementation team.

7.3.3 Handover and review contract

For **level 2** and **level 3** procurements, the NSW Health agency who undertook the process of procuring the goods or services **must** handover and review the executed contract with the contract manager, in consultation with the procurement manager or category manager (or local equivalent) and the wider contract implementation team as necessary, to:

- confirm all contractual documents have been received and properly executed
- review and record the expected outcomes of the contract, including contract terms and requirements
- confirm benefits delivered through the sourcing activity and any ongoing activities to ensure full benefits realisation over the life of the contract
- ensure the contract (if valued at \$150,000 (incl. GST) or more) is registered on [PROcure](#) or [Portt Discover](#) as appropriate and that relevant documents are uploaded to the relevant system
- ensure all records are saved to the contract owner's record management system and passed over to the contract management agency (if not the same agency).

7.3.4 Record new assets on the Asset Register

All assets, including newly purchased or leased assets **must** be recorded on the NSW Health Asset Register in [AFM Online](#) in accordance with the relevant state-wide asset naming standard that applies to the service class.

The asset **must** also be included in your NSW Health agency's Asset Management Plan to document the lifecycle activities required to ensure the asset supports service delivery expectations.



More information on asset management requirements is in the Policy Directive [Asset Management \(PD2020_038\)](#).

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7.3.5 Classify the supplier using the Supplier Segmentation Framework

7.3.5.1 What is the Supplier Segmentation Framework?

The Supplier Segmentation Framework classifies suppliers into ‘supplier types’ (**tactical, emerging, legacy or strategic**), which in turn, determines the degree of management you are required to undertake for the contract.

You **must** classify the supplier using the Supplier Segmentation Framework if the total aggregated contract spend with that supplier (including the new contract) is \$5 million or more per annum.

Suppliers with a total aggregated contract spend of less than \$5 million per annum do not need to be classified into a ‘supplier type’ using the Supplier Segmentation Framework.

The Supplier Segmentation Framework is as follows:

BUSINESS VALUE	HIGH	Legacy	Strategic
	<ul style="list-style-type: none"> • Supplier supports critical business processes and performances may have a significant impact on end users or customers • Limited available alternatives, or switching costs/time are prohibitive • Supplier offerings do not align with the NSW Health agency's go forward organisational strategy and/or IT roadmap/strategy <p>Supplier management focus: business continuity, performance and rationalisation</p>	<ul style="list-style-type: none"> • Significant spend and/or risk, requiring the greatest contract management rigour and effort • Available alternatives are limited, or switching costs are prohibitive • Supplier offerings align with the NSW Health agency's go forward organisational strategy and/or IT roadmap/strategy and performance is critical for achieving the agency's strategic goals • Both parties invest in the relationship and innovation <p>Supplier management focus: performance, strengthening strategic collaborative relationships to deliver mutually beneficial business outcomes and innovation</p>	
LOW	Tactical	Emerging	
	<ul style="list-style-type: none"> • Supplier has no impact on clinical or customer facing operations • Available alternatives are plentiful and switching costs/timing are minimal • Low to medium risk of delivery <p>Supplier management focus: expense management, and cost optimisation and rationalisation only</p>	<ul style="list-style-type: none"> • Available alternatives and switching costs are moderate • Supplier offerings align to the NSW Health agency's go forward organisational strategy and/or IT roadmap/strategy • Candidate for investing time and effort to promote to becoming a strategic supplier <p>Supplier management focus: performance, developing collaborative relationship opportunities to contribute to strategic objectives and innovation</p>	
	LOW	RELATIONSHIP VALUE	HIGH

7.3.5.2 Description of 'supplier types'

The Supplier Segmentation Framework classifies suppliers into the following 'supplier types':

Tactical suppliers have limited impact on clinical or customer facing operations. Supplier switching costs and timeframes are minimal. **Tactical** suppliers are managed on an exception basis with a focus on correcting instances of contract non-compliance.

The supplier is classed as a **tactical** supplier if the total aggregated spend with the supplier, including the new contract, is less than \$5 million per annum. Some suppliers with contract spend of more than \$5 million per annum will also be classed as **tactical** suppliers, when assessed against the Supplier Segmentation Framework criteria.

Emerging suppliers provide goods or services that support the NSW Health agency's organisation strategy. Switching costs and alternative options are moderate. **Emerging** suppliers are managed with a focus on service levels and performance, price benchmarking to control costs, relationship development, and encouraging innovation.

Legacy suppliers support critical business processes and performance. There are limited alternative options with prohibitive switching costs. **Legacy** suppliers are managed with a focus on risk, service levels and performance to ensure business continuity.

Strategic suppliers provide critical goods or services to the business, often with multiple touchpoints. Switching costs are prohibitive and alternative options limited. The management focus is on building relationships, identifying opportunities for collaboration and innovation, while ensuring optimal performance and service levels.

7.3.5.3 Classification process

The contract management agency is responsible for applying the Supplier Segmentation Framework. HealthShare NSW is responsible for segmenting suppliers on whole-of-health contracts. Other NSW Health agencies are responsible for segmenting suppliers on their local agency-specific contracts.

NSW Health agencies are not required to segment suppliers or apply the framework to contracts established under whole-of-health or whole-of-government contracts, or whole-of-government prequalification schemes or procurement lists.

To classify a supplier, you are to:

1. list the NSW Health agency's contracts with the supplier and calculate the aggregated annual contract spend (remember, contract value is limited to contracts within the agency)
2. complete the segmentation survey for each supplier with annual spend of more than \$5 million.

7.3.5.4 Calculate supplier contract spend

To determine the aggregated annual spend with a supplier, you **must** add the annual value (or estimate) of the new contract to the aggregated annual spend with the supplier across all current contracts with your NSW Health agency.

You are not required to include the supplier's contracts with other NSW Health agencies, or contracts established using whole-of-health or whole-of-government contracts or whole-of-government prequalification schemes or procurement lists.

If the contract duration is less than a year, use the full contract value.

If the contract extends beyond a year, use the annualised value (pro rata if necessary).

For panel contracts and standing offers, the annual value may be the estimate used when planning the procurement process.

7.3.6 Confirm contract management activities

The contract management activities to be undertaken for each contract is summarised in [section 9.3](#). As each contract is unique and may require a different management approach, the NSW Health Chief Procurement Officer has discretion to grant an exemption where there is a reasonable justification for not performing a contract management activity. This **must** be documented in the Contract/Panel Management Plan or on the supplier file.

7.3.7 Prepare Contract/Panel Management Plan

Contract/Panel Management Plans are a key contract management tool which enable category or contract managers to track deliverables, supplier performance and contract compliance.



For contracts with **emerging**, **legacy** and **strategic** suppliers, you **must** prepare a Contract/Panel Management Plan, using the *Contract/Panel Management Plan Template*.

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A Contract/Panel Management Plan is not required for **tactical** suppliers although the contract may stipulate that one is required or the contract manager may choose to prepare one.

7.3.8 Update procurement systems

New contracts **must** be set up appropriately in the NSW Health procurement systems. This includes:

- ensuring the supplier is set up on Oracle and all information is accurate so payments can be processed
- for contracts valued over \$150,000 (inc. GST), inputting the contract on [PROcure](#) and disclosing the contract on [NSW eTendering](#)
- for whole-of-health contracts, listing the contract on [Portt Discover](#)
- for applicable contracts, arranging for products and pricing schedules to be inputted on the NSW Health catalogue
- recording new assets on [AFM Online](#).

7.3.9 Check if a Transition-in Plan should be prepared

To identify risks and manage the early stages of the contract management process, you **should** prepare a Transition-in Plan if the contract or supplier transition will be extended or complex.

A Transition-in Plan may be required when there is:

- a changeover from a pre-existing contract to a new contract (depending on the terms of the contract)
- a changeover from a pre-existing supplier to a new supplier, or
- the implementation of a new contract with a pre-existing or new supplier.

To prepare a Transition-in Plan, you will need to complete Annexure A in the *Contract/Panel Management Plan Template*. In this plan, you **should**:

- identify potential issues, risks and strategies
- develop a plan outlining tasks, timeframes and resources
- establish who will manage and implement the process.

7.3.10 Check if a contract user guide should be prepared

Preparing a contract user guide is useful where there are multiple contract users in different parts of your agency, or across different NSW Health agencies.

It is used to brief key users on contract terms and processes, including obligations, supplier performance measures, risk management and escalation processes.

A contract user guide is commonly required for contracts with **legacy** and **strategic** suppliers but the contract management agency **should** determine if it is needed on a case by case basis. The category and/or contract manager may also determine that a contract user guide is required for contracts with **tactical** and **emerging** suppliers.

The contract manager **should** circulate the plan to the wider contract implementation team, and key users of the contract including other NSW Health agencies as appropriate.



You can find a contract user guide template on the [Procurement Portal](#).

