## Revision History

<table>
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<tr>
<th>Date</th>
<th>Approved by</th>
<th>Revision notes</th>
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<tr>
<td>May /June 2019</td>
<td>Deputy Secretary, Finance and Asset Management and Chief Financial Officer</td>
<td>Updated policy and procedures</td>
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<tr>
<td>August 2018</td>
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<td>Revised policy, procedures and risk assessment tool issued under PD2018_030</td>
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Contact: Latish Meshram, latish.meshram@health.nsw.gov.au
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1. BACKGROUND

1.1 About this document

The key purpose of the NSW Health Procurement Policy is to detail requirements of all staff undertaking procurement or disposal of goods and services on behalf of NSW Health. This Policy is the primary source of goods and services procurement policy for NSW Health, and is to be applied in conjunction with the NSW Health Goods and Services Procurement Procedures.

The policies outlined in this document may also be applicable for Entities undertaking construction procurement. Refer to Health Infrastructure for further clarification of policy and procedures for procurements of this nature.

Ministry of Health Strategic Procurement Branch (MoH SPB) is responsible for the ongoing maintenance of this document.


1.2 Roles and responsibilities

Chief Executives and Executive Directors are to ensure that:

- all staff are made aware of this NSW Health Goods and Services Procurement Policy and related procedures, including their location on the Ministry of Health’s (MoH) Intranet Procurement Portal
- all staff undertaking procurement are made aware of their obligations in relation to goods and services procurement
- the principles and requirements of the policy document are applied, achieved and sustained.

Procurement Managers and Health staff are responsible for:

- understanding thoroughly the requirements of this NSW Health Goods and Services Procurement Policy
- implementing the policies.
1.3 Breach of Policy

Compliance with the policies outlined in this document is required by all NSW Health Entities. Under no circumstances can the policies within be breached. All breaches are reportable to the Secretary.

Please note that all values outlined in this policy document are exclusive of GST unless otherwise stated.
2. PROCUREMENT DELEGATIONS AND THRESHOLDS

2.1 Delegations

Entities are to adhere to financial delegations outlined in the NSW Health Combined Delegations Manual as well as Entities’ Delegations Manuals for all procurement of goods and services. This includes:

- ensuring funds are available within an approved budget or be approved by the financial Delegate prior to commencing the procurement
- commitment to any expenditure on behalf of Health may only be made by an employee with the appropriate level of financial delegation.

Useful links
- NSW Health Combined Delegations Manual

2.2 Procurement Delegations

Entities can undertake all procurement related activities up to $250,000 within the framework of this Policy. For procurements over $250,000, Entities are to seek assistance from HealthShare or the Ministry.

Chief Executives of Local Health Districts, HealthShare, Ambulance, Speciality Networks, and Statutory Health Corporations and Executive Director, Procurement HealthShare can approve procurement plans, invite tenders, and enter into contracts up to $30M. All procurements over $30M or whole-of-health procurements are to be approved by the Chief Procurement Officer (CPO).

Only the CPO and Deputy Secretary, Finance and Asset Management can approve an alternate procurement method to calling of tenders.

2.3 Segregation of duties

Entities are to ensure that there is a satisfactory segregation of duties across the procurement process based on an assessment of risk to avoid end to end control by any one individual. Traditional segregation of duties includes separating proposal/business case submission from approval, evaluation of responses from approval, requisition ordering from receipt/acceptance of supplies, requisition ordering from payment of invoices, and receipt/acceptance of supplies from the payment of invoices.

2.4 Purchase Card (PCard)

All NSW Health Entities are required to adopt the use of PCards where practicable, for the purchases of all goods and services valued at $5,000 or less. Chief Executives and/or Directors of Finance have the discretion to increase the
$5,000 threshold for particular purchases where the PCard is the most cost-effective means of payment.

Useful links

- NSW Health PCard Policy
2.5 Procurement Thresholds for Market Engagement

Procurement by all Health Entities must meet the following minimum thresholds when procuring goods and services not available through an existing Whole-of-Government or Whole-of-Health contract (exemptions may apply as per the Exemptions section in this document).

<table>
<thead>
<tr>
<th>Total Value of procurement</th>
<th>Whole-of-Government/Whole-of-Health existing contract</th>
<th>Prequalification Scheme</th>
<th>Direct from the market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $10,000</td>
<td>no written quote required</td>
<td>no written quote required unless specified by local entity</td>
<td>no written quote required unless specified by local entity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>no formal contract required</td>
<td>no formal contract required</td>
</tr>
<tr>
<td></td>
<td></td>
<td>requisition and purchase order raised</td>
<td>requisition and purchase order raised</td>
</tr>
<tr>
<td>$10,001-$30,000</td>
<td>no written quote required</td>
<td>at least a single written quotation obtained</td>
<td>at least a single written quotation obtained</td>
</tr>
<tr>
<td></td>
<td>no written quote required</td>
<td>formal contract if required</td>
<td>formal contract if required</td>
</tr>
<tr>
<td></td>
<td>may seek quotes if opportunity for greater value</td>
<td>requisition and purchase order raised</td>
<td>requisition and purchase order raised</td>
</tr>
<tr>
<td>$30,001-$250,000</td>
<td>no written quote required</td>
<td>completion of Health Procurement Risk Assessment to determine procurement process</td>
<td>completion of Health Procurement Risk Assessment to determine procurement process</td>
</tr>
<tr>
<td></td>
<td>no written quote required</td>
<td>follow scheme requirements</td>
<td>follow scheme requirements</td>
</tr>
<tr>
<td></td>
<td>may seek quotes if opportunity for greater value</td>
<td>if not specified, at least three written quotations obtained</td>
<td>if not specified, at least three written quotations obtained</td>
</tr>
<tr>
<td></td>
<td></td>
<td>formal contract required</td>
<td>formal contract required</td>
</tr>
<tr>
<td></td>
<td></td>
<td>use of eQuote or eTendering</td>
<td>use of eTendering</td>
</tr>
<tr>
<td></td>
<td></td>
<td>requisition and purchase order raised</td>
<td>requisition and purchase order raised</td>
</tr>
<tr>
<td>Greater than $250,000</td>
<td>no written quote required</td>
<td>completion of Health Procurement Risk Assessment to determine procurement process</td>
<td>completion of Health Procurement Risk Assessment to determine procurement process</td>
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<tr>
<td></td>
<td>may seek quotes if opportunity for greater value</td>
<td>follow scheme requirements</td>
<td>follow scheme requirements</td>
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<td>at least three written quotations obtained</td>
<td>at least three written quotations obtained</td>
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<td>formal contract required</td>
<td>formal contract required</td>
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<td>use of eQuote or eTendering</td>
<td>use of eTendering</td>
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<td>requisition and purchase order raised</td>
<td>requisition and purchase order raised</td>
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<td></td>
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<td>open tender</td>
<td>open tender</td>
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<tr>
<td></td>
<td></td>
<td>formal contract required</td>
<td>formal contract required</td>
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<td></td>
<td></td>
<td>use of eTendering</td>
<td>use of eTendering</td>
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<tr>
<td></td>
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<td>requisition and purchase order raised</td>
<td>requisition and purchase order raised</td>
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3. KEY PRINCIPLES

3.1 Overview of the Procurement Process

Procurement undertaken by Health and the broader NSW Government involves three broad stages:

The relative importance of the different stages within the approach will depend on the size and risk of the procurement exercise being undertaken.

3.2 Key principles

The goal of the procurement of goods and services is to provide supplies in a timely manner that are fit for purpose and sufficient in quality and/or quantity to meet NSW Health objectives of:

- maximising value for money
- meeting probity, fairness and legal compliance requirements
- encouraging sustainability, diversity and a competitive NSW economy
- supporting innovation.

The above key principles are applicable and the responsibility of all NSW Government Health Entities.
3.2.1 Value for Money

The NSW Procurement Board aims to ‘ensure best value for money in the procurement of goods and services by and for Government agencies’ under section 171 of the Public Works and Procurement Act 1912. Entities are to ensure that procurement activities achieve best value for money in supporting the delivery of Health services.

**Useful links**
- NSW Government Value for Money Statement

3.2.2 Probity and Fairness

To maintain the NSW Government’s obligation to ensure procurement is not vulnerable to corruption, Entities must have controls in place to manage fair and consistent processes and outcomes. The principles that promote probity and fairness and maintain the integrity of the procurement process are:

- Accountability
- Transparency
- Confidentiality
- Management of conflicts of interest
- Honesty.

Procurement Board Direction PBD-2013-05 deals with engagement of probity advisers and probity auditors and must be followed when considering such services.

**Useful links**
- information on corruption prevention, fairness and probity
- ICAC procurement guidance
- ICAC Report: The Management Challenge
- NSW Government Board Direction on Conduct by suppliers

3.2.3 Conflict of Interest

Entities must ensure that processes are adopted to identify, declare and address any actual or perceived conflict of interest throughout the procurement process.

