

Purchasing Under State Government Contracts Exemption Applications

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Functional Sub group Corporate Administration - Purchasing

Summary Exemptions from purchasing contract items requires approval.

Author Branch Asset and Contract Services

Branch contact 9391 9146

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Divisions of General Practice, NSW Dept of Health, Public Health Units

Distributed to Public Health System, Divisions of General Practice, NSW Department of Health, Public Health Units

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Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

CIRCULAR

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PURCHASING UNDER STATE GOVERNMENT CONTRACTS EXEMPTION APPLICATIONS

Policies and procedures applicable to purchasing in the NSW Public Health system are set out in the Purchasing & Supply Manual distributed by the Department.

A major component of the policy is that where goods and services are available under contracts arranged by the State Contracts Control Board they should be acquired by Areas and Hospitals from that source.

At times problems may be experienced with products or services, and Areas and Hospitals should have protocols in place to remedy the situation.

Where it is considered that the only solution is exemption from the use of the contract, a submission may be made to the Department of Health to this effect.

This circular confirms the procedure to be followed, previously indicated in Information Bulletin 95/29, issued in September 1995.

Details of the procedures to be followed, including a revised Exemption Application form, are attached.

John Wyn Owen
Director-General

Distributed in accordance with circular list(s):

A 28 B C 29 D E
F G H I J
K L M N P Q

73 Miller St North Sydney NSW 2060
Locked Mail Bag 961 North Sydney NSW 2059
Telephone (02) 391 9000 Facsimile (02) 391 9101

EXEMPTION PROCEDURE

In recent times there has been significant improvement in the way State Contracts are arranged and managed by the NSW Supply Service. This is due to a number of factors including the establishment of the NSW Health Peak Purchasing Council and the involvement of clinicians in the process.

Clinicians and other health end users now have the opportunity of being involved in the determination of tenders by serving on Contract Management Committees. Industry groups such as the Patient Care Technology Group also play an important role in developing specifications, evaluating products offered and determining the most suitable suppliers for contracts.

As a result of these measures products on State Contracts are systematically and professionally evaluated making it unnecessary in most instances for hospitals to undertake independent evaluations or to use suppliers who are not on State Contracts.

By using non contract suppliers where State Contracts exist, hospitals would be contravening policy directives contained in the Purchasing & Supply Manual issued by the NSW Health Department (Chapter 1 - Purchasing Procedures).

In addition, such action may raise probity issues that contravene the ICAC guidelines on the code of conduct for public officials, particularly if site specific supplier preference is encouraged without compelling reasons.

The NSW Health Department and the Peak Purchasing Council recognise that:-

- (a) State Contracts are arranged so as to provide the best value for money on a statewide basis and in this context Areas\Hospitals are advised that to not purchase from the contracts because better prices or conditions exist locally is not a valid justification for deviation from the contracts; and
- (b) There may be rare instances where exemptions are required for reasons attributed to a specific technical\clinical need, unsuitable conditions of contract, level of performance or as a result of an unresolved dispute.

Exemptions

Exemptions from the use of specific common period contracts may be granted by the NSW Health Department upon the recommendation of the NSW Health Peak Purchasing Council. The duration of the exemption will be indicated at the time that the exemption is approved.

It should be noted that:

- a. Exemptions are granted only on rare occasions;
- b. In instances where exemptions are granted, the purchasing procedure outlined in the Purchasing & Supply Manual issued by the NSW Health Department with regard to quotations\tenders should be strictly adhered to: and

- c. If an exemption is being sought for reasons such as incompatibility with existing equipment and/or user protocols, the application from the hospital should be accompanied by costings of the alternate products that are to be used.

Applications for Exemptions

Applications for exemptions are to be submitted to:-

Executive Director
NSW Health Peak Purchasing Council
C\ Concord Repatriation General Hospital
Level 5, Concord Medical Centre
Hospital Road
CONCORD NSW 2139

Telephone (02) 736 7975
Facsimile (02) 736 7976

Procedure for Applying for Exemptions

Details of the procedure leading to the submission of an exemption application are indicated hereunder. Depending upon the complexity of the issue, the time taken for each stage should approximate two weeks.

Stage 1 - This the first stage of the process and involves interaction between the hospital user and the **contract supplier**. Internal procedures in place in Hospitals and Area Health Services in regard to products complaints need to be followed up before further escalation. It is expected that most complaints would be resolved at this stage and would not be escalated to Stage 2.

Stage 2 - In instances where a satisfactory outcome has not been achieved in Stage 1, the hospital user should communicate the problem to **NSW Supply Service**. The issue will be escalated to Stage 3 only if the NSW Supply Service is not in a position to resolve it in conjunction with the hospital user and the contract supplier.

Stage 3 - If the hospital user has not had a satisfactory outcome to the problem at Stage 2, a formal application for an exemption from the State Contract should be submitted to the **Peak Purchasing Council** on the prescribed form (appended). The Council will discuss with those involved and the relevant Contract Management Committee in an attempt to resolve the problem. The issue will be escalated to Stage 4 if the only resolution possible is an exemption from the Contract.

Stage 4 - The Peak Purchasing Council will endorse the exemption application from the hospital user and forward it to the **NSW Health Department**. Exemption approval or denial will be conveyed directly to the hospital user by the NSW Health Department under advice to the Peak Purchasing Council and the NSW Supply Service.