7.3.11 Prepare benefits realisation plan

Anticipated contract benefits for **emerging**, **legacy** and **strategic** suppliers **must** be recorded in the Contract/Panel Management Plan and benefit delivery tracked against forecasts using a consistent methodology. You may choose to prepare a separate benefits realisation plan if there are complex or numerous benefits to be tracked and delivered.

A benefits realisation plan is not required for contracts with **tactical** suppliers.

The benefits realisation plan establishes the process to implement, manage and deliver benefits throughout the life of the contract, as well as establish a regime to track actual benefits delivery against forecasts.



A benefits realisation plan template is available on the [Procurement Portal](#).

7.3.12 Hold contract kick-off meeting

A contract kick-off meeting allows all parties to establish a working relationship and develop a shared understanding of key aspects and expectations of the contract. A kick-off meeting may not be required for a straightforward goods contract, but can be useful for services-based contracts where working relationships will be important.

You **should** hold a kick-off meeting for new contracts with **emerging, legacy** and **strategic** suppliers. Kick-off meetings can be combined with other regular meetings with the supplier where you already have working a relationship through pre-existing contracts.

If a kick-off meeting is arranged, the contract manager and supplier **must** attend the meeting (physically or virtually), however other stakeholders (i.e. key users or those impacted by the contract) **should** attend too.

7.4 Administer contract

7.4.1 Ensure insurances and licences remain current

You **must** ensure suppliers, of all types, maintain all required insurances, certifications, licences or other mandatory qualifications throughout the life of the contract.

Expiry dates **should** be checked and recorded at the start of the contract, and suppliers asked to provide updated information as expiry dates pass. You **should** also regularly confirm that suppliers are maintaining minimum insurance levels (or as appropriate for other mandatory requirements).

7.4.2 Manage contract variations

Sometimes you may need to vary your contract.

These changes can be minor (e.g. changes in billing instructions) or material (e.g. changes to the original scope or duration, such as contract extensions, or price of the contract). A contract variation is considered a form of direct negotiation that can carry the same risks as the direct source and negotiation procurement method (see [section 6.8.3](#)).

To better manage contract variations, you:

- **should not** seek or allow a contract variation where the variation may compromise the realisation of value or fundamentally change the nature of the contract (in this circumstance, a new procurement contract **should be** entered into)
- **must** comply with the variation regime of the contract, including the rules of the prequalification scheme or procurement list (if applicable) (that is, provide the relevant contract notice or not exceed the maximum number of variations or change in value allowed under the prequalification scheme or procurement list rules)
- **must not** use an extension option to avoid complying with the *Enforceable Procurement Provisions Direction* (PBD 2019-05)
- **must** seek legal advice prior to agreeing to material variations from your local legal team (if your agency has a local legal team) and/ or the [NSW Government Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate)
- **must** keep relevant records related to the contract variation (such as meeting minutes, emails and signed letters or agreements)

- **must** obtain appropriate approval for the variations from your contracting delegate
- **must** obtain appropriate approvals for the variations from your financial delegate
- **must** obtain NSW Health Chief Procurement Officer approval to vary your contract if the total tenure will be more than five years, or to extend contracts whose contract terms exceeds five years, on the basis that exceptional circumstances apply
- **must** obtain approval from the NSW Health Chief Procurement Officer if the proposed variation is outside the scope of the original statement of work.



If a significant legal matter arises, remember that you **must** comply with requirements to notify the Ministry of Health General Counsel. Refer to Policy Directive *Significant Legal Matters and Management of Legal Services* (PD2017_003) for more information.

Once your contract variation is approved, you **must** document:

- confirmation that the suggested variations are within the scope of the contract's statement of work
- expected benefits to NSW Health or the NSW Health agency directly arising from the prospective variations
- any likely detrimental effects from accepting the variations (for example, additional cost to NSW Health).

You **must** record contract variations on [PROcure](#) or [Portt Discover](#), and, for contracts valued at more than \$150,000 (inc. GST), disclose them on [NSW eTendering](#) if there is a material change to the contract term or price.

7.4.3 Conduct price reviews

The price of goods or services will fluctuate over time due to a range of factors. For example, suppliers may seek price reviews or variations to maintain their profit margins on multi-year contracts.

However, not all goods and services increase in price each year, or they may increase at varying rates. Therefore, annual price increases **should not** be routinely applied but rather assessed on a case by case basis (except where the contract provides for a pre-agreed annual price increase).

Where a supplier requests a price change, it is best practice to first request evidence or justification to support the requested price change. This **should** focus on the supplier's cost drivers compared to contract efficiency gains over the term of the contract to date. If available, contract managers **should** seek independent verification of the supplier's cost drivers (e.g. market changes, exchange rate fluctuations, consumer price or labour price indexes).

Price increases **should** only be agreed where there is sufficient evidence that the increase is justified (unless the contract provides for an annual increase).



Many contracts will include a price review and calculation mechanism, and this **must** be used when considering and calculating a revised price.

7.4.4 Manage contract extensions and expiries

You **must** track extension dates and expiries for contracts with all supplier types, and ensure you have a plan for maintaining supply or transitioning out of a contract.

The decision on whether a contract is to be extended (if there are extension options available), renewed using a new procurement process, or allowed to lapse **must** be made early enough to ensure there is sufficient time to put in place the planned expiry strategy prior to the contract end-date.

For contracts managed by HealthShare NSW and eHealth NSW, decisions to lapse, renew or extend contracts **must** be made at least 12 months prior to expiry, with relevant approvals. This is a requirement under the NSW Procurement Board's Accreditation Program for Goods and Services Procurement.

Multi-year contracts may include a mechanism to extend the contract beyond the initial term.

If extension options are available, the extension **should** only be used if:

- supplier performance is satisfactory, and
- value for money can be maintained over the extended contract term.

If these criteria cannot be met, you **should** conduct a new procurement process to establish a new contract. Therefore, decisions on contract extensions **must** be made early enough to allow a replacement contract to be arranged.

7.5 Monitor contract

7.5.1 Manage contract compliance

7.5.1.1 Application

You **must** monitor the supplier's performance and contract compliance for all supplier types (**tactical, emerging, legacy** and **strategic**) to:

- ensure that goods and services are procured in accordance with the contract (e.g. in compliance with unit price, time, specifications) and that value for money is achieved
- correct shortcomings before significant issues arise or the relationship between the parties is potentially compromised.

The approach to managing supplier performance **should** be determined by the importance, risk and value of the contract and supplier relationship.

Contract management approaches may include:

- direct monitoring by the contract management agency
- reporting by the supplier
- feedback from contract users
- monitoring by stakeholders
- monitoring by a third party
- audits, or
- a combination of these.

7.5.1.2 Manage non-compliance

For **emerging, legacy** and **strategic** suppliers, there **must** be processes in place for NSW Health agencies and end-users to report contract non-compliance or issues.

The contract management agency **should** raise instances of non-compliance with the supplier through routine communication channels in the first instance.

You **must** document all instances of non-compliance, and communications addressing non-compliance, in writing.

If a satisfactory outcome cannot be reached with a supplier through routine correspondence and review meetings, formal discussions **should** take place to discuss the non-compliance and allow the supplier to respond and agree measures to address the issue.

Non-compliance may be escalated to your NSW Health agency’s procurement manager or executive director (or local equivalent), or subsequently to the NSW Health Chief Procurement Officer, if it cannot be resolved by the contract manager.


If the supplier is in breach of their obligations and you are considering invoking dispute resolution mechanisms (e.g. to issue a formal notice of dispute or to commence third party mediation), you **must** seek legal advice before proceeding by contacting your local legal team (if your agency has a local legal team) and/or seeking external legal expertise from the NSW Government Legal Services Panel or the Regional and Rural Legal Services Panel (as appropriate).

These can be complex legal matters and expert guidance is required to advise and manage the process. If it would be of assistance, the Ministry of Health’s Legal unit can assist in identifying an appropriate firm from the relevant panel.

 You **must** comply with requirements to notify the Ministry of Health General Counsel when a significant legal matter arises. Refer to Policy Directive *Significant Legal Matters and Management of Legal Services* (PD2017_003) for more information.

7.5.2 Manage financial administration and track expenditure

Good financial administration involves tracking expenditure over the course of the contract, ensuring payments are made as milestones are met (but not before), and ensuring records and systems are updated as required.

 Key steps include:

- ensuring your supplier is set up on Oracle and all information is accurate, so payments can be processed without delay
- receipting goods or services as they come into store or services are delivered
- ensuring invoices match the goods or services delivered, and are approved promptly
- identifying if your supplier is a registered small business with the Small Business Commission and qualifies for five business day payment terms under the NSW Government Faster Payment Terms Policy. You **should** work with accounts payable to ensure registered small business suppliers are paid on time.



If expenditure is likely to exceed the approved contract value, you **must**:

- obtain approval from your financial delegate for the increased contract spend
- update [PROcure](#) and the GIPA contract register on [NSW eTendering](#) if the contract is valued at \$150,000 (incl. GST) or more.

Contract spend **must** be tracked and monitored over the life of contracts with **emerging, legacy** and **strategic** suppliers, using invoice data, supplier-provided reports and other procurement systems (if available). You **must** also reconcile contract spend against the approved expenditure commitment or the purchase order (if applicable).