All staff, consultants and contractors, must disclose any financial or other interest held by them immediately upon becoming aware that a potential conflict between personal interest and official duty, whether real or apparent, has arisen or is likely to arise.

**Useful links**
- Conflict of Interest Declaration Form
3.3 Assessment of Value and Risk

Health has three distinct Levels of procurement processes to increase effectiveness in the allocation of resources, effort and time in procurement to achieve business needs and value for money.

The appropriate procurement process is commensurate with the value and risk profile of the procurement, as depicted below:
3.4 Procurement Risk Assessment

Entities undertaking a procurement of any value using an existing Whole-of-Government, or Whole-of-Health contract are not required to use the Procurement Risk Assessment Tool.

Entities undertaking a procurement over $30,000 and not using an existing Whole-of-Government or Whole-of-Health contract are required to use the Procurement Risk Assessment Tool to determine the appropriate procurement process for the procurement activity.

The Procurement Risk Assessment Tool is available in the MoH Procurement Portal under ‘I want to Buy’. This should be completed by the Responsible Officer prior to commencing the procurement activity and should be recorded and attached with all other documentation required for approval by the appropriate Delegate at the end of the Plan stage of the procurement.

Note, when establishing a new Whole-of-Government and Whole-of-Health contract HealthShare NSW or any other Health Entity establishing the contract are to follow a Level 3 procurement process.

Useful links
- Procurement Risk Assessment Tool
4. PROCUREMENT ADMINISTRATION

4.1 Record Keeping

Actions and decisions need to be accounted for and good record keeping of decisions is imperative for auditing and accountability purposes. Records of any procurement and disposal of goods and services, especially concerning decisions and reasons for supplier evaluation and selection, and contract variations are to be kept in a manner that facilitates auditing and other normal processes of accountability, in accordance with the Health Records Management Policy.

Useful links
- NSW Health Records Management Policy

4.2 GIPA Disclosure

The NSW Government is committed to transparency in its tendering and contracting practices. Disclosure requirements for contracts valued $150,000 (including GST) and more are captured within the Government Information (Public Access) Act 2009 (GIPA).

Requirements under the GIPA Act for Health Entities are outlined in the Health GIPA Policy. GIPA training is available to all Health staff.

Useful links
- NSW Health GIPA Policy
- GIPA Act 2009
- GIPA Training

4.3 Risk Management

Risk management comprises the activities and actions taken by Entities to ensure that it is mindful of the risks it faces, that it makes informed decisions in managing these risks, and identifies and harnesses potential opportunities.

Staff must establish processes for the identification, assessment, allocation and treatment of risks in a procurement project and contract in accordance with the Health Risk Management–Enterprise-Wide Policy and Framework. The effort directed to risk assessment and management must be commensurate with the scale, scope and risk of the procurement and contract. Staff must consider risks and their potential impacts when making decisions relating to value for money assessments, approvals of proposals to spend public money and the terms of the Contract.

Useful links
- NSW Health Risk Management–Enterprise-Wide Policy and Framework
4.4 Tender Complaints

Tender complaints are to be initially directed to the appropriate Authorised or Responsible Officer. In the event that the complaint cannot be satisfactorily addressed, in accordance with the relevant Complaint Management System, the complainant is to be directed to the CPO. The Chair of the Procurement Board is to be advised of the complaint only if the CPO is unable to resolve the issue.

Useful links

- NSW Health Complaint Management Policy
5. SOURCING SOLUTIONS

5.1 Whole-of-Government Contract

Whole-of-Government contracts have been established by the NSW Government for the supply of goods and services for all agencies. All NSW Government Entities must use whole-of-government contracts for obtaining the goods or services to which those contracts apply.

Where a whole-of-health contract offers goods and services also available on a whole-of-government contract the contract which provides the greatest value for money should be used.

Alternative sourcing methods to whole-of-government may be considered only when it has been ascertained that no whole-of-government or whole-of-health contract exists for the supply of the goods and services required.

Useful links

- NSW Government Board Direction for whole-of-government contracts
- list of whole-of-government contracts

Responsibility

HealthShare NSW is responsible for the establishment and management of all whole-of-government contracts delegated to Health on behalf of all NSW Government Entities. When establishing a whole-of-government contract HealthShare NSW are to follow the policies and procedures outlined in this document.

Requirements for use

Where whole-of-government contract has ceiling prices for goods and services, there is no requirement to seek competitive quotations for the goods and services since the tendering process already undertaken delivers optimum pricing to Health.

Where Entities perceive there are opportunities for discounts offered under the agreement Entities may consider obtaining a quote. The use of quotes should be only made where there are clear opportunities to improve value so as to avoid unnecessary costs for the supplier.

Where there are multiple suppliers on the whole-of-government contract for the supply of the goods and services required Entities may run a competitive sourcing process if the contract contains such a provision for this.

5.2 Whole-of-Health Contract

Whole-of-Health contracts have been established by the NSW Health for the supply of goods and services for all Health Entities. All Health Entities should use
whole-of-health contracts for obtaining the goods or services to which those contracts apply.

Where a whole-of-government contract offers goods and services also available on a whole-of-health contract, the contract which provides the greatest value for money should be used.

Alternative sourcing methods to whole-of-health may be considered only when it has been ascertained that no whole-of-health or whole-of-government contract exists for the supply of the goods and services required.

**Useful links**
- [list of whole-of-health contracts](#)

**Responsibility**

HealthShare NSW is primarily responsible for the establishment and management of all whole-of-health contracts. Other Health Entities may be responsible for the establishment and management of whole-of-health contracts as determined by the CPO.

**Requirements for use**

Where a whole-of-health contract has ceiling prices there is no requirement to seek competitive quotations for the goods and services since the tendering process already undertaken delivers optimum pricing to Health.

Where Entities perceive there are opportunities for discounts offered under the agreement Entities may consider obtaining a quote. The use of quotes should be only made where there are clear opportunities to improve value so as to avoid unnecessary costs for the supplier.

Where there are multiple suppliers on the whole-of-health contract for the supply of the goods and services required, Entities may run a competitive sourcing process if the contract has such a provision.

### 5.3 Prequalification Scheme

Prequalification schemes have been established by the NSW Government for the supply of goods and services for all agencies. Suppliers on each of the schemes have been approved to supply goods and services to the NSW Government following a formal application and assessment process. However, these are not the same as whole-of-government contracts as they are established with a limited tendering process and have no ceiling prices.

The use of some prequalification schemes is mandated by the NSW Government. Other prequalification schemes are recommended for use and should be considered as part of all procurement projects.
Useful links

- NSW Government Board Direction on use of mandatory prequalification schemes
- list of prequalification schemes

Responsibility

HealthShare NSW is responsible for the establishment and management of all prequalification schemes Delegated to Health on behalf of all NSW Government agencies.

Requirements for use

Entities are required to follow the procurement process specific to the prequalification scheme.

5.4 Direct from the Market

Where there is no existing whole-of-government, whole-of-health or suitable prequalification scheme Entities can source the goods and services required by engaging the market. The relative risk and value profile of the procurement should determine the sourcing method used to engage the market.
6. LEASING

6.1 Procuring Lease Financing

The procedures for approvals, planning and procurement of lease financing using recurrent and capital funding sources are currently under review given the imminent commencement of the new leasing accounting standard (AASB 16 - effective from 1 July 2019). These procedures will be provided in subsequent updates. Queries with regards to leasing must be directed to the respective Ministry of Health Finance contacts.

6.2 Procuring Retail Leases

Health Entities must use the retail leasing procurement process to ensure value for money outcomes in obtaining the most competitive retail lease revenue offer for their respective retail tenancies and minimise the risk of corrupt conduct. The retail leasing procurement process can be found via the following link:

Useful links
- NSW Health Retail Strategy Framework

7. ALTERNATIVE SOURCING AND VARIATIONS

7.1 Direct Negotiation

Direct negotiations are exclusive negotiations between an Entity and a proponent without first undergoing a genuine competitive process. Direct negotiations are sometimes referred to as directly sourced, single-invited or non-competed contracts.

There are significant risks associated with direct negotiation. Entities engaging in direct negotiations must document in detail the justification and suitability of direct negotiations to satisfy Health’s legislative and policy obligations. This would include a comprehensive analysis of the market, risks and all relevant factors sufficient to demonstrate that a competitive process need not be conducted.

Following the above, the Delegate/s must seek approval from the CPO to undertake these direct negotiations.

Useful links
- ICAC Guidelines for managing risks in direct negotiations

7.2 Contract Variation

A variation to a contract may be required when the contract scope or conditions change during the period of the contract, including price of goods and services, time and scope. Variations to a contract are not to occur unless the options for
such changes were included in the RFx and/or the resultant contract, and there is a clear and significant benefit to NSW Health.

