

# NSW Government **Procurement Policy Framework**



# Procurement Policy Framework

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### Explore the broad goals

of NSW Government procurement, and the policies that support them.



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### Plan, Source, Manage process

is the best practice approach to procurement, and includes the relevant policies highlighted at every stage.



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about the structures supporting NSW Government procurement.



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# Introduction

NSW government agencies spent around \$28 billion on goods, services and construction in 2017-18, with spend increasing by an average \$2.2 billion per annum over the past five years. Alongside this increasing procurement expenditure, the NSW Government has committed \$87.2 billion over the next four years for critical infrastructure.

To ensure this money is spent fairly and efficiently, and for the long-term benefit of everyone in NSW, government buyers must comply with a range of legislative and policy requirements.

## Using the framework

The NSW Procurement Policy Framework provides a consolidated view of government procurement objectives and the Procurement Board's requirements as they apply to each step of the procurement process.

NSW Procurement Policy Framework is a "policy" for the purposes of s.176(1)(a) of the *Public Works and Procurement Act 1912*. Government agencies, as defined in s.162 of the Act, must comply with the mandatory parts of this document.

Procurement has a broad end-to-end definition from 'needs identification' to 'contracting and placing orders', managing contracts and supplier relationships and disposing of government assets.

The framework applies to the procurement of goods and services of any kind including construction. For clarity, the framework identifies the requirements that apply to all procurement, to *construction* procurement, or to goods and services procurement.



The term '**must**' denote mandatory, rules based on requirements embedded in legislation, government policy and Procurement Board Directions and policies.



The terms '**should**', '**may**' and '**recommended**' indicate good practice with supporting documents categorised as guidance.

All dollar values and thresholds are **exclusive of GST** and **contract value** means the total estimated spend over the life of the contract, unless otherwise specified.

Terms in *italics* are defined in the [Glossary](#) at the end of the framework.

## Who is this document for?

This document is for everyone who buys goods or services including construction on behalf of NSW Government as well as policy makers of all levels. Agencies should ensure that their internal policies and controls are consistent with any obligations under this Framework.

It is published openly so that interested citizens and suppliers and non-government organisations can also benefit from our practice.

## What's new as at 1 July 2019

- 1 *Open tendering* is the default procurement method for procurements covered by *International Procurement Agreements* (IPAs), referred to as 'covered procurements'. *Limited tendering* is also permitted but only in specific circumstances, as detailed in [PBD-2017-06 International Procurement Agreements](#) and the [IPA Guidelines](#).

Flexible and alternative procurement methods can be used for procurements that are valued under the IPA thresholds and for exempt procurements (refer Appendix 2, [IPA Guidelines](#) for details).

- 2 The requirements of the [SME and Regional Procurement Policy](#), [Aboriginal Procurement Policy](#) and [Aboriginal Participation in Construction Policy](#) have been included as they apply to procurement planning, sourcing and supplier management processes.
- 3 The Procurement Board Directions have been rationalised and aligned with new and updated policies
- 4 References to the [Government Resource Efficiency Policy](#) have been updated to reflect the revised policy released 21 February 2019
- 5 References have been included to the [Circular Economy Policy Statement](#), released 25 February 2019.
- 6 [TPP19-03 Recurrent Expenditure Assurance Framework](#) has been renamed as at 31 January 2019.

### Key to icons

The following icons are used to identify different content types:



Mandatory items – you must comply with these requirements



Recommended items – you are encouraged to apply these provisions



Applies to goods and services (non-construction) procurement, including ICT



Applies to construction procurement



Applies to ICT procurement only



Applies to *human services* (non-government organisation (NGO)) procurement only



Additional information



# Foundation legislation and policies

The *Public Works and Procurement Act 1912* (PWP Act) provides the legislative framework for procurement for NSW government agencies.

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The PWP Act establishes the NSW Procurement Board, its objectives and functions and defines the procurement obligations of government agencies.

NSW Government agencies must comply with a range of procurement-related requirements including:

- The PWP Act, *Government Sector Finance Act 2018*, *Independent Commission Against Corruption Act 1988*, *Government Information (Public Access) Act 2009* and other legislation
- NSW Government policy
- NSW Procurement Board Directions and policies
- Premier's Memoranda
- Treasurer's Directions
- *International Procurement Agreements* arising from free trade and other international treaties to which Australia is a party.

## Agency responsibilities

NSW Government procurement operates within a devolved governance structure. The heads of government agencies are ultimately responsible for managing their agency's procurement in compliance with procurement law and government policy and entering into contracts on behalf of their agency. If the Procurement Board allocates responsibility for a whole-of-government category or agreement to an agency, the agency head is also responsible for entering into those agreements on behalf of the whole-of-government.

It is critical to the governance of agency procurement that clusters or agencies appoint a Chief Procurement Officer.

## Accreditation

An agency's authority to procure differs according to the terms of its accreditation by the Procurement Board under section 174 of the PWP Act. Further information on the goods and services and construction accreditation schemes is in [Section 3.2](#).

## Compliance

The PWP Act and the Procurement Board's policies and directions apply to all government agencies, excluding state-owned corporations and local councils, as defined in s.162 of the Act. The Act and the Procurement Board's policies also apply to agencies that undertake procurement to fulfil statutory functions or have other statutory powers to undertake procurement.

Agencies **must** regularly test their compliance with the mandatory requirements of this framework and other Procurement Board policies and directions. For accredited agencies this will inform the annual self-assessment attestation.

## References












































Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#">Public Works and Procurement Act 1912</a>				Any			
Legislation	<a href="#">Public Works and Procurement Regulation 2014</a>				Any			
Legislation	<a href="#">Government Sector Finance Act 2018</a>				Any			
Legislation	<a href="#">Independent Commission Against Corruption Act 1988</a>				Any			
Legislation	<a href="#">Government Information (Public Access) Act 2009</a>				>\$150,000 (inc GST)			
Policy	<a href="#">Accreditation program for goods and services procurement</a>				Any			
Policy	<a href="#">Agency accreditation scheme for construction</a> (for accreditations granted before September 2015)				Any			
Policy	<a href="#">Agency accreditation scheme for procurement</a> (for accreditations granted after September 2015)				Any			

Table 1 References: Foundation legislation and policy

**Key**  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information

# Section 1

.....

## • OBJECTIVES •



Value for money



Fair and open competition



Easy to do business



Innovation



Economic development, social outcomes  
and sustainability





# Value for money

The overarching consideration for government procurement is ensuring best value for money in the procurement of goods, services and construction.

Value for money is not necessarily the lowest price, nor the highest quality good or service. It requires a balanced assessment of a range of financial and non-financial factors, such as: quality, cost, fitness for purpose, capability, capacity, risk, total cost of ownership or other relevant factors.

## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#">Public Works and Procurement Act 1912</a>				Any			
Legislation	<a href="#">Government Sector Finance Act 2018</a>				Any			
Policy	<a href="#">TPP18-06 NSW Government Business Case Guidelines</a>				Risk based			
Policy	<a href="#">TPP17-03 NSW Government Guide to Cost Benefit Analysis</a>				Risk based			
Guidance	<a href="#">Statement on value for money</a>				Any			
Guidance	<a href="#">Market approaches guide</a>				Any			
Guidance	<a href="#">Benefits realisation framework</a>				Any			

Table 2 References: Value for money

**Key** Mandatory Recommended Goods and services Construction ICT Human services Additional information



## Fair and open competition

Fair and open competition improves outcomes for NSW by broadening access to government procurement, especially for SMEs and regional businesses.

Transparent, competitive processes build trust in government procurement practices and decisions, drive fair and ethical behaviour, safeguard probity and foster healthy working relationships between government buyers and suppliers. Competition produces tangible outcomes such as cost savings, increased quality and innovation and supports market sustainability.

Relating to	Status	Category		Value	Obligation	Reference
Fair and open competition				Any	You <b>must</b> treat potential suppliers equitably and not discriminate based on business size, location or ownership, except where targeted policy <i>measures or preferences</i> apply (e.g. <a href="#">SME and Regional Procurement Policy</a> ).	<a href="#">Promoting competition</a>
				≥\$657,000	You <b>must not</b> discriminate against suppliers due to foreign affiliation or ownership, or the origin of their goods or services, for procurements covered by <i>international procurement agreements</i> .	<a href="#">PBD-2017-06 International Procurement Agreements</a>
				≥\$9.2 million		
				Any	You <b>should</b> assess the impact of contract terms and extensions on market competition, including how they will limit new suppliers from doing business with government.	
Probity and fairness				Any	You <b>must</b> ensure procurement is fair, ethical, transparent and probity rich and ensure that probity is routinely considered in procurement decisions.	<a href="#">Independent Commission Against Corruption Act 1988</a>
				Any	You <b>must</b> safeguard confidential supplier information and treat tenders and business information fairly, impartially and securely.	
				Any	You <b>should not</b> use probity as a ‘road-block’ or to ignore innovative procurement arrangements with suppliers.	













Relating to	Status	Category	Value	Obligation	Reference
Supplier conduct		 	Any	You <b>must</b> require suppliers to comply with relevant standards of behaviour and use reasonable endeavours to be aware of any adverse findings against current or prospective suppliers.	<a href="#">PBD-2017-07 Conduct by Suppliers</a>
Transparency		 	Any	You <b>must</b> keep appropriate records of procurement planning, management and decision making.	<a href="#">State Records Act 1998</a>
		 	>\$150,000 (inc GST)	You <b>must</b> comply with the contract disclosure and open access information requirements of the GIPA Act including formal requests to access government information, subject to the public interest provisions in the act.	<a href="#">Government Information (Public Access) Act 2009 (GIPA Act)</a>
		 	Any	You <b>should</b> proactively share information on procurement processes and decision-making, including publishing procurement policies and supplier briefings that explain the reasons for sourcing strategies and outcomes.	