7.5.3 Conduct demand planning

In association with spend tracking, you **must** consider ongoing demand across contracts with **strategic** suppliers. It is **recommended** to also conduct demand planning for contracts with **emerging** and **legacy** suppliers. This will help you to respond to user needs, changes in contract usage and surges (or declines) in demand as they develop.

Where possible, forecast changes in demand **should** be shared with the suppliers to facilitate joint supply chain and logistical planning. However, commercial-in-confidence information or information that may advantage the supplier in an upcoming procurement process **must not** be disclosed.

7.5.4 Track and report benefits delivery

Qualitative and quantitative benefits included in the Contract/Panel Management Plan and/or the Benefits Realisation Plan **must** be tracked over the life of contracts with **emerging, legacy** and **strategic** suppliers. The defined benefits measurement methodology **must** be applied consistently, with any changes recorded and justified.

Where the contract, with any supplier type, is included in a NSW Health savings program, the savings **must** be tracked and reported in line with the requirements of the program's reporting schedule.

Over the life of a contract, new benefits may emerge, or operational changes or external factors may mean that benefits cannot be delivered as planned. These changes **should** be recorded, including any unforeseen quick wins.

Contract and/or category managers may determine the frequency of benefits tracking based on the business criticality of the benefits, contract lifecycle and savings program reporting schedules.

7.5.5 Continuously monitor and manage risks

You **must** actively identify and manage risks throughout the term of contracts with **emerging, legacy** and **strategic** suppliers. In particular, regular risk monitoring **must** be conducted where there are patient, public or workplace health or safety risks associated with the contract.

Risk reviews may be incorporated into contract review meetings to ensure that all parties are informed and remain up to date with relevant risks and mitigation strategies.

7.5.6 Monitor supply chain/s

Supply chain risks and disruptions can have a severe impact on contract delivery and service levels. Contract or category managers **must** analyse and monitor their contract supply chains with **strategic** suppliers to better understand these risks, and to help identify and plan for supply bottlenecks or disruptions.

It is **recommended** that you also monitor supply chain risks for **emerging** and **legacy** suppliers.

Suppliers are a principal source of information on their supply chains. Contract or category managers **should** work with suppliers to map the supply chain and to identify and minimise supply disruption risks.

7.6 Manage and monitor supplier performance

7.6.1 Manage contractual performance measures

The contract or category manager **must** monitor and regularly review contractual performance measures such as key performance indicators and service level agreements for **emerging, legacy** and **strategic** suppliers. Internal desktop reviews can be sufficient (see [section 7.6.2](#) for requirements to review performance with suppliers).

Contract or category managers may determine the appropriate review schedule, although quarterly reviews are **recommended** for **strategic** suppliers, twice yearly reviews for **legacy** suppliers and annual reviews for **emerging** suppliers. For **tactical** suppliers, performance reviews, if required, may be conducted on an exception basis. In some cases, review schedules may already be required under the contract (and **should** be followed where it is included).

You **should** promptly address any non-compliance or downward trends in any key performance indicators and service level agreements with the supplier. This minimises the potential for performance issues to escalate into critical supply problems or contract failure.

Performance measures **should** be evaluated periodically to ensure that they are still relevant. If required, you **should** make changes through the contract variation regime in the contract.

7.6.2 Facilitate performance review meetings

The contract or category manager **must** facilitate contract review meetings with **emerging**, **legacy** and **strategic** suppliers.

Contract or category managers may determine the appropriate review schedule with regard to the supplier relationship and type and value of the contract, however the following timeframes are **recommended**:

- for **strategic** suppliers, schedule review meetings with the supplier at least quarterly, including an annual performance review
- for **legacy** suppliers, schedule review meetings at least twice-yearly, one of which is an annual performance review
- for **emerging** suppliers, schedule an annual performance review meeting.

If the frequency of review meetings is set out in the contract, the meetings **must** be conducted in accordance with the contract.

Contractual performance measures such as key performance indicators or service level agreements **must** be tracked in accordance with the contract (refer to [section 7.6.1](#)), and issues or concerning trends discussed with the supplier at performance review meetings.

7.6.3 Measure end-user satisfaction

Sourcing agencies and contract end-users **should** report issues of contract non-compliance to the contract or category manager. However, it is important that contract and category managers also measure end-user satisfaction with the way the contract is being delivered.

This may reveal unreported compliance issues, contract administration issues, or even flaws in the contract design. Alternatively, it may reveal examples of best practice within customer agencies, or excellent customer service from suppliers.

End-user satisfaction may be measured using online reporting tools, customer surveys, user forums or information sessions, or by less formal means. You **should** take steps to ensure reporting processes are accurate and representative of end-user views.

End-user satisfaction **must** be measured for contracts with **strategic** suppliers.

It is **recommended** that you also measure end-user satisfaction for contracts with **emerging** and **legacy** suppliers.

It is **recommended** that you measure end-user satisfaction with contract and supplier performance at least annually for **strategic** suppliers and, if actioned, annually for **legacy** suppliers and once per contract term for **emerging** suppliers.

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7.6.4 Manage commitments under procurement-connected policies



Contracts valued at \$3 million or more may have supplier and/or agency reporting requirements arising from procurement-connected policies (refer to [section 6.13.5](#)).

For these contracts, you **must** check for procurement-connected policy reporting requirements.

If any procurement-connected policies apply to your contract, you **must** confirm the implementation and reporting requirements with your supplier and include them in your Contract/Panel Management Plan.

A summary of these procurement-connected policy requirements is outlined in this [section 7.6.4](#). Whilst this summary will assist you to identify the types of policies which will apply, each policy sets out detailed requirements which should be reviewed in managing your contract. Further information is available on buy.nsw.

Policy	Contract value	Reporting frequency	Requirement
Small and Medium Enterprise and Regional Procurement Policy	≥ \$3 million	Quarterly	Report on SME and Local Participation Plan commitments
ICT/Digital SME Procurement Commitments	> \$3 million	Quarterly	Report on small and medium enterprises' subcontracting, or supply chain spend
Aboriginal Procurement Policy	≥ \$7.5 million	Quarterly	Report against Aboriginal Participation Plan
Small Business Shorter Payment Terms Policy	≥ \$7.5 million	Six-monthly	Large businesses must report on: <ul style="list-style-type: none"> number of small business subcontractors required to be paid within 20 business days total value of those subcontracts

7.7 Manage supplier relationship

7.7.1 Take a continuous contract improvement approach



Strategically important, long-term or high-value contracts, and the associated contract management approach, often need to be adapted over time as the economic environment, supply chains and end-user demand change. The effectiveness of the contract performance management regime may also vary over time, with amendments made to contractual performance measures.

It is important to work with suppliers to continuously improve contracts to optimise contract delivery, improve relationships, maintain value for money and address risks before significant issues arise.

A continuous improvement approach is **recommended** for contracts with **legacy** and **strategic** suppliers.

There may also be opportunities to work with **strategic** suppliers to improve goods or services, for example through outcomes-based trials or pilot projects for innovative solutions. NSW Health agencies are encouraged to consider opportunities to work with strategic suppliers to improve goods or services, depending on their capacity and capability to pursue additional contract benefits.

7.7.2 Share information to build a strategic relationship

Information sharing can build relationships, but also mitigate risks by facilitating shared solutions to potential issues. It can also be a catalyst for innovation and identifying savings opportunities.

For example, sharing information on upcoming policy or strategy changes within NSW Health that may impact demand for contracted products or services will help the supplier to plan for a significant surge or decline in orders.

Similarly, a supplier that shares information on supply chain risks and issues may allow the NSW Health agency to mitigate any impacts on the availability of critical products or services. Other areas for discussion may include the supplier's plans for development or expansion, new product releases or service lines, and changes in subcontracting arrangements.

Information sharing **must** be managed within the constraints of probity and commercial sensitivities. Some information may not be suitable to be shared (e.g. details beyond publicly available information on upcoming procurement activities) or **should** be subject to confidentiality agreements (e.g. if a supplier agrees to share proprietary information).

Given the high business value of **legacy** and **strategic** suppliers, it is **recommended** that contract or category managers consider ways to enhance two-way information sharing when managing contracts with these suppliers.

7.7.3 Collaborate to identify savings opportunities

Routine contract and supplier management is critical to realising the savings delivered through the sourcing process, however, there may be opportunities to identify additional savings and benefits by further developing supplier relationships.

Potential savings that may be delivered in collaboration with suppliers include, for example, added value performance measures; demand, cost and supply chain efficiencies; rationalisation of supply lists; streamlining purchase to pay arrangements; and workload planning and process redesign.

Collaborating with suppliers to identify savings is **recommended** for contracts with **legacy** and **strategic** suppliers.

7.7.4 Manage modern slavery risks

NSW Health has obligations under Commonwealth and NSW Government legislation to manage and report on modern slavery risks in its supply chains.