A contract cannot be varied so that the total tenure of the contract would be more than five (5) years without the approval of the CPO. In seeking such approval exceptional circumstances must be demonstrated.

Where a variation to the price or time of the contract is being sought, the approval of an appropriate Delegate with financial delegation of the new revised total project value is required i.e. the original value plus any cost changes arising from the variation.

The appropriate Delegate approving the contract variation is required to verify that the contract can be legally varied. Variation documentation approved must state the following:

- confirmation that the suggested variations are within the scope of the contract’s statement of work
- expected benefit(s) to NSW Health directly arising from the prospective variations
- any likely detrimental effects from accepting the variations (e.g. additional cost to NSW Health).

Approval of the CPO is only required if a variation proposed by a Delegate is outside the scope of the RFx’s statement of requirements and/or the contract’s statement of work.

Where the goods and/ services were procured using a prequalification scheme Entities are to conform to the variation policy of that scheme i.e. not exceed maximum number of variations or value allowed under the prequalification scheme.

Once approval has been granted, a Variation must be completed and sent to the supplier giving NSW Health’s agreement to proceed.

7.3 Contract Extension

Any extension to the end date of a contract must be approved by the appropriate Delegate even if a value (budget) is still available.

Extensions to a contract are not to occur unless the options for such changes were included in the RFx and/or the resultant contract, and there is a clear and significant benefit to NSW Health. However, the CPO has the delegation to approve extension for a period up to 12 months for any one extension, where the contractual conditions do not include an extension option, by appropriate means provided the variation is made prior to contract expiry date.

The appropriate Delegate approving the contract extension is required to verify that the contract can be legally extended. Approved documentation outlining the contract extension must state the following:
• to verify that the contract can be legally extended, including for what period(s) and for how many times
• to state the number of any previous extensions and their duration
• to address the need to continue the supplies (including whether there is an opportunity to re-engineer the relevant business process)
• to provide a cost benefit analysis of all available options (e.g. use of other Whole of Government or Health or other Entity contracts, re-tendering, etc.)
• to record the supplier’s performance, including from user/client surveys if available
• to specify any consequential funding implications/arrangements.

A contract cannot be extended so that the total tenure of the contract would be more than five (5) years without the approval of the CPO. In seeking such approval exceptional circumstances must be demonstrated.

Where an extension is required in the instance where substantial expenditure may be incurred, or there is a high risk to the reputation of NSW Health, written advice to the appropriate Delegate from an independent probity advisor is required.

7.4 Emergency Procurement

An emergency procurement is subject to confirmatory approval by an employee with the appropriate level of financial delegation (verbal or written).

Circumstances which an emergency procurement may be appropriate include:
• protect life (such as the attainment of immediately available critically required supplies)
• protect the interruption of essential Health services
• prevent substantial economic loss.

In the event of an emergency procurement Entities may vary the procurement process requirements, including record keeping, outlined in this document to ensure the incident results in the least impact. Entities are required to take into account value for money, accountability, and probity, to the extent that they can be applied given the severity and urgency of the incident.

Emergency authorisations are to be reported to the Procurement Board as soon as possible via NSW.Policy@finance.nsw.gov.au

7.5 Exemptions

An exemption from Health’s procurement policy requirements outlined in this policy may be pursued in the case of a specific clinical or technical need, unsuitable conditions of a contract or level of performance, or an unresolved dispute. Exemption can be granted only by the CPO under delegation.
It should be noted that:

- exemptions are granted only on rare occasions
- in instances where exemptions are granted, all other procurement policies and procedures outlined in this policy document are to be followed
- if an exemption is being sought for reasons such as incompatibility with existing equipment and/or user protocols, then the application from the Entity should be accompanied by prices of the alternate products and whole of life cost estimates that are proposed to be used instead.

In the instance where an exemption is sought but is not an emergency, the Entity would need to adhere to the requirements outlined in the table overleaf.
## Use of an existing whole-of-government/whole-of-health contract where they exist for the supply of goods and services

<table>
<thead>
<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
</tr>
</thead>
</table>
| Use of an existing whole-of-government/whole-of-health contract where they exist for the supply of goods and services | Exemption from this policy requirement is permitted under any of the following circumstances:  
- Entities located in non-metropolitan areas can purchase goods and services valued up to $10,000 from any source  
- if procuring from an Australian Disability Enterprise*  
- procuring from a registered small business up to $50,000  
In other circumstances, exemption request must be endorsed by an appropriate Delegate, and approved by the CPO. |

## Use of a mandated NSW Government prequalification scheme where they exist for the supply of goods and services

<table>
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<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
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</thead>
</table>
| Use of a mandated NSW Government prequalification scheme where they exist for the supply of goods and services | Exemption from this policy requirement is permitted under any of the following circumstances:  
- if procuring from an Australian Disability Enterprise*  
- procuring from a registered small business up to $50,000  
In other circumstances, exemption request must be endorsed by an appropriate Delegate, and approved by the CPO. |

## Seeking minimum of three written quotes sought (between $30,000 and $250,000)

<table>
<thead>
<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
</tr>
</thead>
</table>
| Seeking minimum of three written quotes sought (between $30,000 and $250,000) | Exemption from this policy requirement is permitted under any of the following circumstances:  
- if procuring from an existing whole-of-government/whole-of-health contract  
- if procuring from NSW Government prequalification scheme and scheme rules allow it  
- if procuring from an Aboriginal Enterprise*  
- if procuring from an Australian Disability Enterprise*  
- procuring from a registered small business up to $50,000  
In other circumstances, exemption request must be endorsed by an appropriate Delegate, and approved by the CPO. |

## Open tendering for a procurement greater than $250,000

<table>
<thead>
<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open tendering for a procurement greater than $250,000</td>
<td></td>
</tr>
</tbody>
</table>
- if procuring from an existing whole-of-government or whole-of-health contract  
- if procuring from NSW Government prequalification scheme and scheme rules allow it  
In other circumstances, exemption request must be approved by an appropriate Procurement Delegate in Procurement Plan and CPO |

## Tendering for a procurement greater than $250,000

<table>
<thead>
<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tendering for a procurement greater than $250,000</td>
<td></td>
</tr>
</tbody>
</table>
- if procuring from an existing whole-of-government or whole-of-health contract  
- approval by Delegates of the Secretary (i.e. the CPO or the Deputy Sec F&AM) is documented with the Procurement Plan |

## Contract must not exceed five (5) years

<table>
<thead>
<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract must not exceed five (5) years</td>
<td></td>
</tr>
</tbody>
</table>
Requests to enter into Contracts exceeding five (5) years must be endorsed by an appropriate Delegate, and approved by the CPO. In seeking such approval exceptional circumstances must be demonstrated |

## Australia and New Zealand Government Procurement Agreement and other international agreements

<table>
<thead>
<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia and New Zealand Government Procurement Agreement and other international agreements</td>
<td></td>
</tr>
</tbody>
</table>
Endorsed by an appropriate Delegate, and approved by the CPO |

## Direct negotiations

<table>
<thead>
<tr>
<th>Policy – exemption from</th>
<th>Requirements for Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct negotiations</td>
<td></td>
</tr>
</tbody>
</table>
Endorsed by an appropriate Delegate, and approved by the CPO. |

* refer to the NSW Government Aboriginal Procurement Policy or Australian Disability Enterprise Policy. Where an Aboriginal Enterprise or Australian Disability Enterprise is being procured, the Entity must provide documentation demonstrating value for money.
8. BUYING CONSIDERATIONS

Health Entities should give consideration to the following policies, arrangements and organisations in the Procurement Planning stage in order to maintain the core principle of value for money and support NSW Government initiatives.

8.1 Sustainable Procurement

Sustainable procurement achieves the Government’s commitment to spend public money efficiently, economically, and ethically. Entities should incorporate sustainability practices into their procurement strategies from planning through the procurement process to measurement of results. By assessing the level of environmental risk, Entities can purchase goods and services that have reduced impacts on the environment.

Useful links

- information on NSW Government Sustainable Procurement
- NSW Government Resource Efficiency Policy
- NSW Government Environmental Management System Guidelines

8.2 Non-Government Organisations (NGOs)

The NSW Government encourages opportunities for engagement of NGOs in service delivery, specifically the provision of Human Services.

Human Services are the programs, facilities or services provided to meet the health, welfare and social needs of individuals, families and communities. All Government Entities must use the NSW Human Services Agreement when procuring human services from NGOs via a tender process.