Table 3: Fair and open competition



## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#"><i>Government Information (Public Access) Act 2009</i></a>				>\$150,000 (inc GST)			
Legislation	<a href="#"><i>Government Sector Finance Act 2018</i></a>				Any			
Legislation	<a href="#"><i>Independent Commission Against Corruption Act 1988</i></a>				Any			
Legislation	<a href="#"><i>State Records Act 1998</i></a>				Any			
Policy	<a href="#">PBD-2017-06 International Procurement Agreements</a>				≥\$657,000			
Policy	<a href="#">PBD-2017-06 International Procurement Agreements</a>				≥\$9.2 million			
Policy	<a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a>				Any			
Policy	<a href="#">PBD 2017-07 Conduct by Suppliers</a>				Any			
Guidance	Contract periods and extensions				Any			
Guidance	<a href="#">Controlling corruption opportunities in the provision of maintenance services</a>				Any			
Guidance	<a href="#">Corruption and integrity in the NSW public sector: an assessment of current trends and events</a>				Any			
Guidance	<a href="#">Corruption prevention, fairness and probity</a>				Any			
Guidance	<a href="#">Corruption risks in NSW Government procurement – Recommendations to government</a>				Any			

## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Guidance	<a href="#">Corruption risks in NSW Government procurement – Suppliers’ perception of corruption</a>	☆	🛒	🏗️	Any	✓	✓	✓
Guidance	<a href="#">Corruption risks in NSW Government procurement – The management challenge</a>	☆	🛒	🏗️	Any	✓	✓	✓
Guidance	<a href="#">Direct Negotiations: Guidelines for managing risks</a>	☆	🛒	🏗️	Any	✓	✓	✓
Guidance	<a href="#">Funding NGO delivery of human services in NSW: A period of transition</a>	☆	👤		Any	✓	✓	✓
Guidance	<a href="#">Guidelines for managing procurement complaints</a>	☆	🛒	🏗️	Any	✓	✓	✓
Guidance	<a href="#">Identifying and managing conflicts of interest in the public sector</a>	☆	🛒	🏗️	Any	✓	✓	✓
Guidance	<a href="#">International Procurement Agreements</a>	☆	🛒		≥\$657,000	✓	✓	
Guidance	<a href="#">International Procurement Agreements</a>	☆		🏗️	≥\$9.2 million	✓	✓	
Guidance	<a href="#">Managing IT contractors, improving IT outcomes</a>	☆	💻		Any	✓	✓	✓
Guidance	<a href="#">Promoting competition</a>	☆	🛒	🏗️	Any	✓	✓	✓
Guidance	Transparency, recordkeeping and disclosure	☆	🛒	🏗️	Any	✓	✓	✓

Table 4 References: Fair and open competition


















**Key** 🛒 Mandatory ☆ Recommended 🛒 Goods and services 🏗️ Construction 💻 ICT 👤 Human services ⓘ Additional information



























## Easy to do business

NSW aims to be the easiest state to start and stay in business.

Making government procurement simpler, easier and more efficient saves time and money for both agencies and businesses. Streamlined and accessible processes lower barriers to participation and expand opportunities to a broad supply base, especially small and medium businesses.

Relating to	Status	Category		Value	Obligation	Reference
Notifying suppliers of business opportunities				Any	You <b>must</b> advertise open tenders electronically on the <a href="#">eTendering website</a> . Print advertising may only be used in exceptional circumstances where electronic advertising will not meet the agency's needs. In these cases, eTendering must still also be used to, at a minimum, notify the market of the tender.	<a href="http://www.tenders.nsw.gov.au">www.tenders.nsw.gov.au</a> <a href="#">M2011-16 NSW Government Tenders advertised on eTendering only</a>
				Any	You <b>should</b> provide as much notice as possible of upcoming procurement opportunities.	
				Any	You <b>must</b> ensure tender periods give respondents reasonable time to effectively price and prepare their submissions or bids.	
Contracts and prequalification schemes		 		Any	Mandated contracts <b>must</b> be used for ICT (Procure IT) and <i>human services procurements</i> .	<a href="#">PBD-2018-02 Procure IT Framework</a> <a href="#">PBD-2017-04 Procuring Human Services from NGOs</a>
				>\$1.3 million	Unaccredited and partially accredited agencies must use the <i>Procurement System for Construction</i> , including contract templates, for construction works valued over \$1.3 million. (Refer <a href="#">Section 2:02 Source, Contract requirements</a> ).	<a href="#">PBD 2014-03C Threshold for Unaccredited Work</a>
				Any	Procurements using whole-of-government arrangements, e.g. standing offers and prequalification schemes, <b>must</b> use the designated contract for those arrangements.	

Relating to	Status	Category	Value	Obligation	Reference
Contracts and prequalification schemes		 	Any	Agencies <b>should</b> use standard tender and contract templates with uniform terms and conditions across the agency, to make it easier for potential suppliers to familiarise themselves with contract requirements.	
		 	Any	You <b>should</b> use plain English and limit contract length and complexity.	
		 	Any	You <b>should</b> apply the Procurement Board's recommended <a href="#">commercial approaches to key contract terms</a> except where individual circumstances and/or value for money considerations require otherwise.	<a href="#">Commercial approaches in contracts</a>
		 	Any	You <b>should</b> minimise insurances and indemnities imposed on suppliers, with risk allocated to the party best placed to mitigate or manage those risks.	
		 	Any	You <b>should</b> identify opportunities to establish prequalification schemes in place of panel contracts and standing offers, so that new suppliers are not locked out of government business opportunities for long periods.	
Supplier payments		 	Any	You <b>must</b> use the most efficient electronic payment method for suppliers, such as PCards or Electronic Funds Transfer (EFT), unless a viable electronic payment method is not available.	<a href="#">DFSI 2015-02 Efficient Electronic Payment Methods</a>
		 	Any	Cheques <b>should not</b> be used unless a viable electronic payment method is not available.	
		 	Any	You <b>should</b> pay suppliers within contractual timeframes, noting your agency must report on payment performance in its annual report.	

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information


























































Relating to	Status	Category		Value	Obligation	Reference
Supplier payments				Any	You <b>must</b> pay registered <i>small businesses</i> (< 20 FTEs) within 20 calendar days of receipt of a correctly rendered invoice for payments of \$10,000 – \$1 million, unless an existing contract or standing offer provides for an alternative time period.	<a href="#">Faster Payment Terms Policy</a>
				Any	You <b>should</b> pay invoices up to \$10,000 as soon as possible by PCard, for <a href="#">applicable expenditure categories</a> , unless a more cost-effective electronic alternative is available or the supplier cannot accept electronic payment methods.	<a href="#">DFSI-2015-02 Efficient Electronic Payment Methods</a>
Purchasing exemptions				Any	You <b>may</b> use purchasing exemptions to procure goods and services directly from certain suppliers, subject to your agency’s safety, security or infrastructure requirements, even if the goods or services are available on whole-of-government arrangements. <a href="#">Refer Section 2: 01 Plan, Exemptions</a> for details.	<a href="#">SME and Regional Procurement Policy</a> <a href="#">Aboriginal Procurement Policy</a> <a href="#">Aboriginal Participation in Construction Policy</a> <a href="#">Public Works and Procurement Regulation 2014</a>

Table 5: Easy to do business



## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#">Building and Construction Industry Security of Payment Act 1999</a>				Any			
Legislation	<a href="#">Public Works and Procurement Regulation 2014</a>				Any			
Policy	<a href="#">Aboriginal Participation in Construction Policy</a>				<\$250,000 >\$1 million			
Policy	<a href="#">Aboriginal Procurement Policy</a>				<\$250,000 >\$10 million			
Policy	<a href="#">DFSI 2015-02 Efficient Electronic Payment Methods</a>				Any			
Policy	<a href="#">Faster Payment Terms Policy</a>				<\$1 million			
Policy	<a href="#">PBD 2014-03C Threshold for Unaccredited Work</a>				>\$1.3 million			
Policy	<a href="#">PBD 2017-03 Civil Liability Act 2002 and Proportionate Liability</a>				Any			
Policy	<a href="#">PBD-2017-04 Procuring Human Services from NGOs</a>				Any			
Policy	<a href="#">PBD-2018-02 Replacement of the ICT Short Form Contract in the Procure IT Framework</a>				Any			
Policy	<a href="#">SME and Regional Procurement Policy</a>				<\$50,000 <\$250,000 <\$1 million >\$3 million			

**Key**
 Mandatory
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## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Guidance	<a href="#">Approaching the Supplier Market</a>				Any			
Guidance	<a href="#">Commercial Approaches in Contracts</a>				Any			
Guidance	<a href="#">Department of Industry – Business in NSW</a>				Any			
Guidance	<a href="#">Industry Engagement Guide</a>				Any			
Guidance	<a href="#">Overview of Buying Solutions</a>				Any			
Templates	<a href="#">ICT contract templates</a>				Any			
Templates	<a href="#">NSW Human Services Agreement</a>				Any			
Templates	<a href="#">Goods and services contract templates</a>				Any			
Templates	<a href="#">Construction contract templates - Accredited agencies</a>				Any			
Templates	<a href="#">Construction contract templates - Unaccredited and partially accredited agencies</a>				>\$1.3 million			

Table 6 References: Easy to do business









# Innovation

The marketplace is a great source of innovation and can assist government to work smarter and deliver better services.

Industry engagement and flexible procurement practices assist agencies to adopt innovative services and solutions and support supplier innovation in government's supply chains.

Innovation can be encouraged at three levels of market engagement:

- *at the state economic level* – through effective, early, structured, and open communication of needs to the market
- *at the sourcing level* – by adapting sourcing methods to facilitate innovation and collaboration
- *at the contract management level* – by focusing on outcomes and developing supplier relationships that deliver value beyond the contract.