Contract management activity relating to modern slavery **should** be proportionate to the level of risk, which varies across categories and contracts. Efforts to manage modern slavery risks **should** be concentrated on contracts and suppliers where significant risks have been identified.

NSW Health agencies **should** conduct a modern slavery risk assessment for contracts with **emerging**, **legacy** and **strategic** suppliers. A [simple risk assessment template](#) is available at [buy.nsw](#).

Contracts and suppliers identified as low-risk **should** be managed on an exception basis. For example, if there is a verified report of an instance of modern slavery in the supplier’s supply chain, or if the supplier fails to comply with the Commonwealth Government’s modern slavery reporting requirements (see [section 8.8.2](#)).

For high-risk categories or contracts, NSW Health agencies **should** conduct modern slavery risk reviews with suppliers once per year, for example in the annual performance review meeting, for contracts with **emerging, legacy and strategic** suppliers.

Modern slavery risks are not limited to high value or strategic contracts, however there are greater ethical and reputational risks associated with these business critical contracts. NSW Health agencies **should** also consider conducting modern slavery risk reviews with **tactical** suppliers in high-risk categories or contracts, depending on local capacity and the criticality of the contract.

Any incident of modern slavery identified in a NSW Health supplier’s supply chain **must** be reported to the NSW Chief Procurement Officer so NSW Health can assess any impacts across the sector, coordinate a whole-of-health response (if required), and fulfil its statutory reporting obligations.

An incidence of modern slavery in a supplier’s supply chain is not necessarily grounds for a dispute or breach of contract. Terminating a contract reactively can lead to suppliers withholding information and put victims at greater risk.

Any response to a modern slavery incident **should** consider:

- whether the supplier’s response to the incident is sufficient
- the supplier’s ongoing risk mitigation and management plans
- the broader context of the breach. For example, some supply chains contain endemic modern slavery, with few or no alternative supply options, and these situations require a long term, coordinated response by multiple stakeholders.

Further information on managing modern slavery risks in procurement, including links to third-party monitoring sites, is available on [buy.nsw](#). Information on NSW Health’s reporting obligations is provided in [section 8.8.2](#).

7.8 Close contract

7.8.1 Conduct final performance review

You **must** conduct a final performance review with **emerging, legacy and strategic** suppliers prior to contract closure.

This review **should** analyse:

- whether the objectives of the contract were achieved
- potential improvements in planning, management and procedures
- processes that went well, areas that did not go well and potential areas for improvement for future contracts.

A final performance review is not required for **tactical** suppliers.


7.8.2 Prepare Transition-out Plan

Like the Transition-in Plan ([section 7.3.9](#)), a Transition-out Plan may be required to minimise any impacts on parties at the end of a contract. In some cases, this plan or a regime for transitioning-out may already be required under the contract (and **must** be followed where it is included).

The procurement of the goods and services may continue, however, there may be a decision to changeover to a new contract, introduce a new supplier or remove the contract altogether. This is called the *transition-out* phase.

Transition-out Plans will vary between contracts, and can involve:

- developing a communication plan for stakeholders on any changed arrangements
- updating any internal processes or procedures as required.

 A template for the Transition-out Plan is at Annexure D of the *Contract/Panel Management Plan Template*.

7.8.3 Finalise contract

For contracts with all supplier types (**tactical**, **emerging**, **legacy** and **strategic**), you **must** finalise the contract in accordance with the agreed terms.

The following steps **should** be taken to finalise the contract:

- verify contractual requirements have been met and that the goods or services have been fully delivered
- identify and resolve any outstanding issues
- complete and verify handover
- obtain all final reports, documentation and clearances from the supplier
- ensure any equipment, access cards or other NSW Health-owned items are returned
- settle any outstanding invoices and claims.

7.8.4 Finalise Contract/Panel Management Plan

The Contract/Panel Management Plan **must** be reviewed and updated with final contract spend and usage data for contracts with **emerging**, **legacy** and **strategic** suppliers. You **should** ensure that suppliers provide all outstanding reports, and update NSW Health data systems as required.

7.8.5 Finalise benefits reporting

You **must** conduct a final reconciliation of benefits delivered through any contract with **emerging**, **legacy** or **strategic** suppliers, by finalising the benefits realisation register in either the Contract/Panel Management Plan or the benefits realisation plan as applicable.

The final reconciliation **should**:

- analyse any shortfalls or over-delivery of benefits, considering factors such as changing business needs, and evolving market or supply chain dynamics
- reconcile savings targets against delivery, and close out any savings programs associated with the contract.

You may find it useful to compare the final benefits delivered against the benefits identified in the original Procurement Plan and the benefits realisation plan.

A final benefits report is not required for contracts with **tactical** suppliers.

7.8.6 Check for end-of-contract procurement-connected policy reporting requirements

You **must** check that you have met any end-of-contract procurement-connected reporting requirements. They include the following:

- Aboriginal Participation Plan
- SME and Local Participation Plan
- ICT SME spend commitments.

7.8.6.1 Aboriginal Participation Plan

For applicable contracts valued at \$7.5 million or more, suppliers **must** provide a report on completion of the contract that includes a final reconciliation against the Aboriginal participation commitments in the supplier's original Aboriginal Participation Plan. The supplier can submit the final report to you with their last quarterly report on Aboriginal participation.

If the supplier has not met the minimum 1.5% participation requirement for the contract, the remaining balance **must** be collected from the supplier by the contract management agency in accordance with the contract terms. These funds **must** then be deposited to the account held by Training Services NSW. Suppliers cannot transfer funds directly to Training Services NSW. Further information on the collection of participation funds can be found in the [Aboriginal Procurement Policy](#), and support is available from the [NSW Procurement Service Centre](#).

Training Services NSW uses these funds to target skills and capacity gaps, education and capability building programs for Aboriginal people and businesses.

Subject to the terms of the contract, an alternative to recovering the funds at the end of the project is to retain the 1.5% Aboriginal participation spend at the start of the contract. You **must** then allocate this spend progressively to suppliers as they demonstrate progress against their Aboriginal Participation Plan over the life of the contract, and transfer any remaining funds to Training Services NSW at the end of the contract term.

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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7.8.6.2 SME and Local Participation Plan

For applicable contracts valued at \$3 million or more, suppliers **must** submit a final report confirming they have complied with the commitments made in the SME and Local Participation Plan for the contract.

If a supplier cannot confirm compliance with all commitments, they **must** explain this in reasonable detail in the final report.

7.8.6.3 ICT SME spend commitments

For applicable contracts valued at \$3 million or more, ICT suppliers that are subject to the 25% subcontractor SME spend target **must** provide quarterly reports on progress against their commitments.

At the end of the contract, contract managers **should** reconcile the reported spend against the final contract value to confirm the 25% target has been met.

7.8.7 Finalise contract records and lessons learnt

You **must**, at the conclusion of any contract, confirm all records are up to date and saved into your agency's record management system, in compliance with the *State Records Act 1998*.

These records **must** cover:

- contract planning documents, including the Evaluation Plan
- sourcing documents including the request for quotation or request for tender, clarifications, supplier responses, Evaluation Report and any supporting documentation
- conflict of interest declarations and any other probity-related documentation
- signed and executed contracts and variations
- performance management records and supplier reports
- financial records and reconciliation of contract expenditure.

For contracts with **strategic** suppliers, you **should** also consider preparing a report with lessons learnt to support ongoing capability development within your agency.

Section 8

Other relevant considerations

This [section 8](#) on other relevant considerations applies to the procurement of all goods and services, regardless of the procurement level (**level 1, level 2 or level 3**) or supplier type (**tactical, emerging, legacy or strategic**).

8.1 Legal

NSW Health agencies **must** comply with Policy Directive *Significant Legal Matters and Management of Legal Services* (PD2017_003), including complying with requirements to notify the Ministry of Health General Counsel when a significant legal matter arises.

For advice on legal matters (e.g. reviewing contract terms, managing material contract variations / non-compliance), NSW Health agencies **must** contact their local legal team (if your agency has a local legal team) and/or seek external legal expertise from the [NSW Government Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate). If it would be of assistance, the Ministry of Health's Legal unit can assist in identifying an appropriate firm from the relevant panel.

8.2 Unsolicited proposals

An unsolicited proposal is an approach to government (including a NSW Health agency) from a proponent for a commercial proposition, where the government has not requested the proposal.

All unsolicited proposals **must** be referred to the Department of Premier and Cabinet for assessment and ongoing liaison.

Such proposals **must not** be used as a substitute for routine competitive procurement actions. For example, suppliers might potentially submit unsolicited proposals in the lead up to contract renewal activities in an attempt to bypass a competitive process. Such attempts **should** be discouraged, and proposals returned with reference to the Department of Premier and Cabinet's key criteria for unsolicited proposals.

Suppliers might potentially submit unsolicited proposals in the lead up to contract renewal activities in an attempt to bypass a competitive process. Such attempts **should** be discouraged, and proposals returned with reference to the Department of Premier and Cabinet's key criteria for unsolicited proposals.