Useful links

- information on NGOs providing human services
- NSW Government Human Services Agreement
- NSW Government Guidelines for engaging with human services NGOs
- NSW Government Board Direction for procuring human services from NGOs

Requirements for use

When procuring Human Services from NGOs, the Procurement Board Direction PBD-2017-04 is to be followed and Entities are to use the prescribed template. The template should not be used for grants to NGOs, for services that are transitioning to the National Disability Insurance Scheme, arrangements for the provision of assets or services that significantly assed based or for social impact bonds.
8.3 Aboriginal Enterprises

The NSW Government’s objective to increase Aboriginal participation in NSW Government procurement requires eligible buyers to support Aboriginal businesses. The NSW Aboriginal Procurement Policy (APP) outlines requirements of all Entities to achieve this objective and should be referred to before commencing any procurement activity.

Value for money principle must be applied.

APP has placed the following obligations:

- Publish an annual Aboriginal Participation Strategy that describes how the agency will meet its obligations under the APP. This should identify and address upcoming procurement opportunities for Aboriginal participation, at a minimum for the procurement of goods and services valued over $10 million.
- Engage with suppliers and consider their capacity to meet the obligations under the APP for all relevant procurement activities.
- Report all contracts valued over $50,000 entered into with an Aboriginal owned business.
- Ensure all suppliers are made aware of their obligations under the APP at the time of tender or before.
- Incorporate supplier obligations under the APP into the contract.
- All agencies must apply any further measures approved by the NSW Procurement Board in support of the APP

Entities may apply additional measures to achieve the APP objectives, such as:

- **first consideration** to Aboriginal owned businesses on prequalification schemes before proceeding to market for procurements valued **up to $250,000**, where appropriate. If one or more Aboriginal owned businesses are identified, the agency should engage with those suppliers before proceeding to market.
- **direct negotiation** with suitably qualified Aboriginal owned businesses that can demonstrate value for money and delivery of quality goods and services for procurements not covered under existing prequalification schemes valued **up to $250,000**.
- apply an Aboriginal participation non-price evaluation criteria in relevant tenders where opportunities exist.

**Useful links**

- NSW Government Aboriginal Procurement Policy
- Reporting requirements under APP
- Supply Nation
- The NSW Indigenous Chamber of Commerce
8.4 Australian Disability Enterprises

The NSW Government supports businesses that employ people with a disability. Entities may procure goods and services from an Australian Disability Enterprise (ADE) for any value amount without seeking alternate quotes, and are exempt from existing whole-of-government or whole-of-health contracts, as long as value for money can be documented.

Useful links

- information on procuring from Australian Disability Enterprises

8.5 Small-Medium Enterprises and Regional Suppliers

The NSW Government aims to maximise opportunities for Small and Medium Enterprises (SMEs) to participate in government procurement by facilitating access and improving competition. It also encourages regional and local firms to grow and innovate, and to generate employment opportunities. In order for Health Entities to maximise SME and regional local supplier participation, they should examine opportunities for such suppliers to join in supply chain relationships when specifying requirements. Value for money principle must be applied.

Listed below are the specific requirements that must be adhered to:

<table>
<thead>
<tr>
<th>Agency requirements and permissions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SME First</strong></td>
</tr>
<tr>
<td><strong>SME and Sustainability Criteria</strong></td>
</tr>
</tbody>
</table>

Procurements to establish prequalification schemes and panels are exempt, except for panels where spend with each supplier is estimated to exceed $3 million over the panel term. The criteria must be applied to any procurement using a scheme or panel that will exceed $3 million over the life of the contract.
<table>
<thead>
<tr>
<th>Reporting</th>
<th>Agencies must incorporate supplier SME and sustainability commitments into agreements and monitor compliance as part of contract management activities. An online portal will be implemented to simplify the supplier reporting process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tendering and contract requirements</td>
<td>Agencies must, whenever feasible, limit the length of tender responses when seeking more than one quote, and minimise tender and contract requirements wherever possible (such as insurance levels or technical requirements).</td>
</tr>
<tr>
<td>Small Business Exemption</td>
<td>Agencies may purchase goods or services up to a value of $50,000 directly from a small business, even where these are available on a whole-of-government arrangement. Agencies are encouraged to purchase from local small businesses, including fresh produce.</td>
</tr>
<tr>
<td>General Exemption</td>
<td>Agencies may purchase goods or services up to a value of $10,000 from any supplier, even where these are available on a whole-of-government arrangement.</td>
</tr>
<tr>
<td>Procurement Innovation Stream</td>
<td>Accredited agencies may directly engage an SME on a short-term contract valued up to $1 million to do proof-of-concept testing or outcomes-based trials. Agencies may use any appropriate procurement method, including direct negotiation, to award a contract following a successful test or trial, subject to procurement rules.</td>
</tr>
</tbody>
</table>

**Useful links**

- [information on supporting SME participation](#)
- [NSW Government SME and Regional Procurement Policy](#)
- [NSW Government Board Direction on the consideration of SMEs](#)
- [information on regional suppliers](#)
- [NSW Government Board Direction on the consideration of regional suppliers](#)
8.6 Performance and Management Services Scheme

The Performance and Management Services (PMS) Scheme offers a pool of prequalified consultants to assist NSW Government Entities and statutory corporations in engaging external expertise.

This Scheme is not mandatory for Entities but is strongly recommended as it simplifies the process to source prequalified consultants.

Entities should refer to the Standard Commercial Framework before commencing procurement using the PMS Scheme.

Useful links
- NSW Government Performance and Management Services Scheme
- Major Supplier Portal
- NSW Government Board Direction on the engagement of professional services suppliers
- Resources for buying professional services

8.7 International Procurement Agreements (IPA)

Australia has entered into six free trade agreements (FTA) that include applicable government procurement provisions:
- Aus-USA FTA (2005)
- Aus-Chile FTA (2009)
- Korea-Aus FTA (2014)
- Singapore-Aust FTA (2017)

NSW Government Entities are required to comply with the government procurement provisions of applicable international procurement agreements, including requirements for sourcing, evaluation and reporting.

Useful links
- NSW Government Board Direction on IPAs
- NSW Government Guidelines on IPAs
- Australia’s free trade agreements

8.8 Foreign Exchange Risks

All Government Entities are required to manage their foreign exchange risks in accordance with the NSW Government Foreign Exchange (FX) Risk Policy (the
FX Policy) and/or in consultation with NSW Treasury and TCorp as appropriate. FX risk can arise from exposure to foreign currencies when Government Entities purchase, sell, or intend to purchase or sell goods and services either directly from/to overseas, or indirectly through domestic providers.

The FX Policy applies to all Government Entities when they:

- buy or sell goods or services in foreign currency
- buy or sell goods that are ultimately sourced from overseas or foreign companies
- have other income, expenses, assets or liabilities that are in, or affected by, foreign currencies.

Managing an identified FX risk may include hedging the identified risk exposure, and/or presenting a risk management plan if seeking Government’s approval for procurement proposals.

For a Contracted Risk above $500,000 Government Entities must hedge the identified Contracted Risk (unless advised otherwise by Treasury), no later than three (3) business days after making a Commitment.

**Useful links**
- NSW Government Foreign Exchange Risk Policy

### 8.9 Order Splitting

‘Order splitting’ with the intention of avoiding upper procurement threshold levels, is inconsistent with the objectives of the procurement system and is prohibited.

Entities must not intentionally split purchase requirements into either components or a succession of orders for the same or similar goods and services.
9. OTHER PROCUREMENT

9.1 Establishing Whole of Government Contract or Whole of Health Contract

Whole-of-Government contracts are established for the supply of goods and services for all agencies. Whole-of-Health contracts have been established by NSW Health for the supply of goods and services for all Health Entities.

HealthShare NSW is responsible for the establishment and management of all whole-of-health contracts, as well as whole-of-government contracts devolved to Health on behalf of all NSW Government Entities. When establishing a whole-of-government or whole-of-health contract HealthShare NSW are to:

- follow a Level 3 procurement process
- follow all other policies and procedures outlined in this document
- ensure any additional requirements beyond those outlined in this document are followed when establishing a whole-of-government contract.

Contract Arrangements

Whole-of-Government/Whole-of-Health contracts generally involve a head agreement between NSW Health and supplier(s). The head agreement is to cover such matters as the terms and conditions of contract, performance requirements, and how agencies/Entities are to purchase under the head agreement using a standard purchase order or equivalent.

Agreements can be structured as follows:

- sole or multiple suppliers (multiple suppliers constitute a panel arrangement); or
- open or closed panels (where open panels are able to accept new suppliers at set or other times during the contract period whereas closed panels are restricted to the suppliers engaged at the commencement of the contract);

Number of panel suppliers

The number of panel suppliers should be estimated in a Procurement Plan and finalised at the conclusion of the evaluation phase.