Relating to	Status	Category	Value	Obligation	Reference
Testing new ideas			<\$1 million	You <b>may</b> test the capability of new solutions to meet your current or emerging business needs through innovative collaborations or outcomes-based trials.	<a href="#">SME and Regional Procurement Policy</a> <a href="#">PBD-2019-03 Construction Procurement Opportunities for SMEs</a> <a href="#">Digital.nsw accelerator</a> <a href="#">NSW Innovation Strategy</a>
			<\$1 million		
			Any		
			Any		
Engaging with industry			Any	You <b>should</b> engage with industry through all phases of the procurement lifecycle, noting there are increased opportunities for innovation if industry engagement takes place as early as possible.	<a href="#">Industry Engagement Guide</a>
			Any	You <b>may</b> consider complex market engagements to pursue innovative procurement outcomes, subject to complying with legislative and policy requirements including the <a href="#">IPA Guidelines</a> .	<a href="#">Complex Market Engagement Methods</a>











Relating to	Status	Category	Value	Obligation	Reference
Engaging with industry		 	Any	You <b>must</b> refer <i>unsolicited proposals</i> to the Department of Premier and Cabinet for assessment, noting such proposals are not a substitute for routine competitive procurement actions. An <i>unsolicited proposal</i> is an approach to government from a proponent over a commercial proposition, where the government has not requested the proposal (refer <a href="#">Glossary</a> for more). The focus of <i>unsolicited proposals</i> is on unique and innovative projects or services, with the proposal and proponent to be <u>uniquely</u> able to deliver the proposed service.	<a href="#">C2017-05 Unsolicited Proposals</a> <a href="#">Unsolicited Proposals: Guide for Submission and Assessment</a>
		 	Any	You <b>may</b> consider a commissioning and contestability approach to pursue innovative, customer centric approaches to service delivery.	<a href="#">TPP16-05 Commissioning and Contestability Policy</a>
Construction			Any	You <b>should</b> refer to the CILF practice notes as guidance when procuring and delivering major infrastructure projects. The CILF notes provide strategies to address key challenges affecting the construction sector.	<a href="#">Construction Industry Leadership Forum (CILF) Practice Notes</a>
Engaging with the human services sector			Any	You <b>must</b> use the NGO Registration Scheme – Human Services as a first step to sourcing information from NGOs that are seeking, or are contracted, to deliver human services on behalf of the NSW Government.	<a href="#">PBD-2016-04 NGO Registration Scheme</a>

Table 7: Innovation

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Policy	<a href="#">C2017-05 Unsolicited proposals</a> <a href="#">Unsolicited Proposals: Guide for submission and assessment</a>				Any			
Policy	<a href="#">PBD-2016-04 NGO Registration Scheme</a>				Any			
Policy	<a href="#">PBD-2017-04 Procuring Human Services from NGOs</a>				Any			
Policy	<a href="#">PBD-2019-03 Access to Government Construction Procurement Opportunities by SMEs:</a> Procurement innovation stream				<\$1 million			
Policy	<a href="#">SME and Regional Procurement Policy:</a> Procurement innovation stream				<\$1 million			
Policy	<a href="#">TPP16-05 Commissioning and Contestability Policy</a>				Any			
Guidance	<a href="#">Complex Market Engagement Methods</a>				Any			
Guidance	<a href="#">Construction Industry Leadership Forum (CILF) Practice Notes</a>				Any			
Guidance	<a href="#">Digital.nsw accelerator</a>				Any			
Guidance	<a href="#">Guidelines for Engagement with NSW Human Services NGOs</a>				Any			
Guidance	<a href="#">Human Services Outcomes Framework</a>				Any			
Guidance	<a href="#">Industry Engagement Guide</a>				Any			
Guidance	Innovation Stream Guidelines				<\$1 million			

## References
























Type	Reference	Status	Category		Value	Plan	Source	Manage
Guidance	<a href="#">Market and Industry Engagement</a>				Any			
Guidance	<a href="#">Market Approaches Guide</a>				Any			
Guidance	<a href="#">NSW Government Action Plan: A ten point commitment to the construction sector</a>				Any			
Guidance	<a href="#">NSW Innovation Strategy</a>				Any			
Guidance	<a href="#">Supplier Relationship Management Guidelines</a>				Any			
Guidance	Testing new ideas				Any			

Table 8 References: Innovation



# Economic development, social outcomes and sustainability

Government procurement can help to support economic participation, social outcomes, develop skills and create jobs for the citizens of NSW.

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By building a diverse supply base, government agencies can support businesses of all types to grow and encourage economic development across the state













The government uses procurement to support *small and medium sized businesses, Aboriginal-owned businesses, regional businesses and disability employment organisations*. It is also using its substantial infrastructure investments to support jobs and skills development for a range of workers including Aboriginal people

*Sustainable procurement* focuses on spending public money efficiently, economically and ethically to deliver value for money on a whole of life basis. *Sustainable procurement* extends the assessment of value for money beyond the sourcing process, considering benefits and risks to the organisation, the community, the economy and impacts on the environment.

## **Sustainable procurement:**

- Considers how procurement impacts society, the economy and the environment
- Provides all suppliers with full and fair opportunities to compete
- Respects stakeholders' interests, the rule of law and human rights
- Seeks innovative solutions to address sustainability throughout the supply chain
- Buys only what is needed or seek sustainable alternatives
- Analyses all procurement costs, including benefits for society, environment and the economy
- Integrates sustainability into procurement practices.



Relating to	Status	Category		Value	Obligation	Reference
SME and regional businesses				<\$50,000 <\$250,000 <\$1 million >\$3 million	You <b>must</b> comply with the SME and Regional Procurement Policy to support the participation of <i>SMEs and regional businesses</i> in goods and services procurement.	<a href="#">SME and Regional Procurement Policy</a>
Employment of Aboriginal people				<\$250,000 >\$1 million >\$10 million	You <b>must</b> comply with the Aboriginal Procurement Policy and Aboriginal Participation in Construction Policy, to support 3,000 FTE employment opportunities for Aboriginal people by 2021 through government procurement activities.	<a href="#">Aboriginal Procurement Policy</a> <a href="#">Aboriginal Participation in Construction</a>
Employment of people with a disability				Any	You <b>may</b> purchase goods and services of any value from an approved <i>disability employment organisation</i> via a single written quote, even if there is a whole of government arrangement in place.	<a href="#">Public Works and Procurement Regulation 2014</a>
Construction skills development				>\$10 million	You <b>must</b> set targets for apprentices and trainees engaged on construction projects valued >\$10 million and monitor the contractor's progress in achieving the targets.	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>
				>\$500 million	Your agency <b>must</b> publish and periodically update a <i>Construction Skills Development Plan</i> if it has a planned construction expenditure >\$500 million over the for-ward estimates.	








































**Key**
 Mandatory
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  Goods and services
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  Additional information



Relating to	Status	Category	Value	Obligation	Reference
Resource efficiency and waste reduction			Any	You <b>must</b> comply with the <a href="#">Government Resource Efficiency Policy (GREP)</a> by ensuring goods, services and construction projects meet minimum energy, water use and air emissions standards. An exception applies for agencies with fewer than 100 employees, when compliance is voluntary.	<a href="#">NSW Government Resource Efficiency Policy (GREP)</a>
			Any	You <b>should</b> purchase construction materials with recycled content; copy, stationery and print publication paper with post-consumer recycled content, and non-recycled paper from sustainable sources. Refer to the <a href="#">GREP</a> for information on recognised standards and certification programs for recycled content and sustainable sources.	
			Any	You <b>must</b> use E10 and biodiesel blends where possible, unless there is a clear operational requirement that precludes the use of biofuels.	<a href="#">M2012-08 Use of Biofuels</a>
			Any	You <b>should</b> consider the product lifecycle when conducting needs analysis and developing product specifications, including taking account of <i>circular economy</i> principles, so that use of recycled materials and disposal or repurposing of goods or assets is planned into the procurement process.	<a href="#">NSW Circular Economy Policy Statement</a>

Table 9: Economic, social and sustainable procurement outcomes

## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#">Public Works and Procurement Regulation 2014</a>				Any			
Policy	<a href="#">Aboriginal Participation in Construction Policy</a>				<\$250,000 >\$1 million			
Policy	<a href="#">Aboriginal Procurement Policy</a>				<\$250,000 >\$1 million			
Policy	<a href="#">Board Direction 2017-05 Construction Training and Skills Development</a>				>\$10 million			
Policy	<a href="#">M2012-08 Use of Biofuels</a>				Any			
Policy	<a href="#">NSW Government Resource Efficiency Policy</a>				Any			
Policy	<a href="#">PBD 2019-03 Access to Government Construction Opportunities by SMEs</a>				<\$1 million			
Policy	<a href="#">SME and Regional Procurement Policy</a>				<\$50,000 <\$250,000 <\$1 million >\$3 million			
Guidance	<a href="#">Australian Disability Enterprises</a>				Any			

**Key**
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## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Guidance	<a href="#">BuyAbility</a>				Any			
Guidance	Guide to Sustainable Procurement				Any			
Guidance	<a href="#">ISO 20400 Sustainable Procurement</a>				Any			
Guidance	<a href="#">NSW Circular Economy Policy Statement</a>				Any			
Guidance	<a href="#">OCHRE plan - NSW Government Aboriginal Affairs Strategy</a>				Any			
Guidance	Resource efficiency and waste reduction				Any			
Guidance	<a href="#">Small Business Strategy</a>				Any			
Guidance	<a href="#">Supplier Diversity</a>				Any			
Guidance	<a href="#">Supporting SMEs and Regional Businesses</a>				Any			

Table 10 References: Economic, social and sustainable outcomes





## Section 2

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### • PLAN, SOURCE, MANAGE •



Plan



Source



Manage

# The Plan, Source, Manage approach

Procurements follow three stages: planning, sourcing and managing the procurement.