The [Unsolicited Proposals Guide](#) and [Department of Premier and Cabinet Circular C2017-05-Unsolicited Proposals](#) provide further information.

8.3 Public-private partnership arrangements

The [NSW Public Private Partnership Guidelines](#) provides information on establishing and conducting procurement through public-private partnerships.

For public-private partnerships, in addition to the [NSW Public Private Partnership Guidelines](#), agencies **must** encourage private partners or contractors to use existing whole-of-government and whole-of-health procurement arrangements where possible. The *Public Works and Procurement Regulation 2019* provides for contractors to a public authority to procure using procurement arrangements for government agencies.

8.4 Procurements approved by Cabinet or a Cabinet Standing Committee

8.4.1 Undertaking procurement approved by Cabinet or a Cabinet Standing Committee

Where Cabinet or a Cabinet Standing Committee has considered and approved a procurement of goods and services by a NSW Health agency, the Policy Directive *NSW Health Procurement (Goods & Services)*, the [NSW Government Procurement Policy Framework](#), Procurement Board Directions and other policies of the Board do not apply to the extent of any inconsistency with the Cabinet decision. This includes where Cabinet or a Cabinet Standing Committee approves a specific procurement process to implement its decision that differs from standard policy requirements, for example, allows for direct negotiation with a preferred supplier rather than a competitive process.

In undertaking the procurement, the NSW Health agency **must** apply the Policy Directive *NSW Health Procurement (Goods & Services)*, *NSW Government Procurement Policy Framework*, NSW Procurement Board Directions and policies of the Board to the extent they are consistent with the Cabinet decision. This includes the need to achieve value for money.

If the procurement is covered by the *Enforceable Procurement Provisions Direction (PBD 2019-05)*, the agency **must** comply with the enforceable procurement provisions when undertaking the procurement.

8.4.2 Cabinet consideration of whole-of-government contracts

The Minister for Finance has directed the NSW Procurement Board to require that agencies obtain approval from their responsible Minister before entering into whole-of-government contracts.

The relevant Minister, being the Minister for Health for whole-of-government contracts managed by NSW Health, makes an assessment as to whether Cabinet consideration is necessary. This requirement does not apply to whole-of-health contracts.

The Procurement Board has amended the *Approved Procurement Arrangements (PBD 2021-04)* to give effect to this decision.

8.5 Emergency procurements

Emergency procurement is permitted in extenuating circumstances where it is necessary to:

- protect life (such as the attainment of immediately available critically required supplies)

- protect the interruption of essential health services, or
- prevent substantial economic loss.

Emergency procurements are limited to a value sufficient to meet the particular emergency. You **must not** procure goods or services in excess of those necessary to meet the immediate needs of the emergency.



Before you conduct an emergency procurement, you **must** obtain approval from both:

- the Secretary, NSW Health or their nominee under section 4(1) of the *Public Works and Procurement Regulation 2019*, **and**
- your financial delegate with authority under section 9.7(1)(b) of the *Government Sector Finance Act 2018* to commit or incur expenditure for the procurement of goods, services and equipment to support the State's response to an emergency to a value sufficient to meet that particular emergency.

Approval may be provided via email or other means depending on the urgency of the incident. Written confirmation of the emergency procurement approval **must** be arranged as soon as practicable following the emergency procurement, if it cannot be provided beforehand.

It is not necessary to comply with the Policy Directive *NSW Health Procurement Policy (Goods & Services)*,

these Procedures or NSW Procurement Board policies or directions, including the *Enforceable Procurement Provisions Direction (PBD 2019-05)*, in relation to emergency procurements. However reasonable efforts **should** still be made to achieve value for money and comply with NSW Procurement Board policies and directions, to the extent possible.



Where an emergency procurement is authorised, the NSW Health Chief Procurement Officer **must** be notified as soon as possible. The NSW Health Chief Procurement Officer is responsible for reporting any authorisation to the NSW Procurement Board under the *Public Works and Procurement Regulation 2019*.

8.6 Foreign exchange risks

All NSW Health agencies are required to manage their foreign exchange risks in accordance with the *NSW Government Financial Risk Management Policy (TPP21-14)* which may require consultation with the Treasury and NSW Treasury Corporation (**TCorp**) within five business days of becoming aware of the risk.

This policy applies when agencies:

- buy or sell, or intend to buy or sell, goods or services in foreign currency
- buy or sell, or intend to buy or sell, goods that are ultimately sourced from overseas or foreign companies/suppliers
- have actual or budgeted income, expenses, assets or liabilities that are affected by changes in the value of foreign currencies.

Any procurements valued at \$500,000 or more that meet any of the above criteria **must** be reported to the Ministry of Health [Financial Systems Performance Branch](#) and the [Strategic Procurement Branch](#). The Financial Systems Performance Branch will work with you to consult with Treasury and TCorp to manage the foreign exchange risk if appropriate.

8.7 Disposals and donations

The disposal of goods and assets that have reached the end of the serviceable life or are no longer required by your agency **must** be managed to achieve value for money and meet transparency and probity requirements.

Disposals **must** also comply with all applicable environmental standards and regulations, work, health and safety requirements, and any local council regulations.

NSW Health agencies are encouraged to consider circular economy principles when disposing of goods and assets, such as extending the life of the item through donations, repurposing, or recycling materials.

Prior to commencing disposal activities, NSW Health agencies **must** obtain approval from the appropriate procurement delegate confirming:

- that the goods are suitable for disposal
- the estimated present value of the goods is acceptable.

8.7.1 Disposal processes

You **must** use the value of the goods to be disposed of to determine the disposal process to be followed, rather than the cost of the disposal.

Disposal methods may include, but are not limited to:

- auction
- trade-ins
- written quotes
- open tenders
- donation to not-for-profit or community agencies, or
- combination of these.

When conducting disposals by quotations, you **must** ensure:

- disposal specifications and requirements are provided equally to all suppliers invited to quote
- you establish the supplier evaluation criteria prior to receiving quotes
- you follow proper processes for closing managing quotes, awarding the disposal contract and finalising the agreement.

8.7.2 Donation to community/ not-for profit agencies

You may donate surplus goods to a community or not-for-profit agency. The disposal of assets to charitable bodies **must** be approved by the relevant delegate in line with your agency's delegations manual.

Donations to community or not-for-profit organisations is subject to a written signed agreement with the non-for-profit organisation that records:

- the goods are accepted in their current stated condition, including defects either known or unknown
- there will be no cost or obligation/liability to NSW Health now or in the future.

It is **recommended** that your agency seek legal advice if the donated items are past their useful life, to ensure NSW Health does not carry liability or other legal exposures due to the donation.

8.8 Modern slavery

8.8.1 Modern slavery risks

From 1 January 2022, amendments to the *Public Works and Procurement Act 1912* require that NSW Government agencies and other entities **must** take reasonable steps to ensure that the goods and services they procure are not the product of modern slavery.

Modern slavery risks refer to the potential for an agency to cause, contribute to, or be directly linked to modern slavery through its operations and supply chains. Addressing modern slavery risks can be complex, and NSW Health agency responses **should** be balanced, incremental and risk-based.

NSW Health agencies **should** prioritise actions based on a risk assessment, targeting categories, procurements and contracts where modern slavery risks are most significant. The [modern slavery risk assessment template](#) at buy.nsw can assist in identifying high risk categories, procurements and contracts.

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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Where high modern slavery risks have been identified, agencies may consider:

- embedding modern slavery mitigation strategies in category management strategies and category plans
- using the modern slavery checklist at [buy.nsw](#) to consider procurement-specific mitigation measures
- identifying modern slavery risks and mitigation measures in the procurement plan
- considering suppliers' modern slavery risk mitigation, remediation and due diligence measures when evaluating supplier responses. [buy.nsw](#) provides a [model tender schedule](#)
- including a modern slavery clause in contracts, such as the [example](#) at [buy.nsw](#)
- working with contracted suppliers to address modern slavery risks through contractual performance measures, action plans, performance reviews or other monitoring activities.

Refer to the [guidance](#) at [buy.nsw](#) for more information on how to assess and address modern slavery risks in government supply chains.

8.8.2 Modern slavery reporting requirements

The Commonwealth *Modern Slavery Act 2018* requires certain large entities to publish annual modern slavery statements which describe actions they have undertaken to assess and address modern slavery risks.

The Secretary, NSW Health undertakes this modern slavery reporting on behalf of, and in consultation with those NSW Health agencies which are defined as a 'reporting entity' under the Act. At NSW Health, the only reporting agencies are local health districts, specialty networks and the Cancer Institute. The modern slavery statement is approved and signed by the Secretary, NSW Health.

Modern slavery statements must address the seven mandatory criteria for content as set out in section 16 of the Act. The mandatory criteria include describing:

- the risks of modern slavery practices in operations and supply chains (e.g. labour practices and high risk industries)
- the actions taken to assess and address those risks (e.g. due diligence and remediation processes).

Modern slavery statements are publicly accessible on the [Online Register for Modern Slavery Statements](#).