In determining the size of the panel, HealthShare NSW should consider:

- the anticipated amount of work to be performed
- the need to provide choice of suppliers for users
- the type and breadth of work to be performed and whether individual panel members are able to fulfil all requirements
- the cost to the panel members in relation to the estimated work obtained
- a number that would ensure a reasonable level of work for all panel members.
Aggregated Demand
A Whole-of-Government/Whole-of-Health contract should be established where an Entity has an opportunity for aggregating frequently used requirements across Government/Health. Therefore, in the Plan stage of the procurement, HealthShare NSW should identify if other Entities and agencies also share similar requirements.

The planning process should consider the advantages and disadvantages of aggregating demand. For example, an Entity’s negotiation position with suppliers may be strengthened, but at the cost of reducing the number of suppliers and impacting small business opportunities or impacting longer term market competition.

9.2 Grants
Grants sit outside of this Procurement Policy. Health and Social Policy Branch (HSPB) within the Ministry administer and manage policies related to grants in association with the Finance Branch. All assistance regarding grants should be directed to the HSPB/Finance.

Useful links
- NSW Ministry of Health Non-Government Organisation Grant Program – Operation Guidelines

9.3 Pilot Projects/Innovation
Where the capability of goods and services could be improved through innovation to meet current or emerging business needs, the NSW Government allows Entities to run outcomes-based trials. These trials – as they are being tried and tested for the first time – are referred to as pilots.

As these pilots require the market to provide innovative solutions not readily available for supply, these engagements typically require Direct Negotiation. Where this is the case, Entities are required to undertake extensive market analysis to demonstrate that a competitive process is not necessary.

Proof-of-concept testing should only be used to prove that a particular good or service can feasibly meet a business need and/or to identify costs with its (potential) wider use. Proof-of-concept testing cannot alone identify the preferred procurement solution.

CPO approval of all pilot procurement activities must be obtained at the Plan stage of the procurement.

Useful links
- NSW Government Board Direction on Innovation
- NSW Government SME Policy Framework
- SME and Regional Procurement Policy
9.4 Unsolicited Proposals

Entities are sometimes in receipt of an unsolicited proposal from industry that exhibits a high degree of innovation and uniqueness that could benefit NSW Health. These unsolicited proposals generally offer a business process that is quite different to the existing one, utilising a combination of new technology/products and/or initiatives in the provision of services that has the prospect of meeting NSW Health outcomes with potentially significant benefits in terms of efficacy.

All unsolicited proposals are to be managed according to the NSW Government’s Unsolicited Proposal Guide for submission and assessment. This outlines the process for the consideration of unsolicited proposals and establishes the Department of Premier and Cabinet (DPC) as the lead Entity in considering unsolicited proposals.

Useful links

- NSW Government on unsolicited proposals
- NSW Government Guide for submission and assessment of unsolicited proposals

9.5 Outsourcing of Clinical Services

Any Entity considering a procurement strategy involving the delivery of health services by the private sector, including clinical services, is to notify MoH SPB prior to the completion of the business case. This also applies to the renewal of previous procurements. The CPO is responsible for assigning appropriate governance structures for the procurement activity and will use their discretion to determine the involvement, including roles and responsibilities, of MoH SPB and the Health Entity in the process.

The outsourcing of clinical services must be overseen by the Ministry for the purposes of compliance and validity.

9.6 Capital Works

Any Health Entity undertaking a goods and services procurement, regardless of its value, within a larger Capital Works program can manage the procurement of the goods and services under the Capital Program of Works. Entities are not required to engage HealthShare NSW or MoH SPB for the procurement of these goods and services.

9.7 Consignment

Under any existing contract where specified in its terms and conditions, an Entity may consign supplier owned stock to its storage facilities where it is mutually beneficial. Such consignment of stock should only occur where the demand for the supplies is either unknown or irregular.
10. LABOUR HIRE

10.1 Contingent Labour

Where there is a time-limited need for additional resources and specialised knowledge or skills, the engagement of contingent labour can be used to ensure the delivery of business objectives.

The Contingent Workforce Prequalification Scheme is mandatory for the recruitment of all contingent workforce in the NSW Government.

Useful links
- NSW Government Contingent Workforce Management Guidelines
- NSW Government Contingent Workforce Prequalification Scheme
- list of prequalified contingent labour suppliers and employment categories

10.2 Contractors/ Consultants

Where specialised skills or experience is not available through an Entity’s staff or a contingent labour hire, arrangements with a contractor or a consultant can be engaged temporarily.

The distinct classifications between a consultant and contractor should be understood prior to engagement:

<table>
<thead>
<tr>
<th>Consultant</th>
<th>Contractor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provides expert analysis and advice which facilitates decision making</td>
<td>Provides goods, works or services which implement a decision</td>
</tr>
<tr>
<td>Perform a specific, specialist one-off task or set of tasks</td>
<td>Perform all or part of a new or existing ongoing function</td>
</tr>
<tr>
<td>To conduct a task involving skills or perspectives which would not normally be expected to reside within NSW Health</td>
<td>To conduct a function involving skills which would normally be expected to reside within NSW Health, but which are not currently available</td>
</tr>
</tbody>
</table>

A consultant is defined as a person or organisation engaged under contract on a temporary basis to provide recommendations or professional advice to assist decision-making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

Services provided under the NSW Government Legal Services Panel are excluded from the definition of a consultant for annual reporting purposes.

Useful links
- information on consultancy services
- Performance and Management Services Scheme
- NSW Government Board Direction on the engagement of professional services suppliers
11. SYSTEMS

11.1 NSW Buy

NSWBuy provides a suite of services that assists government buyers and suppliers to do business with each other. Health Entities may use the NSWBuy eCatalogues to inquire about goods and services of existing Whole-of-government and Whole-of-health contracts.

Useful links
- information on eCatalogues
- NSWBuy eCatalogues
- NSWBuy Supplier Data Portal
- NSW Government eCatalogues - FAQs for buyers

11.2 eTendering

eTendering is a web-based tender management system that delivers a standard single entry point for government organisations and suppliers to advertise and respond to NSW Government tenders. Use of eTendering to publish tenders to the market is mandatory, except when using an existing prequalification scheme where eQuote may be used.

Useful links
- overview of eTendering
- NSW Health eTendering

Responsibility

Entities are responsible for publishing all tenders on eTendering for the procurement projects they manage. HealthShare NSW is responsible for publishing all tenders on the NSW Government eTendering website on behalf of Health Entities (other than Ministry Branches) which do not have access. MoH SPB is responsible for publishing all tenders on the NSW Government eTendering website on behalf of Ministry Branches which do not have access.

HealthShare NSW is responsible for publishing all tenders on eTendering for the procurement projects they manage on behalf of other Health Entities.

11.3 eQuote

eQuote, as part of eTendering, is used as a pathway for Entities (who have access) to request quotes from registered suppliers on existing prequalification schemes. Use of eQuote or eTendering to request quotes from prequalified suppliers is mandatory for procurements valued over $30,000.
Useful links

- overview of eQuote
- NSWBuy eQuote
- NSW Government support materials

11.4 PROcure

PROcure is the Procurement and Contract Lifecycle Management System, available to NSW Health Entities. It is a workflow system used for managing procurement processes and ongoing contract management for projects, to provide Health Entities with improved understanding and guidance around all processes and compliance.

All contracts greater than $150,000 including GST in value (excluding property leases) must be recorded in PROcure immediately following contract award. Contract managers are responsible for recording the contract in PROcure, and the ongoing administration and management of the contract using PROcure.

This provides visibility of all procurement projects (excluding property leases) resulting in a contract valued over $150,000 including GST undertaken across Health. The information within PROcure may be used by the Ministry for reporting purposes when required.

Useful links

- PROcure (Health Services)
- PROcure (Ministry)
- Client Access Form

11.5 AFM Online

Asset and Facilities Management (AFM Online) is designed to provide the tools to manage the maintenance, inspection, scheduling and testing of medical equipment and other assets and facilities in an economical and timely manner.

Entities are to record the purchase of any building or engineering for biomedical or major medical assets on AFM Online as their asset management system. An Asset Strategic Plan should also be developed by the project director for ongoing management.

11.6 iProcurement with Oracle

iProcurement is the online requisitioning tool in Oracle used to raise, manage and approve requisitions. It provides an effective method for the purchase of goods and services, allowing users to create requisitions, receipt purchases, and enquire on requisition progress.

It must be used by all Health Entities to raise a purchase order.
12. DISPOSAL OF GOODS

The disposal of all goods (excluding motor vehicles) must be aimed at achieving value for money and meet transparency and probity requirements.

Entities must gain and document approval prior to commencing the project from the Chief Executive, or their Delegate, confirming:

- that the goods are suitable for disposal
- the estimated present value.