The Plan, Source, Manage approach identifies key policy requirements and considerations in the procurement process as practical reference for government buyers. It is not intended as a prescriptive process for all procurement. The importance of each stage depends on the size, priorities, required outcomes, risk profile and type of procurement.

The Plan and Manage stages are the most critical to creating and delivering value, and appropriate time and resources should be allocated to these activities.

## Procurement Board requirements

The Procurement Policy Framework uses the Plan, Source, Manage approach to provide a structured guide to procurement process as specified in legislation, government policies and Procurement Board policies and directions. Key considerations and mandatory requirements are identified at each step in the process.

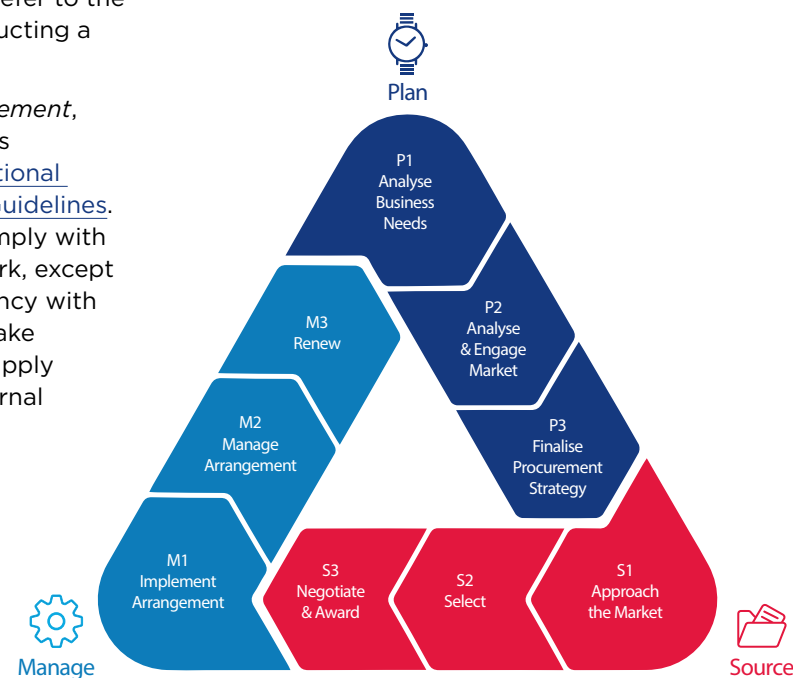
## Agency policies and tendering manual

Agency procurement functions will have specific policies and procedures that need to be followed. Agency procurement manuals provide guidance on the specific agency approach to engaging with the market and managing procurement activities.

## International procurement agreements

Australia is party to several international trade and procurement agreements which impact NSW government procurement. Prior to starting any procurement process, you **must first assess** if the procurement is covered by a free trade or other *international procurement agreement*. Refer to the [IPA Guidelines](#) to assess if you are conducting a *covered procurement*.

If your procurement is a *covered procurement*, your procurement approach and process **must** comply with [PBD-2017-06 International Procurement Agreements](#) and the [IPA Guidelines](#). The procurement process **must also** comply with the mandatory sections of this framework, except where there is any conflict or inconsistency with the IPA Guidelines. The IPA Guidelines take precedence over all other policies that apply to covered procurements, including internal agency policies.



























# Plan

Understand the procurement environment and authority to procure.

## Accreditation and authority to procure

Relating to	Status	Category	Value	Obligation	Reference
Authority to procure		 	Any	You <b>must</b> procure according to the terms of the agency's accreditation by the Procurement Board.	<a href="#">List of agencies and accreditation status</a>
			≥\$657,000	You <b>must</b> comply with <a href="#">IPA Guidelines</a> for procurements valued over the thresholds, unless the agency or the procurement category is exempt.	<a href="#">PBD-2017-06 International Procurement Agreements</a>
			≥\$9.2 million		
		 	Any	You <b>must</b> use whole-of-government contracts and specified prequalification schemes (see <a href="#">existing arrangements below</a> ) to purchase relevant goods or services, except where exemptions apply (see <a href="#">exemptions below</a> ).	
		 	Any	You <b>must not</b> split orders to avoid procurement threshold levels and/or governance requirements.	
Accredited agencies		 	Any	You <b>must</b> follow your agency's governance rules, including when to seek multiple quotes or go to tender, and approval requirements.	Refer to agency's policies and procedures







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## Accreditation and authority to procure

Relating to	Status	Category	Value	Obligation	Reference
Goods and services: Level 1 accredited agencies			>\$20 million >\$35 million >\$50 million	You <b>may</b> need to seek concurrence from a level 2 accredited agency or NSW procurement for the proposed procurement approach, based on the value and risk profile of the procurement (refer <a href="#">Section 3 Governance: 02 Accreditation</a> for definition of level 1 and level 2 accreditation).	<a href="#">Accreditation Program for Goods and Services Procurement</a>
Goods and services: Unaccredited agencies				You <b>must</b> follow the following processes to procure goods and services (non-construction) that are not covered under a whole-of-government arrangement:	<a href="#">PBD 2019-04 Approved Procurement Arrangements</a>
			<b>Value</b>	<b>Process</b>	
			< \$10,000	Purchase from any supplier, subject to agency safety and infrastructure requirements and provided the rates are reasonable and consistent with normal market rates.	
			\$10,000 – \$30,000	Obtain at least one written quotation.	
			\$30,000 – \$650,000	<ul style="list-style-type: none"> <li>Obtain at least three written quotations, <b>or</b></li> <li>Conduct an appropriate procurement process approved by the agency head or an accredited agency within the cluster.</li> </ul>	
			>\$650,000	<ul style="list-style-type: none"> <li>Comply with the <a href="#">IPA Guidelines</a>, if the agency is listed in Appendix 1 and the procurement is not exempt under Appendix 2, <b>and</b></li> <li>Conduct a procurement process endorsed by an accredited agency within the cluster (preferred) or NSW Procurement.</li> </ul>	

## Accreditation and authority to procure

Relating to	Status	Category	Value	Obligation			Reference
Construction: Unaccredited and partially accredited agencies			<\$1.3 million	You <b>may</b> undertake construction work valued up to \$1.3 million.			<a href="#">PBD 2014-03C Threshold for Unaccredited Work</a>
			<\$1.3 million	You <b>must</b> , for work valued over \$1.3 million: <ul style="list-style-type: none"><li>Use the <i>Government Procurement System for Construction</i>, and/or</li><li>Get assistance from an external provider or accredited agency, as follows (based on project value and risk profile):</li></ul>			<a href="#">Agency Accreditation Scheme for Construction</a>
			Value	Risk	Accreditation	Process	
			Any	H	Partial	<b>Must</b> obtain external support and use the <i>Procurement System for Construction</i>	
			>\$50 million	M, L	Partial		
			<\$50 million	M, L	Partial	<b>May</b> undertake phases for which the agency is accredited without external support, and <b>Must</b> use the <i>Procurement System for Construction</i>	
			Any	H, M	Unaccredited	<b>Must</b> get external support, and use the <i>Procurement System for Construction</i>	
			>\$50 million	L	Unaccredited		
			<\$50 million	L	Unaccredited	<b>May</b> undertake planning phase without external support, and <b>Must</b> obtain external support and use the <i>Procurement System for Construction</i> for delivery phase	
			>\$1.3 million	You <b>must</b> use the Risk Assessment Tool in Attachment E of the <a href="#">Infrastructure Investor Assurance Framework</a> to assess the level of risk for the proposed construction project. The risk tiers aligned to risk scores are detailed in Table 4, p.16.			<a href="#">Infrastructure Investor Assurance Framework (Attachment E)</a>




Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



## Agency procurement planning

Relating to	Status	Category		Value	Obligation	Reference
Goods and services				Any	Accredited agencies <b>must</b> submit an <i>Annual Procurement Plan</i> to the Board by 31 August each financial year. The plans are also published on eTendering.	<a href="#">Accreditation Program for Goods and Services Procurement</a>
				Any	Unaccredited agencies are <b>encouraged</b> to publish an <i>Annual Procurement Plan</i> on eTendering.	
				Any	<b>All</b> clusters or individual agencies <b>must</b> publish an <i>Aboriginal Participation Strategy</i> .	<a href="#">Aboriginal Procurement Policy</a>
Construction				Any	Agencies accredited for construction through the <a href="#">Agency Accreditation Scheme for Procurement</a> (accredited post-2015) <b>should</b> publish an <i>Annual Procurement Plan</i> on eTendering.	<a href="#">Agency Accreditation Scheme for Procurement</a>
				>\$500 million	Agencies <b>must</b> publish and periodically update a <i>Construction Skills Development Plan</i> if planned construction expenditure over the four year forward estimates is >\$500 million.	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>
				<\$500 million	Agencies <b>should</b> consider publishing a <i>Construction Skills Development Plan</i> where planned construction expenditure over the forward estimates is <\$500 million, particularly if the agency has a continuing program of work.	
Category plans				Any	Agencies <b>should</b> develop category management plans that analyse the category market, emerging trends, risks and impact on competition.	<a href="#">Promoting competition</a>
Business case				Significant proposals	You <b>must</b> prepare a business case to submit to Treasury for significant capital, recurrent and ICT investment proposals.	<a href="#">TPP18-06 NSW Government Business Case Guidelines</a>

## Agency procurement planning

Relating to	Status	Category		Value	Obligation		Reference
Gateway review					You <b>must</b> register capital, ICT and major recurrent projects with the relevant Gateway Coordination Agency (GCA):		<a href="#">NSW Gateway Policy</a>
				Value	Project type	Gateway Coordination Agency	
					>\$10 million	Capital	Infrastructure NSW
				>\$10 million	ICT	Department of Customer Service	<a href="#">ICT Assurance Framework</a>
				≥\$100M over 4 years, or ≥\$50 million pa	Major recurrent	Treasury	<a href="#">Recurrent Expenditure Assurance Framework</a>
Foreign exchange (FX) risk management				Any	FX risk can arise when an agency purchases, sells or intends to purchase or sell goods and services either directly from/to overseas, or indirectly when goods/services are sourced overseas through domestic providers.		<a href="#">TPP18-03 NSW Government Foreign Exchange Risk Policy</a>
				Any	You <b>must</b> consider if the procurement is impacted, either directly or indirectly, by FX risk when planning your procurement and/or preparing a procurement strategy or business case.		
				Any	You <b>must</b> consult with Treasury and TCorp to manage FX risk, when an FX risk is identified.		
				Any	You <b>must</b> prepare a FX risk management plan if Treasury determines the FX Risk is a ‘Substantial Risk’.		

