8.9 Complaints management

Appropriate and consistent management of procurement related complaints is an important part of contract management.

The Procurement Board's [Complaints Management Guideline](#), available at [buy.nsw](#), provides comprehensive guidance for agencies on managing complaints, including (among other things):

- serious complaints (alleged criminal activity or corrupt conduct)
- covered procurement complaints (in the context of the *Enforceable Procurement Provisions Direction* ([PBD 2019-05](#))).

Complaints **should**, in the first instance, be managed by the NSW Health agency that is responsible for the contract (the contract owner).

If a complaint cannot be successfully resolved by the NSW Health agency, the complainant or the NSW Health agency may choose to escalate to the NSW Health Chief Procurement Officer, and subsequently to the Secretary, NSW Health.

If the complaint remains unresolved, it may then be further escalated to the NSW Procurement Board. Any complaints submitted directly to the NSW Procurement Board will be referred to the NSW Health Chief Procurement Officer for local resolution in the first instance.

NSW Health agencies **must** comply with Policy Directive *Significant Legal Matters and Management of Legal Services* ([PD2017_003](#)), including complying with requirements to notify the Ministry of Health General Counsel when a significant legal matter arises.

ABOUT THESE PROCEDURES	PROCUREMENT FRAMEWORK	EFFECTIVE PROCUREMENT, PROBITY & FAIRNESS	GETTING STARTED	USING EXISTING PROCUREMENT ARRANGEMENTS	OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS	CONTRACT MANAGEMENT	OTHER RELEVANT CONSIDERATIONS	SUPPORTING DOCUMENTS
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8.10 Public interest disclosures

Agencies are reminded that public interest disclosures are governed in accordance with the *NSW Health Public Interest Disclosures (PD2016_027)*.

8.11 Exemptions to these Procedures or other requirements

The NSW Health Chief Procurement Officer may grant exemptions to specific policy or procedural requirements where there is a clinical or technical need, unsuitable contract conditions or performance, or other exceptional circumstance.

The NSW Health Chief Procurement Officer cannot grant exemptions to the *Enforceable Procurement Provisions Direction (PBD 2019-05)* for covered procurements.

Exemptions will be granted only where exceptional circumstances apply. When seeking an exemption, NSW Health agencies **must**:

- demonstrate how value for money will be achieved through the non-compliant process
- when seeking to buy alternatives to contracted goods or services, provide a comparative assessment of the alternate products or approach that addresses whole-of-life costs, interoperability, risks and benefits
- confirm a funding source with approval from your financial delegate
- obtain endorsement of the approach from your procurement delegate
- obtain endorsement of the approach from the relevant category manager (if applicable)
- obtain endorsement from HealthShare NSW or eHealth NSW prior to approaching the NSW Health Chief Procurement Officer, if there is impact on existing contracts, systems or solutions.

Section 9

Supporting documents

- 9.1 [Procurement thresholds for approaching the market](#)
- 9.2 [Procurement systems and resources](#)
- 9.3 [Contract Management Framework: Key activities](#)
- 9.4 [Templates:](#)
 - a. *Confidentiality and Conflict of Interest Undertaking*
 - b. *Risk Assessment Tool*
 - c. *Procurement Plan Template (Level 1)*
 - d. *Procurement Plan Template (Levels 2 & 3)*
 - e. *Evaluation Plan Template*
 - f. *Evaluation Report Template*
 - g. *Negotiation Plan Template*
 - h. *Negotiation Report Template*
 - i. *Contract/Panel Management Plan Template*
- 9.5 [Glossary](#)
- 9.6 [References](#)
 - a. Key legislation
 - b. Key policies

9.1 Procurement thresholds for approaching the market

A summary of the procurement thresholds for approaching the market is as follows:

Estimated contract value (ex. GST)	Using existing procurement arrangements (Section 5)		Outside existing procurement arrangements (Section 6)	
	Whole-of-government or whole-of-health contract	Whole-of-government prequalification scheme or procurement list	Approach the market	Establish or renew a whole-of-government or whole-of-health contract
\$10,000 or less	No written quote required (section 5.2)	Unless minimum levels of competition are stated, no written quote required (section 5.3.3)	No written quote unless required by your NSW Health agency (section 6.2.1) Use PCard for procurements up to \$5,000 (if permitted by your agency)	N/A
>\$10,000 – \$30,000	No written quote required (section 5.2) Purchase via catalogue (preferred) or requisition and purchase order required	Unless minimum levels of competition are stated, minimum one written quote required (section 5.3.3) Requisition and purchase order required	Minimum one written quote required (section 6.2.1) Requisition and purchase order required	N/A
>\$30,000 – \$250,000	No written quote required (section 5.2) Purchase via catalogue (preferred) or requisition and purchase order required	Unless minimum levels of competition are stated, minimum one written quote required (section 5.3.3) Requisition and purchase order required	Complete <u>Risk Assessment Tool</u> Minimum three written quotes required (section 6.8.2) Requisition and purchase order required	N/A

Estimated contract value (ex. GST)	Using existing procurement arrangements (Section 5)		Outside existing procurement arrangements (Section 6)	
	Whole-of-government or whole-of-health contract	Whole-of-government prequalification scheme or procurement list	Approach the market	Establish or renew a whole-of-government or whole-of-health contract
<p>Include options, extensions, fees, commissions, interest, rebates, etc</p> <p>\$250,000 – less than \$30 million</p>	<p>No written quote required (section 5.2)</p> <p>Seek additional quotes if opportunity for improved value for money (e.g. volume discounts, request for quote to multiple panel suppliers)</p> <p>Purchase via catalogue (preferred) or requisition and purchase order required</p>	<p>Unless minimum levels of competition are stated, minimum three written quotes required (section 5.3.3)</p> <p>Use eQuotes or NSW eTendering</p> <p>Issue and execute prequalification scheme or procurement list contract</p>	<p>Complete Risk Assessment Tool</p> <p>Open approach to market unless an exemption applies (section 4.6) or obtain exemption from the NSW Health CPO (section 6.8.1)</p> <p>HealthShare NSW or eHealth NSW conducts procurement¹⁰</p> <p>Use NSW eTendering</p> <p>Issue and execute contract</p>	<p>Level 3 procurement process</p> <p>Open approach to market unless an exemption applies (section 4.6) or obtain exemption from the NSW Health CPO (section 6.8.1)</p> <p>Use NSW eTendering</p> <p>NSW Health CPO approves Procurement Plan and Evaluation Report</p> <p>Issue and execute standing offer</p>
<p>\$30 million or more</p>	<p>Discuss with category manager to confirm best way to assure value for money</p> <p>NSW Health CPO approves Procurement Plan and Evaluation Report</p>	<p>Discuss with category manager to confirm best way to assure value for money</p> <p>NSW Health CPO approves Procurement Plan and Evaluation Report</p> <p>Use eQuotes or NSW eTendering</p> <p>Issue and execute prequalification scheme or procurement list contract</p>	<p>Level 3 procurement process</p> <p>Open approach to market unless an exemption applies (section 4.6) or obtain exemption from the NSW Health CPO (section 6.8.1)</p> <p>HealthShare NSW or eHealth NSW conducts procurement¹⁰</p> <p>Use NSW eTendering</p> <p>NSW Health CPO approves Procurement Plan and Evaluation Report</p> <p>Issue and execute contract</p>	<p>Level 3 procurement process</p> <p>Open approach to market unless an exemption applies (section 4.6) or obtain exemption from the NSW Health CPO (section 6.8.1)</p> <p>NSW Health CPO approves Procurement Plan and Evaluation Report</p> <p>Use NSW eTendering</p> <p>Issue and execute standing offer</p>

¹⁰ Health Infrastructure may conduct procurements valued at more than \$250,000 on its own behalf in accordance with [section 2.3.2](#).

9.2 Procurement systems and resources

There are a number of systems and resources available to assist NSW Health agencies in relation to procurement:

Systems and resources	Description
NSW Health systems	
Procurement Portal	Intranet for NSW Health Procurement. You need to be signed into the VPN to access.
PROcure	The workflow system used for managing procurement processes and ongoing contract management in NSW Health. All contracts valued at \$150,000 or more must be recorded in PROcure.
Portt Discover	Contract and supplier management system for whole-of-health contracts. All whole-of-health contracts must be recorded in Portt Discover.
NSW Health Catalogue	The NSW Health Catalogue is accessed through the Master Catalogue Information System (MCIS) and used to find product information for requisition and procurement purposes. Data searchable through MCIS includes the NSW Health Item Master File, state contract product and pricing schedules, the National Product Catalogue and Oracle procurement information.
PCard	A card that allows approved staff to procure low value (valued at less than \$5,000) goods and services directly from suppliers or pay business-related emergency travel expenses on behalf of their NSW Health agency.
AFM Online	A tool for recording the acquisition of major equipment and assets and to assist with maintaining, inspecting and testing assets.
Whole-of-government systems	
buy.nsw	The gateway to NSW Government procurement resources, policies and services.
catalogues.buy.nsw	The buy.nsw catalogue platform where NSW Health agencies can review goods and services covered by existing whole-of-government contracts including Supplier Price Guides. Note: NSW Health maintains its own catalogue for purchasing purposes and does not use the click-to-buy functions at buy.nsw.
suppliers.buy.nsw	The NSW Government Supplier Hub where you can search suppliers by category, company type, size and location. The Supplier Hub identifies if suppliers are members of prequalification schemes or procurement lists, and provides business information including SME and regional status, and Aboriginal and Australian ownership (note that this information is provided by suppliers and not independently verified).
NSW eTendering	The single entry point for NSW Government buyers and suppliers to advertise and respond to NSW Government tenders. NSW eTendering is also the repository for agency Contract Registers and Annual Procurement Plans. All contracts valued at \$150,000 or more, including GST, must be disclosed on NSW eTendering within 45 working days of the contract coming into effect.
eQuote	The online system to seek quotes from prequalified businesses on whole-of-government prequalification schemes and procurement lists.