Methods of disposal must be compliant with applicable environmental safeguards, Work Health and Safety requirements, and local council regulations. The following table defines methods of the disposal of goods according to the present value of the goods:

<table>
<thead>
<tr>
<th>Value of goods</th>
<th>Methods of the disposal of goods</th>
</tr>
</thead>
</table>
| Goods valued up to $5,000 | • transfers, trade-ins, negotiated sales, or;  
|                       | • seeking verbal quotations  
|                       | • donation to not-for-profit or community organisations. |
| Goods valued over $5,000 | The NSW Health procurement policies and procedures outlined in this document should be followed for the disposal of all goods. This includes completion of a Procurement Risk Assessment to determine the appropriate procurement process for the disposal of the goods. |
|                       | Methods to dispose of the goods are:  
|                       | • auction (including online systems), or  
|                       | • trade-ins, or  
|                       | • written quotes, or  
|                       | • open tenders or  
|                       | • donation to not-for-profit or community organisations. |

It is prohibited to split the subject goods into components or in succession for the purposes of avoiding the mandated Delegated process.

When undertaking disposals by quotations, an Entity must ensure:

- disposal specifications and requirements are disclosed equally to all suppliers invited to quote
- the supplier selection evaluation criteria are established prior to receiving quotes
- that it follows proper processes of closing, receipt, and opening of quotes.

Entities must also manage foreign exchange (FX) risk exposures, including those exposures arising before or after committing to a sale, in accordance with the NSW Government Foreign Exchange Risk Policy.
When donating surplus goods to a community/non-for-profit organisation, entities should ensure that such items can be removed by these organisations and their ownership transferred, subject to a written signed agreement recording that the goods are accepted in their current state, including any defects either known or latent, and there will be no cost and no obligation/liability to NSW Health now or in the future. It is recommended that Legal advice be sought should the items being donated be past their “use by” date to ensure NSW Health is not exposed in any way.

**Useful links**

- [NSW Government Foreign Exchange Risk Policy](#)
- [NSW Health Motor vehicle acquisition and management practices](#)
- [NSW Health Combined Delegations Manual](#)
- [NSW Procurement Policy Framework](#)
13. REPORTING

Under the requirements of the Procurement Board’s Agency Accreditation Scheme (AAS) for the procurement of goods and services, NSW Health is required to submit an annual procurement report. This is a condition of retaining its status as an advanced procurement Entity and its related delegations.

Responsibility

MoH SPB is responsible for collating information required for the Improvement Plan Progress Report from Health Entities.

All Health Entities are responsible for advising MoH SPB their planned procurement information for publishing on the eTendering website.

HealthShare NSW are required to send MoH SPB a report quarterly outlining procurement activity, compliance and performance.

Health Entities are to maintain a register for all procurement contracts under $250,000, providing details such as the nature of goods and services, supplier details, Client profile, tenure of contract, value (expenditure by NSW Health), variations, extension options and closure/transition.

Health Entities are to list all contracts over $150,000 (including GST) on the PROcure contract management system.

Useful links

- Scheme Guidelines for Agency Accreditation Scheme for Procurement
- PROcure
14. PROCEDURES

The following section outlines the roles and responsibilities of Health Entities in further defining the procurement process. Note, all processes, documentation and templates established and used by Health staff for the procurement of goods and services must be consistent with the NSW Health Procurement Policy.

14.1 HealthShare NSW

The table below outlines the roles and responsibilities of Health Entities when a procurement activity is initiated by an individual/s working for HealthShare NSW. Note that the Health Entity owns the procurement and remains accountable for compliance, even when HealthShare is engaged to assist with the procurement.

<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Responsible Entity</th>
<th>Detail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Using existing Whole-of-Government</td>
<td>HealthShare NSW</td>
<td>HealthShare NSW is responsible for procuring goods and services available on existing whole-of-government and whole-of-health contracts. This process is to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>Up to $250,000</td>
<td>HealthShare NSW</td>
<td>HealthShare NSW is responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by staff within HealthShare NSW. All processes, documentation and templates necessitated by HealthShare NSW are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>$250,000 - $30m</td>
<td>HealthShare NSW</td>
<td>HealthShare NSW is also responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by Health Entities (except Ministry of Health and Cancer Institute*) with an estimated contract between $250,000 and $30m. All processes, documentation and templates necessitated by HealthShare NSW are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures. At all stages of a procurement process HealthShare NSW is required to gain input and involvement of the Health Entity the goods and services are being procured for is required.</td>
</tr>
<tr>
<td>Over $30m</td>
<td>Ministry of Health</td>
<td>MoH SPB is responsible for further defining the procurement process, including required documentation and templates, for all procurements greater than $30m undertaken by staff within HealthShare NSW.</td>
</tr>
<tr>
<td>Exceptions</td>
<td>Ministry of Health</td>
<td>The exception to the above is in the case of Clinical Services or other projects designated by the CPO to be run or governed by the Ministry of Health. In these circumstances, the Ministry of Health is responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by staff within the Ministry.</td>
</tr>
</tbody>
</table>

*The Cancer Institute has an accreditation delegation of up to $1m. The Cancer Institute is responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by staff within the Cancer Institute. |
templates, for all procurements with an estimated contract value up to $1m. All processes, documentation and templates used by the Cancer Institute are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.
14.2 Ministry of Health

The table below outlines the roles and responsibilities of Health Entities when a procurement activity is initiated by an individual/s working for a Branch within the NSW Ministry of Health.

<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Responsible Entity</th>
<th>Detail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Using existing Whole-of-Government</td>
<td>Ministry Branch</td>
<td>Ministry Branches are responsible for procuring goods and services available on existing whole-of-government and whole-of-health contracts. This process is to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>Up to $250,000</td>
<td>MoH SPB</td>
<td>MoH SPB is responsible for further defining the procurement process, including required documentation and templates, for all procurements under $250,000 undertaken by staff within the Ministry. All processes, documentation and templates necessitated by MoH SPB are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>Greater than $250,000</td>
<td>MoH SPB</td>
<td>MoH SPB is responsible for further defining the procurement process, including required documentation and templates, for all procurements greater than $250,000 undertaken by staff within the Ministry. All processes, documentation and templates necessitated by MoH SPB are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>Exceptions</td>
<td>MoH SPB</td>
<td>MoH SPB is responsible for further defining the procurement process, including required documentation and templates, for all procurements of Clinical Services or other projects designated by the CPO. All processes, documentation and templates necessitated by MoH SPB are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
</tbody>
</table>
14.3 Health Infrastructure

The table below outlines the roles and responsibilities of Health Entities when a procurement activity is initiated by an individual/s working for Health Infrastructure.

<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Responsible Entity</th>
<th>Detail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Using existing Whole-of-Government</td>
<td>Health Infrastructure</td>
<td>Health Infrastructure is responsible for procuring goods and services available on existing whole-of-government and whole-of-health contracts. This process is to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>Up to $250,000</td>
<td>Health Infrastructure</td>
<td>Health Infrastructure is responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by Health Infrastructure. All processes, documentation and templates necessitated by Health Infrastructure are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>$250,000 - $30m</td>
<td>MoH SPB</td>
<td>MoH SPB is responsible for further defining the procurement process, including required documentation and templates, for all procurements greater than $250,000 undertaken by staff within the Ministry. All processes, documentation and templates necessitated by MoH SPB are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures. At all stages of a procurement process MoH SPB is required to gain input and involvement of Health Infrastructure.</td>
</tr>
<tr>
<td>Over $30m</td>
<td>Ministry of Health</td>
<td>MoH SPB is responsible for further defining the procurement process, including required documentation and templates, for all procurements greater than $30m undertaken by staff within Health Infrastructure.</td>
</tr>
<tr>
<td>Exceptions</td>
<td>Ministry of Health</td>
<td>The exception to the above is in the case where the procurement project is designated by the CPO to be run or governed by the Ministry of Health. In these circumstances, the Ministry of Health is responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by staff within the Ministry.</td>
</tr>
</tbody>
</table>
## 14.4 Other Health Entities

The table below outlines the roles and responsibilities of Health when a procurement activity is initiated by an individual/s working for a Health Entity (which is not HealthShare NSW or Ministry of Health). Note that the Health Entity owns the procurement and remains accountable for compliance, even when HealthShare is engaged to assist with the procurement.