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## Selecting a procurement method

Relating to	Status	Category	Value	Obligation	Reference
<b>Covered procurements</b>			≥\$657,000 ≥\$9.2 million	The <a href="#">IPA Guidelines</a> take precedence over all other policies that apply to covered procurements, including internal agency policies.	<a href="#">PBD-2017-06 International Procurement Agreements</a>
<b>Emergency procurements</b>			Any	You <b>must</b> obtain approval from the agency head or delegate for emergency procurements.	<a href="#">Public Works and Procurement Regulation 2014</a>
			Any	You <b>must</b> report every emergency authorisation to the Procurement Board as soon as possible via <a href="mailto:NSWP.Policy@treasury.nsw.gov.au">NSWP.Policy@treasury.nsw.gov.au</a> .	
			Any	You <b>do not</b> have to comply with the <a href="#">IPA Guidelines</a> , Procurement Board policies or directions, or the terms of accreditation for emergency procurements. You are <b>encouraged</b> to achieve value for money and comply with this Policy Framework where possible.	
<b>Procurement approved by Cabinet or ERC</b>			≥\$657,000 ≥\$9.2 million	You <b>must</b> assess whether the procurement is covered by an IPA and, if applicable, comply with the <a href="#">IPA Guidelines</a> .	<a href="#">PBD-2017-06 International Procurement Agreements</a>
			Any	You <b>do not</b> have to comply with other Procurement Board policies or directions if there is any inconsistency with the Cabinet or Standing Committee decision regarding the procurement.	<a href="#">PBD-2019-04 Approved Procurement Arrangements</a>
			Any	You <b>must</b> comply with this Procurement Policy Framework, Board Directions or other policies that do not conflict with the Cabinet decision, including the need to achieve value for money.	
<b>Supply by government entities</b>			Any	You <b>may</b> purchase goods or services directly from another government entity that provides those goods or services as part of its principal functions.	<a href="#">TPP02-01 Policy Statement on the Application of Competitive Neutrality</a>
			Any	The government entity providing the goods and services (i.e. the supplier) <b>must</b> ensure its pricing and other terms and conditions are consistent with <i>competitive neutrality</i> principles.	










## Selecting a procurement method

Relating to	Status	Category	Value	Obligation		Reference
Exemptions		 		<b>Hint:</b> The following exemptions are compliant with <b>IPA</b> obligations as they fall within exemption provisions and/or are under the thresholds for <i>covered procurements</i> .		
		 		You <b>must</b> check if the agency's specific requirements limit use of these exemptions due to safety, security or infrastructure considerations.		
		 		You <b>may</b> purchase goods and services, including construction, directly from suppliers as per the table below, even if there is a whole-of-government contract in place. Value for money remains the overarching consideration.		
			Value	Supplier type	Process	
		 	<\$10,000	Any	You <b>may</b> purchase from any supplier	<a href="#">PBD2019-04 Approved Procurement Arrangements</a>
		 	<\$50,000	<i>Small business</i>	You <b>may</b> directly purchase from a small business (< 20 FTEs).	<a href="#">SME and Regional Procurement Policy</a> <a href="#">PBD-2019-03 Construction Procurement Opportunities for SMEs</a>
		 	<\$250,000	<i>Aboriginal owned business</i>	You <b>may</b> directly purchase from an <i>Aboriginal owned business</i> .	<a href="#">Aboriginal Procurement Policy</a> <a href="#">Aboriginal Participation in Construction Policy</a>
		 	<\$1 million	SMEs, for innovative trials	If your agency is accredited, you <b>may</b> directly negotiate with a SME supplier to do proof-of-concept testing or outcomes-based trials.	<a href="#">SME and Regional Procurement Policy</a> <a href="#">PBD 2019-03</a>
		 	No limit	<i>Disability employment organisation</i>	You <b>may</b> purchase goods and services from an approved <i>disability employment organisation</i> via a single written quote.	<a href="#">Public Works and Procurement Regulation 2014</a>

**Key**  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information















## Selecting a procurement method

Relating to	Status	Category	Value	Obligation		Reference
Preferences				<b>Hint:</b> The following <i>preferences</i> are compliant with <i>IPA</i> obligations as they fall within exemption provisions and/or are under the thresholds for <i>covered procurements</i> .		
		 		You <b>may</b> <i>prefer</i> <i>SMEs</i> and <i>Aboriginal owned businesses</i> as per the table below, although you <b>must</b> ensure value for money.		
Goods and services			<b>Value</b>	<b>Supplier type</b>	<b>Process</b>	
			<\$250,000	SME	You <b>must</b> first consider purchasing from SMEs whenever permitted to purchase directly from a supplier (i.e. if not required to seek multiple quotes or issue a tender). This includes purchases using standing offers, panels or prequalification schemes.	<a href="#">SME and Regional Procurement Policy</a>
			<\$250,000	<i>Aboriginal owned business</i>	You <b>should</b> first consider purchasing from an <i>Aboriginal owned business</i> listed on a prequalification scheme, and <b>may</b> directly purchase based on one written quote  You <b>may</b> invite multiple prequalified <i>Aboriginal owned businesses</i> to participate in a <i>selective tender</i>	<a href="#">Aboriginal Procurement Policy</a>
				<b>Hint:</b> Many <i>Aboriginal owned businesses</i> are also <i>SMEs</i> . Where there is an opportunity to use either a suitably qualified <i>SME</i> or <i>Aboriginal owned business</i> , you may choose which business type to <i>prefer</i> . If you choose to <i>prefer</i> an <i>Aboriginal owned business</i> , you do not have to <i>prefer</i> an <i>SME</i> .		


















## Selecting a procurement method

Relating to	Status	Category		Value	Obligation		Reference
Construction				<\$1 million	<b>Supplier type</b> SME	<b>Process</b> You <b>must</b> make reasonable efforts to obtain a quote from <i>SMEs</i> when using the following prequalification schemes: <ul style="list-style-type: none"> <li><a href="#">SCM1191 Construction consultant services</a></li> <li><a href="#">SCM0256 General Construction Works</a></li> </ul> unless an <i>SME</i> cannot reasonably provide a competitive quote.	<a href="#">PBD-2019-03 Access to Government Construction Procurement Opportunities by SMEs</a>
				<\$250,000	<i>Aboriginal owned business</i>	You <b>may</b> directly negotiate with suitably qualified <i>Aboriginal owned businesses</i> .	<a href="#">Aboriginal Procurement in Construction</a>
				<\$1 million	<i>Aboriginal owned business</i>	You <b>may</b> invite multiple prequalified <i>Aboriginal owned businesses</i> to participate in a <i>selective tender</i> .	
Existing arrangements				Any	You <b>must</b> use <a href="#">whole-of government-contracts</a> to purchase applicable goods or services, including construction, except where the exemptions listed above apply.		<a href="#">PBD-2019-04 Approved Procurement Arrangements</a>
				Any	You <b>must</b> use the following whole-of-government prequalification schemes where applicable: <ul style="list-style-type: none"> <li><a href="#">Contingent workforce</a></li> <li><a href="#">Motor vehicle acquisition</a></li> <li><a href="#">ICT services</a></li> <li><a href="#">Office furniture</a></li> <li><a href="#">Operational telecommunications</a></li> <li><a href="#">Financial assessments</a></li> <li><a href="#">General construction works for work valued up to \$1 million, except</a> <ul style="list-style-type: none"> <li>– if you issue an <i>open tender</i>, or</li> <li>– if you engage a local contractor for a one-off contract valued under \$30,000 and you formally invite the contractor to become prequalified.</li> </ul> </li> </ul>		<a href="#">PBD-2019-04 Approved Procurement Arrangements</a>  <a href="#">PBD-2013-01C Financial Assessments</a>  <a href="#">PBD-2014-04C Construction Procurement Prequalification Schemes for Work Valued to \$1 million</a>















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## Selecting a procurement method

Relating to	Status	Category		Value	Obligation	Reference
Existing arrangements				Any	You are <b>encouraged</b> to use the other whole-of-government prequalification schemes.	<a href="#">Whole-of-Government prequalification schemes</a>
				Any	You <b>must</b> check if your agency requires you to use any agency-specific standing offers, panel contracts or other arrangements.	
				Any	You <b>should</b> check if your agency has any pre-existing contracts, panels or prequalification schemes in place that meet your needs.	
				Any	You <b>may</b> use another agency's contracts, panels or prequalification schemes through a <i>piggybacking</i> clause.	<a href="#">Agency procurement arrangements</a>
				Any	You <b>may</b> seek quotes or tenders from businesses listed on a Standing Offer Notice or Multi-Use List published on the Australian Government's <a href="#">AusTender</a> website.	<a href="#">PBD 2014-07 Recognising Suppliers to Australian Government</a>