9.3 Contract Management Framework: Key activities

An activity identified as ‘**mandatory**’ means that the activity **must** be completed.

An activity identified as ‘**recommended**’ means, whilst not mandatory, the activity is recommended good practice depending on the circumstances.

Contract management activities		Under \$5 million supplier spend	Over \$5 million supplier spend			
			Tactical	Emerging	Legacy	Strategic
1. Contract setup						
Contract preparation	Determine the contract management agency (section 7.3.1)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
	Identify and assemble contract implementation team (if required) (section 7.3.2)	Recommended	Recommended	Mandatory	Mandatory	Mandatory
	Contract handover to implementation team (if applicable) (section 7.3.3)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
	Classify contract in accordance with the <i>Supplier Segmentation Framework</i> (section 7.3.5)	–	Mandatory	Mandatory	Mandatory	Mandatory
	Confirm contract management roles and responsibilities (section 7.2)	Recommended	Recommended	Mandatory	Mandatory	Mandatory
	Prepare Contract/Panel Management Plan (section 7.3.7)	–	–	Mandatory	Mandatory	Mandatory
Contract implementation	Update procurement systems , such as PROcure, Portt Discover etc (section 7.3.8)	As required	As required	As per Contract/Panel Management Plan	As per Contract/Panel Management Plan	As per Contract/Panel Management Plan
	Prepare Transition-in Plan (section 7.3.9)	–	–	Recommended (new contracts or suppliers)	Recommended (new contracts or suppliers)	Recommended (new contracts or suppliers)
	Prepare contract user guide (for whole-of-health and complex multi-user contracts) (section 7.3.10)	–	–	–	Recommended	Recommended

		Under \$5 million supplier spend	Over \$5 million supplier spend			
			Tactical	Emerging	Legacy	Strategic
Contract management activities						
Contract implementation	Prepare benefits realisation plan if there are complex or numerous benefits to be delivered (otherwise use Contract/Panel Management Plan) (section 7.3.11)	–	–	Recommended	Recommended	Recommended
	Conduct contract kick-off meeting (section 7.3.12)	–	–	Recommended	Recommended	Recommended
2. Contract administration						
Insurances	Insurances, certifications, licences and other mandatory qualifications are reviewed and maintained throughout the contract term (section 7.4.1)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
Variations	Contract variations are reviewed, approved or resolved promptly (section 7.4.2)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
Price reviews	Price variations are granted as required by the contract or where there is a demonstrated change in contract cost drivers, and are calculated in compliance with contract terms (section 7.4.3)	Recommended	Recommended	Recommended	Recommended	Recommended
Expiry and extensions	Contract expiry is tracked and extension options (if applicable) are exercised if analysis demonstrates that value for money can be maintained (section 7.4.4)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
3. Contract monitoring						
Compliance	Transactions are monitored to ensure compliance with contractual terms (e.g. unit price, discounts, pricing mechanisms, payment terms, specifications, delivery) (section 7.5.1.1)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
	Mechanisms are put in place for end-users to report contract non-compliance or issues to the contract manager (section 7.5.1.2)	Recommended	Recommended	Mandatory	Mandatory	Mandatory

Contract management activities		Under \$5 million supplier spend	Over \$5 million supplier spend			
			Tactical	Emerging	Legacy	Strategic
Spend tracking	Spend under contract is tracked and monitored (section 7.5.2)	Recommended	Recommended	Mandatory	Mandatory	Mandatory
Demand planning	Demand planning and forecasting is performed to understand future volumes and costs (for long term or multi-year contracts). Where appropriate, changes in forecast demand are shared with the suppliers to facilitate joint supply chain and logistical planning (section 7.5.3)	-	-	Recommended	Recommended	Mandatory
Benefits	Qualitative and quantitative benefits , including savings, are tracked over the life of the contract using a consistent methodology (section 7.5.4)	-	-	Mandatory	Mandatory	Mandatory
	Recommended review schedule (may be varied as applicable to the benefit type)	-	-	Annually	Twice yearly	Quarterly
Risk management	Contract risks are identified, monitored and managed over the life of the contract, and escalated if required (section 7.5.5)	-	-	Mandatory	Mandatory	Mandatory
Supply chain	Monitor contract supply chains and work with suppliers to identify and minimise supply disruption risks (section 7.5.6)	-	-	Recommended	Recommended	Mandatory
	Recommended review schedule	-	-	-	-	Annually
4. Performance management						
Contractual performance measures (e.g. KPIs and SLAs)	Desktop reviews of supplier performance against contractual performance measures (such as KPIs and SLAs) are conducted (section 7.6.1)	As needed	As needed	Mandatory	Mandatory	Mandatory
	Recommended review schedule (may be varied as applicable to the KPI or SLA)	As needed	-	Annually	Twice yearly	Quarterly

Contract management activities		Under \$5 million supplier spend	Over \$5 million supplier spend			
			Tactical	Emerging	Legacy	Strategic
Performance review meetings	Contract performance is reviewed with the supplier on a regular basis (section 7.6.2)	-	-	Mandatory	Mandatory	Mandatory
	Recommended review schedule	-	-	Annually	Twice yearly	Quarterly
End-user satisfaction	Internal end-user satisfaction is measured and considered when reviewing supplier performance (section 7.6.3)	-	-	Recommended	Recommended	Mandatory
	Recommended review schedule	-	-	Once per contract term	Annually	Annually
Procurement-connected policy reporting	If applicable, ensure supplier provides progress reports and track target delivery in line with the procurement-connected policies (section 7.6.4)	Mandatory for applicable contracts	Mandatory for applicable contracts	Mandatory for applicable contracts	Mandatory for applicable contracts	Mandatory for applicable contracts
5. Supplier relationship management						
Continuous improvement	Where possible, work with the supplier to identify continuous improvements to the contract and service delivery, including innovation opportunities and savings (section 7.7.1)	-	-	Recommended	Recommended	Recommended
Information sharing	Share information to build supplier relationships and collaboration (section 7.7.2)	-	-	-	Recommended	Recommended
Savings opportunities	Collaborate with suppliers to identify further savings (section 7.7.3)	-	-	-	Recommended	Recommended
Modern slavery risks	Identify and monitor contracts with high modern slavery risks within the supply chain, and engage with suppliers to understand and support their modern slavery mitigation strategies (section 7.7.4)	-	Consider for contracts with high modern slavery risks	Recommended for contracts with high modern slavery risks	Recommended for contracts with high modern slavery risks	Recommended for contracts with high modern slavery risks
	Recommended review schedule	-	Once per contract term	Annually	Annually	Annually

Contract management activities		Under \$5 million supplier spend	Over \$5 million supplier spend			
			Tactical	Emerging	Legacy	Strategic
6. Contract closure						
Contract completion	Conduct a final performance review with the supplier (section 7.8.1)	–	–	Mandatory	Mandatory	Mandatory
	Plan and execute contract transition-out activities (section 7.8.2)	If required	If required	If required	If required	If required
	Finalise the contract (section 7.8.3)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
Finalise contract management	Finalise Contract/Panel Management Plan (section 7.8.4)	–	–	Mandatory	Mandatory	Mandatory
	Conduct final benefits reconciliation (section 7.8.5)	–	–	Mandatory	Mandatory	Mandatory
	Confirm receipt of final procurement-connected policy reports (section 7.8.6)	Mandatory for applicable contracts	Mandatory for applicable contracts	Mandatory for applicable contracts	Mandatory for applicable contracts	Mandatory for applicable contracts
	Finalise contract records in agency records management system (section 7.8.7)	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
	Record lessons learnt (section 7.8.7)	–	–	Recommended	Recommended	Recommended

9.4 Templates

Supporting template documents are available on the [Procurement Portal](#) as follows:

- a. *Confidentiality and Conflict of Interest Undertaking*
- b. *Risk Assessment Tool*
- c. *Procurement Plan Template (Level 1)*
- d. *Procurement Plan Template (Levels 2 & 3)*
- e. *Evaluation Plan Template*
- f. *Evaluation Report Template*
- g. *Negotiation Plan Template*
- h. *Negotiation Report Template*
- i. *Contract/Panel Management Plan Template*