<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Responsible Entity</th>
<th>Detail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Using existing Whole-of-Government</td>
<td>Health Entities</td>
<td>Health Entities are responsible for procuring goods and services available on existing whole-of-government and whole-of-health contracts. This process is to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>Up to $250,000</td>
<td>Health Entities</td>
<td>Health Entities are responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by Entity staff under $250,000. All processes, documentation and templates necessitated by the Health Entity are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.</td>
</tr>
<tr>
<td>Greater than $250,000</td>
<td>HealthShare NSW</td>
<td>HealthShare NSW is responsible for further defining the procurement process, including required documentation and templates, for all procurements undertaken by Health Entities (except Ministry of Health and the Cancer Institute*) with an estimated contract value greater than $250,000. All processes, documentation and templates necessitated by HealthShare NSW are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures. At all stages of a procurement process HealthShare NSW is required to gain input and involvement of the Health Entity the goods and services are being procured for is required.</td>
</tr>
<tr>
<td>Exceptions</td>
<td>Ministry of Health</td>
<td>The exception to the above is in the case of Clinical Services or other projects designated by the CPO to be run or governed by the Ministry of Health. In these circumstances, the Ministry of Health is responsible for further defining the procurement process, including required documentation and templates, for these procurements.</td>
</tr>
</tbody>
</table>

*The Cancer Institute has an accreditation delegation of up to $1m. The Cancer Institute is responsible for further defining the procurement process, including required documentation and templates, for all procurements with an estimated contract value up to $1m. All processes, documentation and templates used by the Cancer Institute are to be consistent with NSW Health policy and process requirements outlined in the NSW Health Procurement Procedures.
15. GOVERNANCE

15.1 Legal and Legislative Framework

The policies and procedures defined within this document are consistent with the NSW Government’s reporting and legal requirements, the Strategic Directions Statements and Directions developed by the NSW Procurement Board.

15.2 NSW Procurement Accreditation Scheme

The Agency Accreditation Scheme for Procurement allows NSW Government agencies to undertake different levels of procurement based on their assessed procurement capability. Accredited agencies can buy goods and services not available under whole-of-government contracts up to their maximum accredited contract value, but must use whole-of-government contracts where required by the NSW Procurement Board.

The Board has assessed the capability of the Ministry of Health and HealthShare NSW under the Agency Procurement Accreditation Scheme for Goods and Services and has granted the Health Administration Corporation (HAC) the ability to procure goods and services with no maximum contract value. Under this accreditation, HAC has delegated the right to procure to the Ministry and HealthShare NSW only (as the assessed Entities).

While the Board allows non-accredited agencies the ability to put in place new contracts of up to $1 million for goods and services, the Secretary of Health has limited this to $250,000 in the case of Health Entities, including Health Infrastructure, (with exception of the Cancer Institute) to manage risk and provide greater system wide visibility over procurement and contracts.

Useful links

- NSW Government Agency Accreditation Scheme for Procurement
- Scheme Guidelines for Agency Accreditation Scheme for Procurement

Responsibility

The Ministry of Health and HealthShare NSW are each responsible for ensuring responsibilities to maintain Accreditation for Goods and Services for each respective Entity are fulfilled.

15.3 NSW Procurement

NSW Procurement provides procurement services and solutions to NSW Government agencies, including consultancy and advisory services, category management, analytical support, analysis and guidance, and access to procurement enabling technologies.
The organisation, which sits within the Department of Finance, Services and Innovation (DFSI), works to meet the demands of the NSW Government’s procurement reform agenda to ensure the necessary resources and capabilities within a devolved procurement framework.

Useful links

- NSW Government information on procurement
- NSW Procurement Service Centre
- general enquiries: NSW Procurement Service Centre on 1800 679 289 (1800 NSW BUY) or nswbuy@finance.nsw.gov.au

15.4 NSW Procurement Board

The NSW Government Board (the Board) is responsible for overseeing the procurement and disposal of goods and services by the NSW public sector services under the Public Works and Procurement Act 1912.

The Board consists of the Secretary of DFSI as Chair, and Secretaries of the Principal Departments appointed by the Minister for Finance and Services, including the Secretary of Health.

The Board has directed agencies to undertake their own procurement of goods and services subject to the following conditions, which are mandatory for all Health Entities:

- use of Whole of Government contracts wherever possible
- compliance with NSW Procurement Policy Framework and Code of Practice
- compliance with approved levels of Accreditation to procure goods and services.

Useful links

- information on NSW Procurement Board
- NSW Government Procurement Policy Framework
- NSW Government Code of Practice for Procurement
- NSW Procurement Board Strategic Directions
- NSW Government Public Works and Procurement Act 1912

15.5 Procurement Governance Committee

The role of the Procurement Governance Committee (PGC) is to bring about collaboration among NSW Health entities, stakeholders and clinical experts to maximise value across the system. To achieve this, the PGC must:
- Develop and implement a Whole of Health strategic approach to procurement;
- Monitor and communicate the procurement strategy pipeline within the cluster;
- Strengthen the procurement partnership and increase collaboration across the cluster;
- Ensure the effectiveness of Health procurement practices and their alignment to the NSW Government Procurement Policy;
- Ensure risk mitigation strategies are in place through review of procurement audit reports;
- Discuss and review key actions and outcomes from NSW Procurement Board meetings;
- Be a catalyst for change to ensure optimum value for money with a holistic total cost of ownership approach.

The PGC is chaired by the CPO. The members of the PGC include four LHD Chief Executives, Pathology and Ambulance Chief Executives and senior executive procurement representation from HealthShare and Health Infrastructure.

15.6 Entity Procurement Committee

The Entity Procurement Committee is a group of senior officers that is chaired by the Entity’s Chief Executive or appropriate Delegate, with members from areas such as contract/category management, clinical, user, finance, legal, etc. A representative from the Ministry of Health Strategic Procurement Branch is also a member of the Entity Procurement Committee.

The Entity Procurement Committee provides governance assurance of all Level 2 and Level 3 procurement projects for which the Chief Executive or Delegate is accountable.

15.7 Ministry of Health Strategic Procurement Branch

The Strategic Procurement Branch (SPB) provides leadership through the development of more effective procurement strategies ensuring value for money outcomes in NSW Health by providing sound strategic oversight across the procurement of Goods & Services and procurement systems management. The relevant MoH SPB Relationship Manager should be consulted by HealthShare NSW, Ministry Branches and other Health Entities for any NSW Health procurement policy and procedural enquires. The MoH SPB Relationship Manager, is to be made aware and involved, at their discretion, of all Level 2 and Level 3 procurement projects.

Further advice or assistance can be obtained from MoH SPB: email MOH-PAS@health.nsw.gov.au.
15.8 HealthShare NSW Procurement Service Centres

As the central shared services provider to NSW Health, HealthShare NSW has established services centres at Parramatta, Newcastle and Westmead. These are the primary access point for Health local tenders and contract management for contracts above $250,000.

The HealthShare NSW Procurement Service centres direct enquiries to the central HealthShare NSW Strategic Procurement Services Unit or Ministry of Health Strategic Procurement Branch as considered appropriate.

Useful links
- HealthShare NSW procurement services

15.9 HealthShare NSW Strategic Procurement

The HealthShare NSW Strategic Procurement Services Unit provides services for the development and renewal of state-wide goods and services. This includes the management of procurement, ICT, whole-of-government, and whole-of-health contracts on behalf of NSW Health.

The HealthShare NSW Strategic Procurement Services Unit is to work closely with the Ministry of Health SPB.

15.10 Health Infrastructure (HI)

As the central infrastructure service provider to NSW Health, HI is accountable for delivering all capital projects greater than $10m (as approved in the Capital Investment Strategic Plan) and for providing the framework for all capital projects less than $10m. HI is accredited to undertake planning and delivery phases of goods and services procurements where these are aligned to major infrastructure projects.

HI is accredited and accountable for the procurement of goods and services less than or equal to $250,000 (in accordance with the Secretary’s Instrument of Delegation), where goods and services are not available in whole-of-government/whole-of-health contracts.

HI is to direct all enquiries related to the NSW Health procurement policies and procedures to Ministry of Health SPB.

15.11 Local Health Districts, Ministry Branches and other Health Entities

Health Entities other than HealthShare NSW, Cancer Institute and the Ministry of Health are accredited and accountable for the procurement of goods and services less than or equal to $250,000 (in accordance with the Secretary’s Instrument of Delegation), where goods and services are not available in whole-of-government/whole-of-health contracts. The Cancer Institute is accredited and
accountable for the procurement of goods and services less than or equal to $1m (including GST).

For all procurement of goods and services greater than $250,000, Entities are to engage HealthShare NSW prior to commencing the procurement activity.

Entities are to consult the MoH SPB for any NSW Health procurement policy and procedural enquires. The MoH SPB is to be made aware and involved, at their discretion, of all Level 2 and Level 3 procurement projects.

Useful links

- information on Local Health Districts and Specialty Networks
GLOSSARY OF TERMS
Approval – approval of an authorised person(s) who hold the appropriate financial/procurement delegation.

Arrangement – a description of a contract, standing offer, scheme, or any other form of agreement between a government Entity and a supplier/s, whether or not the arrangement creates legal relationships between parties.

Authorised Officer - an officer of HealthShare NSW who is responsible to the Delegate of an Entity for the management and administration of the tendering process.

Business Justification - a reason, fact, exceptional circumstance, or explanation that justifies an exemption or a deviation from rules within the Procurement Policy. Business Justifications must be provided in writing.