## Creating a new procurement arrangement

Relating to	Status	Category	Value	Obligation	Reference
Engaging with the market		 	≥\$657,000 ≥\$9.2 million	<a href="#">PBD-2017-06 International procurement agreements</a> <b>has changed your market engagement options.</b>	<a href="#">PBD-2017-06 International Procurement Agreements</a>
		 	Any	If you need to engage with the market to select a new supplier, the market engagement method <b>must</b> : <ul style="list-style-type: none"> <li>• achieve value for money</li> <li>• be fair and transparent</li> <li>• ensure maximum competition in the market.</li> </ul>	
Construction			Any	You <b>should</b> refer to the CILF practice notes as guidance when procuring and delivering major infrastructure projects. The CILF notes provide strategies to address key challenges affecting the construction sector.	<a href="#">Construction Industry Leadership Forum (CILF) Practice Notes</a>
Covered procurements		 	≥\$657,000 ≥\$9.2 million	You <b>must</b> comply with the <a href="#">IPA Guidelines</a> if the procurement is covered by an <i>International Procurement Agreement (IPA)</i> , i.e. is a <i>covered procurement</i> . The procurement is a <i>covered procurement</i> if: <ul style="list-style-type: none"> <li>• the agency is listed in Appendix 1 of the <a href="#">IPA Guidelines</a>, <b>and</b></li> <li>• it will result in any form of contract, <b>and</b></li> <li>• the estimated value is: <ul style="list-style-type: none"> <li>– ≥\$657,000 for goods and services or</li> <li>– ≥\$9.2 million for construction services or</li> <li>– not known, <b>and</b></li> </ul> </li> </ul> it is not exempt under Appendix 2 of the <a href="#">IPA Guidelines</a> .	<a href="#">PBD-2017-06 International Procurement Agreements</a>
		 	≥\$657,000 ≥\$9.2 million	You <b>must</b> use the following types of market engagement for <i>covered procurements</i> : <ul style="list-style-type: none"> <li>• <i>open approach to market</i> (default) – a public notice inviting any supplier to participate in an open tender or an initial open stage of a multi-stage procurement</li> <li>• <i>limited tender</i> – one or more suppliers of your agency's choice are directly invited to make a submission. A <i>limited tender</i> may only be used if the procurement meets the conditions specified in the <a href="#">IPA Guidelines</a>.</li> </ul>	
















Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



## Creating a new procurement arrangement

Relating to	Status	Category		Value	Obligation	Reference
Covered procurements				≥\$657,000 ≥\$9.2 million	You <b>must</b> prepare and keep a written report for each contract awarded by <i>limited tender</i> that includes: <ul style="list-style-type: none"><li>the value and type of goods or services</li><li>the circumstances and conditions that justified the use of the limited tender.</li></ul>	<a href="#">PBD-2017-06 International Procurement Agreements</a>
				≥\$657,000 ≥\$9.2 million	You <b>must not</b> discriminate against suppliers due to foreign affiliation or ownership, location or the origin of their goods or services.	
				≥\$657,000 ≥\$9.2 million	You <b>must not</b> apply any condition or undertaking to <i>covered procurements</i> that requires the use of Australian or NSW content, an Australian or NSW supplier, or similar actions to encourage local development, except for the exempt <i>measures and preferences</i> listed in Appendix 2, <a href="#">IPA Guidelines</a> .	
				≥\$657,000 ≥\$9.2 million	<p>Procurements using an existing <i>standing offer</i>, <i>panel arrangement</i> or <i>whole of government contract</i> do not have to comply with the <a href="#">IPA Guidelines</a>, provided the initial arrangement was established following an <i>open approach to market</i> that complied with the IPA Guidelines, and you comply with the arrangement’s rules of use.</p> <p>Procurements using an established <i>procurement list</i> or <i>prequalification scheme</i> do not have to comply with the <a href="#">IPA Guidelines</a>, provided the list or scheme was established in accordance with the IPA Guidelines. You must comply with the rules of the list or scheme, and ensure the suppliers you invite to submit tenders are selected in a fair and non-discriminatory manner.</p> <p>Arrangements established prior to the Board issuing PBD-2017-06 (22 November 2017) can continue to be used.</p>	







## Creating a new procurement arrangement

Relating to	Status	Category	Value	Obligation	Reference
Innovation and non-traditional approaches to procurement		 	Any	You <b>should</b> consider innovative and non-traditional approaches to procurement, subject to meeting legislative and policy requirements, such as: <ul style="list-style-type: none"> <li>commissioning and contestability</li> <li>Public Private Partnerships.</li> </ul>	<a href="#">Commissioning and Contestability Policy</a> <a href="#">TPP17-07 NSW Public Private Partnerships Guidelines</a> <a href="#">National Public Private Partnerships Policy and Guidelines</a>
Unsolicited proposals		 	Any	The government <b>may</b> consider <i>unsolicited proposals</i> from industry to explore unique and innovative ideas. An <i>unsolicited proposal</i> is a proposal to deal directly with the government over a commercial proposition, where the government has not requested the proposal (full definition in <a href="#">Glossary</a> ).	<a href="#">Unsolicited proposal process</a>
		 	Any	<i>Unsolicited proposals</i> <b>must</b> be forwarded to the Department of Premier and Cabinet for assessment. <i>Unsolicited proposals</i> <b>must not</b> be used as a substitute for routine competitive procurement or to bypass tender processes.	
Complex market engagement methods		 	Any	You <b>may</b> use a complex market engagement method, such as direct negotiations (i.e. <i>limited tender</i> with one supplier) or managed services contracts.	<a href="#">Complex Market Engagements</a>
		 	Any	You <b>must</b> , when considering a <i>complex market engagement</i> : <ul style="list-style-type: none"> <li>ensure the procurement process complies with the <a href="#">IPA Guidelines</a>, if it is a <i>covered procurement</i></li> <li>ensure the procurement strategy justifies the procurement method, including a comprehensive analysis of the market that demonstrates it is the most suitable approach</li> <li>demonstrate, for a direct negotiation, that a competitive process does not need to, or cannot, be conducted but value for money can still be achieved</li> <li>conduct a risk assessment, including addressing the procurement process risks arising from the procurement method.</li> </ul>	

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



## Creating a new procurement arrangement

Relating to	Status	Category		Value	Obligation	Reference
Complex market engagement methods				Any	<ul style="list-style-type: none"><li>The officer approving the complex market procurement method <b>must</b> be satisfied that the agency will satisfy its legislative and policy obligations in relation to the procurement.</li></ul>	<a href="#">Complex Market Engagements</a>
Resource efficiency and the circular economy				Any	You <b>should</b> consider the product lifecycle when conducting needs analysis and developing product specifications, including <i>circular economy</i> principles, so that reuse, repurposing, recycling and/or disposal of goods or assets is planned into the procurement process.	<a href="#">NSW Circular Economy Policy Statement</a> <a href="#">Government Resource Efficiency Policy</a>

## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#">Public Works and Procurement Regulation 2014</a>				Any			
Policy	<a href="#">Aboriginal Participation in Construction Policy (APIC)</a>				<\$250,000 >\$1 million			
Policy	<a href="#">Aboriginal Procurement Policy (APP)</a>				<\$250,000 >\$1 million			
Policy	<a href="#">Accreditation Program for Goods and Services Procurement</a>				Any			
Policy	<a href="#">Agency Accreditation Program for Procurement</a> (for construction accreditation gained post-2015)				Any			
Policy	<a href="#">Agency Accreditation Scheme for Construction</a> (for construction accreditation gained pre-2015)				Any			



## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Policy	<a href="#">C2017-05 Unsolicited Proposals</a>				Any			
Policy	<a href="#">Government Resource Efficiency Policy</a>				Any			
Policy	<a href="#">ICT Assurance Framework</a>				>\$10 million			
Policy	<a href="#">Infrastructure Investment Assurance Framework</a>				>\$10 million			
Policy	<a href="#">National Public Private Partnerships Policy and Guidelines</a>				Any			
Policy	<a href="#">NSW Circular Economy Policy Statement</a>				Any			
Policy	<a href="#">NSW Gateway Policy</a>				>\$10 million			
Policy	<a href="#">NSW Public Private Partnerships Guidelines (TPP17-07)</a>				Any			
Policy	<a href="#">PBD-2013-01C Financial Assessments</a>				>\$1 million			
Policy	<a href="#">PBD2014-03C Agency Accreditation Scheme for Construction – threshold for unaccredited agencies</a>				>\$1.3 million			
Policy	<a href="#">PBD-2014-04C Construction Procurement Prequalification Schemes for Work Valued to \$1 million</a>				<\$1 million			
Policy	<a href="#">PBD 2014-07 Recognising Suppliers to Australian Government</a>				Any			
Policy	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>				>\$10 million >\$500 million			
Policy	<a href="#">PBD-2017-06 International Procurement Agreements</a>				≥\$657,000			

**Key**  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Policy	<a href="#">PBD-2017-06 International Procurement Agreements</a>				≥\$9.2 million			
Policy	<a href="#">PBD 2019-03 Access to Construction Contracting Opportunities by SMEs</a>				<\$1 million			
Policy	<a href="#">PBD 2019-04 Approved Procurement Arrangements</a>				Any			
Policy	<a href="#">SME and Regional Procurement Policy</a>				<\$50,000 <\$250,000 <\$1 million >\$3 million			
Policy	<a href="#">TPP02-01 Policy Statement on the Application of Competitive Neutrality</a>				Any			
Policy	<a href="#">TPP16-05 Commissioning and contestability policy</a>				Any			
Policy	<a href="#">TPP18-06 NSW Government Business Case Guidelines</a>				Significant			
Policy	<a href="#">TPP19-03 Recurrent Expenditure Assurance Framework</a>				≥\$50 million pa ≥\$100 million over 4 years			
Guidance	<a href="#">Commissioning and Contestability Practice Guide</a>				Any			
Guidance	<a href="#">Construction Industry Leadership Forum (CILF) Practice Notes</a>				Any			
Guidance	<a href="#">Complex market engagement methods</a>				Any			
Guidance	<a href="#">Market approaches guide</a>				Any			
Guidance	<a href="#">Promoting competition</a>				Any			

Table 11 References: Plan

**Key** Mandatory Recommended Goods and services Construction ICT Human services Additional information
















# Source

Identify and engage suppliers that will deliver best value for money in a framework of probity and fair dealing.