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9.5 Glossary

Term	Meaning
Aboriginal business	means a business that: <ul style="list-style-type: none"> • has at least 50 per cent Aboriginal ownership • is recognised through an appropriate organisation, such as Supply Nation or the NSW Indigenous Chamber of Commerce.
approach to market	means the process of giving notice of a procurement opportunity to suppliers and inviting offers, such as a request for tender.
Australian disability enterprise or disability employment organisation	means a not-for-profit organisation that employs or provides supported employment opportunities to people with disabilities.
business case	means the information providing justification for undertaking a project such as the benefits, costs and risks of preferred and alternative options.
closing date	means the time and date by which supplier responses to an approach to market must be submitted.
conflicts of interest	has the meaning given in the NSW Health Policy Directive <i>Conflicts of Interest and Gifts and Benefits</i> (PD2015_045).
contract management agency	means the NSW Health agency responsible for managing an executed contract (see section 7.2).
contracting delegate	means the person who has authority to execute a contract on behalf of a NSW Health agency.
covered procurement	means a procurement that is covered by the <i>Enforceable Procurement Provisions Direction</i> .
debrief	means the process of advising unsuccessful suppliers of potential improvements in their responses which would make them more competitive in future.
direct source and negotiation	means an invitation directly to one supplier of a NSW Health agency's choice to participate in a procurement process.
due diligence	means the process of verifying the capacity of a supplier to meet future performance requirements.
eligible buyer	means an organisation that meets the eligibility requirements to procure goods and services through existing NSW Government procurement arrangements under the <i>Public Works and Procurement Regulation 2019</i> .
emerging supplier	means a supplier whose goods or services support the NSW Health agency's organisation strategy and service provision. There are limited alternative suppliers and it would be challenging, with moderate costs, to switch suppliers and exit the relationship.

Term	Meaning
enforceable procurement provisions	means the specific provisions listed in clause 4 of the <i>Enforceable Procurement Provisions Direction</i> .
Enforceable Procurement Provisions Direction	means the NSW Procurement Board Direction <i>Enforceable Procurement Provisions (PBD-2019-05)</i> made under the <i>Public Works and Procurement Act 1912</i> , as amended from time to time.
estimated contract value	means the total maximum estimated spend under the contract over the life of the contract, including any options, extensions, renewals, premiums, fees, commissions, interest and other revenue streams.
evaluation criteria	means the criteria used to assess supplier responses to an approach to market.
existing procurement arrangements	means: <ul style="list-style-type: none"> • whole-of-government and whole-of-health contracts • whole-of-government prequalification schemes and procurement lists • agreements managed by other NSW Government or NSW Health agencies.
financial delegate	means the person who has authority to commit to financial expenditure and grant relevant approval on behalf of a NSW Health agency.
gifts	has the meaning given in the NSW Health Policy Directive <i>Conflicts of Interest and Gifts and Benefits (PD2015_045)</i> .
GST	has the meaning given in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> , as amended from time to time.
key performance indicator	means a measure of a supplier's performance, often forming part of a contract or a service level agreement.
legacy supplier	means a supplier that supports business-critical processes but does not align with the NSW Health agency's long-term strategy. However, there are limited alternative suppliers, or switching costs/time may be prohibitive.
level 1 procurement	has the meaning set out in section 6.2 .
level 2 procurement	has the meaning set out in section 6.2 .
level 3 procurement	has the meaning set out in section 6.2 .
limited approach to market	means an invitation issued directly to three or more suppliers of a NSW Health agency's choice to participate in a procurement process.
mandatory criteria or conditions of participation	means the minimum or compulsory conditions that suppliers must meet in order to participate in the procurement process.
open approach to market	means an invitation to participate in a procurement that is publicly published on NSW eTendering .

Term	Meaning
panel contract	means an arrangement involving at least two suppliers whereby a standing offer is established with each supplier covering the same or similar goods or services, including a basis for pricing, for a specified period.
prequalification scheme	means a list of prequalified suppliers that meet minimum relevant experience and qualification standards to supply certain goods or services.
probity adviser	means a person that provides probity advice and solutions, including guidance on achieving standards of probity during the procurement process.
procurement-connected policy	means a NSW Government or NSW Health policy that is relevant to procuring goods or services at NSW Health. A summary of these is outlined in section 6.13.5.1 .
procurement delegate	means the person who has authority to approve specified procurement activities on behalf of a NSW Health agency.
procurement list	means a list of prequalified suppliers that meet minimum experience and qualification standards to supply certain goods or services, including categories covered by the <i>Enforceable Procurement Provisions Direction</i> .
regional supplier	has the meaning given in the <i>Small and Medium Enterprise and Regional Procurement Policy</i> .
request for information	means a request to the market to provide certain information as part of a market research process, such as a detailed understanding of the range of clinical technologies available in the market.
small business	has the meaning given in the <i>Small and Medium Enterprise and Regional Procurement Policy</i> .
small business subcontractor	has the meaning given in the <i>Small Business Shorter Payment Terms Policy</i> .
SME	has the meaning given in the <i>Small and Medium Enterprise and Regional Procurement Policy</i> .
social enterprise	means an organisation that is led by an economic, social, cultural, or environmental mission consistent with a public or community benefit and is recognised by an appropriate organisation such as Social Traders.
standing offer	means an arrangement setting out the terms, including a basis for pricing, under which a supplier agrees to supply specific goods and services to an eligible buyer for a specified period.
statement of work or specifications	means a document describing the essential requirements for the goods or services being procured, including any performance and/or technical requirements.
strategic supplier	means a supplier that supports business-critical processes and performance, often across multiple business functions. Supplier spend may be significant, and there are limited alternatives with potentially prohibitive switching costs.

Term	Meaning
supplier information briefing	means a session held to give suppliers a clearer understanding of an approach to market.
tactical supplier	means a supplier that provides transactional goods or services with minimal impact on clinical or customer facing operations. Alternative suppliers are readily available and switching costs would be low.
unsolicited proposal	has the meaning given in the Unsolicited Proposals Guide .
whole-of-government arrangement	means any NSW Government procurement arrangement, including whole-of-government contracts, prequalification schemes and procurement lists, under which a government agency allows the purchase of goods or services by that agency, all other NSW government agencies, and eligible buyers.
whole-of-health arrangement	means any NSW Health procurement arrangement, including whole-of-health contracts, under which a NSW Health agency allows the purchase of goods or services by that agency and all other NSW Health agencies.

9.6 References

9.6.1 Key legislation

The key legislation that applies to procurement by NSW Health agencies are:

- [Government Information \(Public Access\) Act 2009](#)
- [Government Sector Finance Act 2018](#)
- [Health Administration Act 1982](#)
- [Health Services Act 1997](#)
- [Commonwealth Modern Slavery Act 2018](#)
- [Plastic Reduction and Circular Economy Act 2021](#)
- [Public Works and Procurement Act 1912](#)
- [Public Works and Procurement Regulation 2019](#)
- [State Records Act 1998](#)

9.6.2 Key policies

The key policies that apply to procurement by NSW Health agencies are:

- [Aboriginal Procurement Policy](#)
- [Asset Management \(PD2020_038\)](#)
- [Asset Management Policy for the NSW Public Sector \(TPP 19-07\)](#)
- [Conflicts of Interest and Gifts and Benefits \(PD2015_045\)](#)
- [ICT/Digital SME Procurement Commitments](#)
- [NSW Gateway Policy \(TPP17-01\)](#)
- [NSW Government Faster Payment Terms Policy](#)
- [NSW Government Financial Risk Management Policy \(TPP21-14\)](#)
- [NSW Government Procurement Policy Framework](#)
- [NSW Government Resource Efficiency Policy](#)
- [NSW Health Code of Conduct \(PD2015_049\)](#)
- [NSW Health Public Interest Disclosures \(PD2016_027\)](#)

- [Procurement Board Directions](#) (filter 'status' to 'current' to see board directions that are in effect)
 - [Approved Procurement Arrangements \(PBD 2021-04\)](#)
 - [Approved procurement arrangements for the ICT Services Scheme \(PBD 2020-05\)](#)
 - [Conduct by suppliers \(PBD 2017-07\)](#)
 - [Enforceable Procurement Provisions \(PBD 2019-05\)](#)
 - [Engagement of professional services suppliers \(PBD 2021-03\)](#)
 - [Mandated use of ICT Purchasing Framework \(PBD 2021-02\)](#)
 - [Procuring human services from NGOs \(PBD 2017-04\)](#)
- [Significant Legal Matters and Management of Legal Services \(PD2017_003\)](#)
- [Small and Medium Enterprise and Regional Procurement Policy](#)
- [Small Business Shorter Payment Terms Policy](#)
- [Supplier Code of Conduct](#)

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Produced by: NSW Ministry of Health

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SHPN (SP) 220146
ISBN 978-1-76023-115-6

June 2022