Clinical Services – those services provided to patients which directly treat or manage their health outcomes. Usually a clinical procedure is involved. This does not include clinical goods and services.

Closing Time – the time and date that the Tender responses must be lodged, as detailed in the relevant RFx documentation.

Competitively Source – refers to opening the purchasing process to multiple bids and tenders to obtain the best value for goods or services.

Conflict of Interests – a conflict of interest may arise where an individual associated with the procurement process has a financial or non-financial interest that may prejudice their impartiality. Such conflicts of interests may be real, perceived or potential and must be managed and documented accordingly during the procurement process.

Contract – the generic term describing the contractual or legal relationship between two parties. In the case of procurement, it specifically refers to the agreement between NSW Health and a supplier with regard to the supply of goods and services.

Contract Management Plan – a tool for managing risks to the success of contracts, and for ensuring what is negotiated as value for money is actually delivered.

Delegated Authority (Delegate) – a NSW Health employee who holds an appropriate financial and/or procurement delegation, according to the Secretary's instrument of delegations. The Delegate is responsible and accountable for the procurement of goods and services, including to approve a procurement activity.

Entity – an element of NSW Health that procures goods and services and is managed by a Chief Executive or equivalent, i.e. the Ministry of Health, HealthShare NSW, Ambulance Service of NSW, Health Infrastructure, NSW Health Pathology, Local Health Districts, and Statutory Health Corporations.

Exemption – where an Entity is free from an obligation of specified policies and/or procedures, based on exceptional circumstances.

Financial Delegations – the rules which set out the respective financial expenditure and approval levels for each position/level in NSW Health.

Goods – include, but are not limited to; plant, machinery, motor vehicles, tools, furniture, floor coverings, office equipment, science apparatus, appliances, hardware, medical and pharmaceutical suppliers, information technology software and hardware, fuel and provisions.
Contingent Labour— an individual engaged on a temporary basis to replace or augment the workforce in the core service delivery of the business unit.

Late Tender – a Tender Response that is lodged after the Closing Time.

Letter of Intent – a written statement of intention between two or more legal Entities that outline the intentions regarding a future contractual or business arrangement. The purpose of a letter of intent is for the parties to document a common understanding of how they see their legal or business relationship evolving. Letter of intents typically are used as a temporary measure to establish a set of ground rules for the parties to work together pending the finalisation of a formal contract.

Negotiation Strategy – a pre-determined approach or prepared plan of action to achieve a specific goal or objective to potentially find and make an agreement or contract in a negotiation with another party parties.


Panel – a means for the procurement of goods or services that are regularly acquired by Entities. In a Panel Arrangement, a number of suppliers are selected, each of which are able to supply identified goods or services to an Entity.

PCard – NSW Health Procurement Card is currently issued by Visa but that may change with the new banking contract. It allows approved employees to procure low value (less than $5,000) goods and services directly from suppliers and/or the payment of business-related emergency travel expenses on behalf of the Health Entity to which they are employed.

Prequalification – the evaluation of the capabilities of suppliers whereby they have demonstrated that they meet requirements to provide goods and services to the NSW Government. Accepted suppliers are placed onto a Prequalification Scheme where Entities can gain access and therefore streamline the competitive tendering process.

Probity Advisor – a person who is engaged to observe, review and report on the bidding and selection process in procurement projects and to provide advice on probity issues which may arise, to ensure that the process is equitable and that it is conducted with integrity.

Procurement – refers to the process that begins with the basic 'make or buy' decision, and then spans the ‘whole life’ of supplier/construction arrangements. It includes the definition of business needs, designing and implementing arrangements, monitoring and managing performance, and reviewing outcomes to assess the effectiveness of the arrangements.

Procurement Plan– a formal document created at the end of the planning phase of the Strategic Sourcing process that contains a summary of key spend and market data and major benefits and risks, as well as the sourcing and contracting approaches to be used when engaging the supply market.
**Purchase Order** – an official document produced on approval of a procurement purchase and communicated to a supplier that specified the goods or services (including quantity and price) to be purchased.

**Quotation** – a commercial offer from a supplier which contains information about the supplier's solutions, their lead time, service support, and other dimensions of their value proposition.

**Requisition** – also referred to as a Purchasing Requisition, it is a formal written request from the end user requesting that a purchase order be raised for goods or services they need.

**Responsible Officer** – a staff member of NSW Health appointed by the appropriate Delegate to conduct all or part of the procurement of goods and services.

**RFx** – a term used to refer to the collective acronyms of several go-to-market strategies, i.e. request for something. This includes, but are not limited to:

- Request for Quote (RFQ)
- Request for Tender (RFT)
- Request for Proposal (RFP)
- Request for Information (RFI).

The complexity of the RFx process is determined by, among other factors; the completeness of the requirements; the number of suppliers that have been qualified; expected competition in the supplier base; inherent risk in the sourcing effort; and projected savings or cost avoidance opportunities.

**Risk Assessment** – a tool used to record project critical success factors, identify potential risks and existing control gaps, analyse and rank risks, and document high-level risk treatment plans. The Procurement Risk Assessment Tool is used to determine the appropriate procurement process for a procurement activity.

**Scope of Requirements** – information required to start a procurement project, including the features the goods and services would have that would meet the business need and the stakeholder requirements. Other references may be the Scope of Works or the Scope of Service.

**Services** – include, but are not limited to, advising (other than legal advising), consultancies, information technology projects, printing, and the performance of professional or trade operations of any kind.

**Single/Sole Source** – refers to purchasing from one selected supplier to supply goods or services, without firstly having conducted a competitive process.

**Sourcing Strategy** – a section of the Procurement Plan document, which identifies and evaluates the potential sourcing options and the method by which the supply market will be engaged by NSW Health. This may include an RFx process.

**Sponsor** – refers to the senior representative from the business unit that is impacted by a procurement project. The Sponsor's role is typically to champion the project and to provide a point of escalation for key risks and issues. The Sponsor also has a significant governance role in reviewing, endorsing, and signing-off key project deliverables.
State-Owned Corporation - also referred to as a State-Owned Enterprise, these are commercial businesses that the NSW Government owns that were established on behalf of the people of NSW that provide services critical to the economy and infrastructure to the state.

Strategic Supplier – a Strategic Supplier to NSW Health may be defined as:

- one who provides the greatest potential value to NSW Health and poses the highest potential risk of impacting delivery of services to customers; or
- suppliers involved in longer term, partnership contracts for high-supply risk strategic items; or
- focusing on partnering opportunities.

Sub-Contractor – an individual, or in many cases a business, that signs a contract to perform part, or all, of the obligations of a Contractor. A Sub-Contractor is hired by a general Contractor to perform a specific task as part of the overall project.

Supplier – a commercial Entity that provides goods and services to NSW Health in exchange for payment.

Supplier Agreement – a contractual agreement that, once established, allows NSW Health employees to periodically purchase specific goods or services from approved suppliers at a pre-arranged price and under the standing conditions negotiated in the Supply Agreement.

Tender – a generic term used to describe the binding offer to provide goods and services submitted by a supplier to NSW Health. It is also referred to as an offer, proposal, or quotation, as the context requires.

Tender Box –

- a Physical tender box refers to an actual locked receptacle into which suppliers place their paper tender documents
- an Electronic tender box refers to a secure, online repository to which suppliers responding to an RFx submit their tenders electronically.

Any requirement for hard copy documents or for electronic lodgement will be specified in the RFx documentation.

Tender Evaluation Committee (TEC) – a team undertaking an evaluation of Tender responses and identifying and recommending for approval the most suitable and best value for money offer/s, which meets the requirements of the RFx.

Tender Evaluation Plan (TEP) – the TEP is established to document a fair, impartial, rational and transparent process for the assessment of all Tender responses received, in order to identify and recommend for approval the most suitable and best value for money offer, which meets the requirements of the RFx.

Tender Evaluation Report (TER) – the TER is used as a record of the activities and individuals associated with the evaluation conducted on offers received in response to an RFT.

Value/d – a genuine, estimated value over the proposed term of the acquisition. Unless specified otherwise, value is inclusive of GST. If NSW Health undertakes more than one procurement with the same supplier for the same goods and services within a reasonable
period of time, the value of all the procurements should be added together (i.e. order splitting is prohibited).

**Value for Money** – a balanced benefit measure covering quality levels, performance standards, risk exposure, price, and other policy or special interest measures (e.g. Environment impacts).

**Whole-of-Government** – an arrangement under which an Entity provides for the purchase of goods or services by that Entity and all other Entities. An arrangement where an Entity allows one or more other Entities to piggy-back is referred to as a multi-agency access contract.

**Whole-of-Health** – an arrangement under which NSW Health have established and set the terms and conditions for the purchase of goods and services.