## Probity and fairness

Relating to	Status	Category	Value	Obligation	Reference	
Probity				Any	Agencies <b>must</b> ensure procurement procedures are in place that safeguard fair, transparent and ethical practices.	Refer to agency's policies and procedures
				Any	You <b>must</b> be aware of the general and procurement-specific obligations under relevant legislation and the agency's code of conduct, gifts and benefits policy and business ethics statement.	
				Any	You <b>must</b> follow the agency's procedures to manage conflicts of interest, both real and perceived.	
Probity advisers and auditors				Any	You <b>may</b> engage a <i>probity adviser</i> or <i>auditor</i> , although this should be the exception rather than the rule for standard procurement activities.	<a href="#">Corruption prevention, fairness and probity</a>
				Any	Agencies <b>should</b> clearly set out the general principles of probity which staff and <i>probity advisers/auditors</i> are expected to apply throughout a procurement or sale process.	
				Any	You, your managers and other agency staff, <b>retain accountability</b> for procurement decisions and following probity-rich management practices even if a <i>probity adviser/auditor</i> is engaged.	










## Probity and fairness

Relating to	Status	Category	Value	Obligation	Reference
Probity advisers and auditors		 	Any	<p>You <b>must</b>, when engaging <i>probity advisers or auditors</i>:</p> <ul style="list-style-type: none"> <li>be satisfied the engagement will not create a real or perceived conflict of interest arising from this or other work being performed by the <i>probity adviser/auditor</i></li> <li>not engage <u>auditors</u> that are already engaged in other work within the agency except where the audits are linked or there are other mitigating circumstances</li> <li>ensure <i>probity advisers/auditors</i> remain independent and objective by not engaging the same <i>probity advisers/auditors</i> on an ongoing or serial basis over several related or unrelated issues.</li> </ul>	<a href="#">Corruption prevention, fairness and probity</a>
		 	Any	Agencies <b>may</b> be asked to report to the Procurement Board on the use of <i>probity advisers and auditors</i> within the agency.	
		 	Any	Continuing to engage the same adviser or auditor can, at a minimum, give rise to a perception that the relationship is not robustly independent.	

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## Tender documentation

Relating to	Status	Category	Value	Obligation	Reference
Tender length and complexity		 	Any	You <b>must</b> when preparing tender documentation: <ul style="list-style-type: none"> <li>provide a length limit for tender responses whenever feasible</li> <li>use plain English</li> <li>reasonably limit the complexity of tender requirements.</li> </ul>	<a href="#">SME and Regional Procurement Policy</a>
Supplier conduct		 	Any	You <b>must</b> , in all tenders or sourcing documents, ensure prospective tenderers or suppliers are made aware of the requirement to: <ul style="list-style-type: none"> <li>comply where relevant with the NSW Procurement Policy Framework, the NSW Code of Practice for Procurement and the <a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a></li> <li>provide information concerning any findings of dishonest, unfair, unconscionable, corrupt or illegal conduct against the tenderer, its directors or management.</li> </ul>	<a href="#">PBD 2017-07 Supplier Conduct</a>
		 	Any	Findings of dishonest, unfair, unconscionable, corrupt or illegal conduct have consequences for individual suppliers, up to exclusion from contracting opportunities with the government.	

















### Additional requirements for construction contracts

Supplier conduct			Any	You <b>must</b> include the mandatory evaluation criteria on adverse actual or reputational risks arising from supplier conduct in all EOIs and RFTs for construction projects. The criteria wording is provided in PBD 2017-07.	<a href="#">PBD 2017-07 Supplier Conduct</a>
Industrial relations			Any	You <b>must</b> clearly set out the requirements of the <a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a> in all EOIs, tenders and contractual documents for construction projects.	<a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a>
			≥\$10 million ≥ \$5 million	You <b>must</b> require tenderers to provide a <i>Workplace Relations Management Plan</i> for construction projects where the NSW government or a public sector body contribution is: <ul style="list-style-type: none"> <li>≥\$10 million, or</li> <li>≥ \$5 million and at least 50% of the total construction project value.</li> </ul>	



## Tender documentation

Relating to	Status	Category	Value	Obligation	Reference
Standards			Any	You <b>must</b> ensure construction materials and processes are fit for purpose, including complying with relevant Australian and international standards, for example by requiring independent certifications, supplier statements or delivery inspections.	<a href="#">PBD-2016-03 Construction Standards and Conformance</a>
			Any	You <b>must</b> identify and document the intended purpose or purposes when procuring construction goods or services, including the anticipated uses and period of use.	
			Any	You <b>must</b> assess risks arising from non-conforming or non-compliant building products and construction materials, taking account of the intended purpose or purposes of the procurement.	
			Any	You <b>must</b> ensure these risks are managed as far as practicable, considering: <ul style="list-style-type: none"> <li>• legal obligations relating to work health and safety, public safety and environmental protection</li> <li>• compliance with the relevant design and performance standard in the National Construction Code</li> <li>• other relevant international and Australian Standards and technical specifications.</li> </ul>	
			Any	You <b>must</b> contractually require contractors to comply with relevant standards for building products, construction materials and construction or manufacturing processes, including that they comply with the standards specified in <a href="#">PBD 2016-03</a> .	
			Any	You <b>must</b> ensure contractors comply with relevant standards, including where relevant third-party independent certification.	
			≥\$10 million	You <b>are encouraged</b> to disclose publicly the source of major components and materials on infrastructure projects valued ≥\$10 million.	









Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information













## Tender documentation

Relating to	Status	Category	Value	Obligation	Reference
Financial assessments			Any	You <b>must</b> ensure that tender and relevant contract documentation includes appropriate references to the sharing and use of financial assessment reports.	<a href="#">PBD 2013-01C Financial Assessments</a>
			>\$1 million	You <b>must</b> obtain a financial assessment on the preferred contractor prior to awarding a construction contract for work valued >\$1 million. The assessment must be: <ul style="list-style-type: none"> <li>• no more than six months old for contracts valued \$1 million – \$10 million</li> <li>• no more than three months old for contracts valued &gt;\$10 million.</li> </ul>	
			Any	You <b>must</b> use the <a href="#">Financial Assessments Prequalification Scheme</a> to procure financial assessment reports, unless your agency has capability to prepare financial assessment reports itself.	<a href="#">Financial Assessments Prequalification Scheme</a>
			Any	You <b>must</b> address risks and any recommended actions identified in a financial assessment by applying appropriate strategies through the life of the contract.	
			Any	Suppliers that are members of the Financial Assessments Prequalification Scheme are required to provide a copy of each report prepared for an agency to NSW Procurement. These reports are held in a <a href="#">central repository</a> and agencies can <a href="#">request access to reports</a> for specific contractors. The report date is provided to allow agencies to comply with the timeframes above.	<a href="#">Financial Assessments Repository</a>









## Tender documentation

Relating to	Status	Category	Value	Obligation	Reference
Work, health and safety				You <b>must</b> ensure construction contractors provide evidence of <i>WHS Management Systems</i> and/or WHS management performance as follows:	<a href="#">Work Health and Safety Management Systems and Auditing Guidelines</a>
			Any	Design consultancy:  You <b>must</b> include safety risks relating to the construction work site in the tender documents.  You <b>must</b> confirm the successful designer is capable of meeting safe design obligations.	
			<\$1 million	You <b>must</b> include the safe design report and asbestos register in the tender documents if the work involves refurbishment or demolition.  You <b>must</b> require potential <i>Principal Contractors</i> to provide evidence of previous satisfactory WHS management performance.  You <b>must</b> require the successful tenderer to submit a <i>WHS Management Plan</i> before works begins.	
			≥\$1 million or as required by the agency	You <b>must</b> comply with all WHS requirements for contracts <\$1 million, plus require: <ul style="list-style-type: none"> <li>• all potential <i>Principal Contractors</i> to provide evidence of an acceptable <i>WHS Management System</i>, and</li> <li>• that the successful tenderer is to submit a <i>Project WHS Management Plan</i> before work begins.</li> </ul>	

## Tender documentation










Relating to	Status	Category	Value	Obligation	Reference
Environmental management			Any	You <b>must</b> require that the successful tenderer prepare and implement an appropriate site-specific <i>Environmental Management Plan</i> prior to work commencing.	<a href="#">Environmental Management Systems Guidelines</a>
			≥\$10 million, or environmentally sensitive contracts	You <b>must</b> require tenderers for contracts ≥\$10 million, or environmentally sensitive contracts, to have an acceptable corporate <i>Environmental Management System</i> .  This includes applicants for prequalification as a tenderer for a range of contracts, and <b>EOIs</b> for pre-registration as a tenderer for a particular contract that meet these criteria.	
Quality management			Any	You <b>should</b> apply the requirements in the <a href="#">Quality Management Systems Guidelines</a> for relevant construction contracts, consultancies, and product supply.	<a href="#">Quality Management Systems Guidelines</a>
			>\$1 million >\$100,000 >\$50,000	You are <b>recommended</b> to require tenderers for <b>high risk</b> construction contracts valued >\$1 million, consultancies >\$100,000 and product suppliers >\$50,000, to have a certified <i>Quality Management System</i> .  You <b>should</b> also require potential suppliers of high or medium risk products to provide test certificates and certifications that products conform with requirements.	
			Any	For all construction contracts, consultancies and product suppliers you are <b>recommended</b> to require that successful tenderers implement a combination of <i>Quality Management Plans</i> , <i>Inspection</i> and <i>Test Plans</i> , provide certifications and/or allow delivery inspections (depending on the type of work and risk profile of the contract) to ensure quality standards are met.	

## Additional evaluation criteria

Relating to	Status	Category	Value	Obligation		Reference
Additional evaluation criteria		 	Various	For procurements over defined spend thresholds, additional evaluation criteria <b>must</b> be included to address government priorities to support SMEs, employment and business opportunities for Aboriginal people and apprenticeships.		
 Goods and services			<\$3 million	Supplier type	Requirement	<a href="#">SME and Regional Procurement Policy</a>
				SMEs	You <b>may</b> include a non-price evaluation criterion that considers how tenderers will support the government's economic, ethical, environmental and social priorities, consistent with relevant exemptions in IPAs.	
			>\$3 million	SMEs	You <b>must</b> include a minimum 15% non-price evaluation criteria that considers how tenderers will support the government's economic, ethical, environmental and social priorities, consistent with relevant exemptions in IPAs. At least 10% (i.e. 2/3 of the 15% weighting) must be allocated to <i>SME</i> participation.	
			>\$10 million	Aboriginal owned business	You <b>must</b> : <ul style="list-style-type: none"> <li>require that tenderers include an <i>Aboriginal Participation Plan</i> in tender responses</li> <li>include evaluation criteria to assess tenderers' <i>Aboriginal Participation Plans</i>.</li> </ul>	<a href="#">Aboriginal Procurement Policy</a>

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information

















## Additional evaluation criteria

Relating to	Status	Category	Value	Obligation		Reference
 <b>Construction</b>			>\$1 million or primarily directed at Aboriginal communities	<b>Supplier type</b>	<b>Requirement</b>	<a href="#">Aboriginal Participation in Construction Policy (APIC)</a>
				Aboriginal owned business	You <b>must</b> set a targeted project spend to support Aboriginal participation, at a minimum <b>1.5%</b> of the total estimated contract value. Agencies are encouraged to set higher requirements where appropriate.	
			>\$10 million	Apprentices and trainees	You <b>must</b> : <ul style="list-style-type: none"> <li>• set targets for the engagement of apprentices and trainees on the project</li> <li>• include the target in project requirements provided to potential suppliers, including tender documents</li> <li>• consider the capacity of tenderers to meet these requirements when evaluating and awarding the contract, including a contractor's past performance in meeting requirements</li> <li>• ensure contractors contractually commit to, as a minimum, quarterly reporting on the engagement of apprentices and trainees, and progress in achieving the project target</li> </ul>	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>
			<\$10 million	Apprentices and trainees	You <b>should</b> : <ul style="list-style-type: none"> <li>• include evaluation criteria which recognise contractor commitments to supporting skills development</li> <li>• monitor contractor performance in meeting skills commitments</li> <li>• include reporting and compliance assurance provisions in contracts where necessary.</li> </ul>	
			>\$100 million	Apprentices and trainees	You <b>must</b> evaluate tenderers for major infrastructure projects on demonstrated ability to work effectively with government and ability to support the government's skills and apprenticeship targets.	<a href="#">M2014-11 Additional Evaluation Criteria for Projects Valued Over \$100 Million</a>



















## Contract requirements

Relating to	Status	Category	Value	Obligation	Reference
<b>Contract templates</b>					
 <b>Goods and services, excl. ICT</b>			Any	<p>You <b>may</b> use the Procurement Board's standard templates for:</p> <ul style="list-style-type: none"> <li>• <u>Head (Standing Offer) Agreement</u> – standing offer, including panel, agreement for whole-of-government or agency-wide arrangements</li> <li>• <u>Customer contract order template</u> – individual contracts under a Head Agreement</li> <li>• <u>Agency Specific Contract Terms</u> – one-off contract (i.e. non-standing offer) for goods and services procurement</li> <li>• <u>Approved List</u> – rules for participation in a Supplier List or Prequalification Scheme</li> <li>• <u>Plain English Contract</u> – individual contracts between a prequalified supplier (i.e. supplier on a specified Supplier List) and agency.</li> </ul>	<a href="#">Goods and services contract templates</a>  <a href="#">Prequalification scheme templates</a>
			Any	You <b>may</b> customise the standard form contracts to meet specific needs, although where possible agency contracts should reflect the general principles and approach of the commercial terms in the standard form contracts.	
			Any	You <b>may</b> need to seek legal advice on changes to the standard form contract.	
 <b>ICT</b>				You <b>must</b> use the ProcureIT Framework when procuring ICT goods or services:	<a href="#">PBD-2018-02 Replacement of the ICT Short Form Contract in the Procure IT Framework</a>
			<\$500,000	• <u>Core&amp; Agreement (Low Risk)</u> – low risk ICT procurements <\$500,000	
			>\$500,000	• <u>ProcureIT v3.2</u> – long form contract agreement template for high risk and/or ICT procurements >\$500,000.	
			<\$500,000	You <b>may</b> use ProcureIT v3.2 for any ICT procurement, including <\$500,000.	
			Any	You <b>must</b> seek DCS's written approval for any variations to the standard terms and conditions of the ProcureIT Framework, except for beneficial variations.	
			Any	You <b>must</b> provide written notification of any beneficial variations to DCS Legal prior to executing the contract, supported by legal advice confirming the variations are beneficial in nature.	

## Contract requirements

Relating to	Status	Category	Value	Obligation	Reference
 Human services			Any	You <b>must</b> use the <a href="#">NSW Human Services Agreement template</a> when procuring <i>human services from NGOs</i> .	<a href="#">PBD 2017-04 Procuring Human Services from NGOs</a>
			Any	You <b>must</b> seek approval to amend the template from the agency General Counsel (or external legal counsel) and the Chief Procurement Officer.	
			Any	You <b>must</b> annually report amendments to the template to the Human Services Category Management Working Group.	
 <b>Construction</b>					
<i>Unaccredited and partially accredited</i>			>\$1.3 million	You <b>must</b> use the <i>Procurement System for Construction</i> , including the standard contract templates, for construction work valued >\$1.3 million: <ul style="list-style-type: none"><li>• <a href="#">GC21</a> – construction contracts &gt; \$1 million, or of lower value with complex contractual requirements</li><li>• <a href="#">Consultancy services</a></li><li>• <a href="#">Project management services</a></li><li>• <a href="#">Expression of interest</a> – seeks an indication of interest from potential service providers to undertake specific work.</li></ul>	<a href="#">Agency Accreditation Scheme for Construction Guide for Agencies</a> <a href="#">PBD 2014-03C Threshold for Unaccredited Work Procurement System for Construction</a>
			<\$1.3 million	You <b>may</b> use the <i>Procurement System for Construction</i> for construction work valued <\$1.3 million, including simplified contracts for lower value work: <ul style="list-style-type: none"><li>• <a href="#">Minor works MW21</a> – straightforward construction contracts &lt;\$1 million</li><li>• <a href="#">Mini minor works</a> – construction contracts &lt;\$50,000 with simple terms.</li></ul>	
				Any	You <b>must</b> use the specified contract documents when using construction prequalification schemes.

















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## Contract requirements























Relating to	Status	Category	Value	Obligation	Reference
Accredited agencies			Any	You <b>may</b> use the <i>Procurement System for Construction</i> , including the standard contract templates.	
			Any	You <b>must</b> ensure construction contracts include appropriate references to:	
				<ul style="list-style-type: none"> <li>• <a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a></li> </ul>	<a href="#">NSW Industrial Relations Guidelines</a>
				<ul style="list-style-type: none"> <li>• compliance with relevant international or Australian standards</li> </ul>	<a href="#">PBD-2016-03</a>
				<ul style="list-style-type: none"> <li>• sharing and use of financial assessment reports</li> </ul>	<a href="#">PBD 2013-01C</a>
				<ul style="list-style-type: none"> <li>• WHS requirements</li> </ul>	<a href="#">WHS Regulation 2017</a> <a href="#">WHS Management Systems and Auditing Guidelines</a>
				<ul style="list-style-type: none"> <li>• Environmental management requirements</li> </ul>	<a href="#">Environmental Management Systems Guidelines</a>
			Any	<ul style="list-style-type: none"> <li>• Quality management requirements.</li> </ul>	<a href="#">Quality Management Systems Guidelines</a>
Contract periods				Any	You <b>may</b> determine a suitable duration for the contract depending on the circumstances of the contract and subject to approval by the agency head or delegate.
				Any	Contract periods should not, generally, be greater than five years including extension options.

## Contract requirements

Relating to	Status	Category	Value	Obligation	Reference
<b>Reporting</b>					
 <b>Goods and services</b>			>\$10 million	You <b>must</b> ensure contracts include supplier commitments and reporting obligations under the Aboriginal Procurement Policy.	<a href="#">Aboriginal Procurement Policy</a>
			>\$3 million	You <b>must</b> incorporate supplier SME and sustainability commitments and reporting obligations into applicable agreements and/or contracts.	<a href="#">SME and Regional Procurement Policy</a>
 <b>Construction</b>			>\$1 million	You <b>must</b> ensure contracts include supplier commitments and reporting obligations under the APIC policy.	<a href="#">Aboriginal Participation in Construction</a>
			>\$10 million	You <b>must</b> ensure applicable contracts include supplier obligations and quarterly reporting requirements on apprenticeship and trainee targets.	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>
<b>Commercial approaches in contracts</b>					
<b>Public liability and professional indemnity insurance</b>			Any	You <b>must</b> apply the minimum possible levels of public liability and professional indemnity insurance for SMEs, giving regard to the risk of the engagement.	<a href="#">SME and Regional Procurement Policy</a>
			Any	You <b>should</b> minimise insurances and indemnities for all other suppliers, with risk allocated to the party best placed to mitigate or manage those risks.	<a href="#">Commercial approaches in contracts</a>
			Any	You <b>should</b> only require professional indemnity insurance if professional services or expert advice are being supplied.	
			Any	Insurance requirements should be determined for each contract based on the type of procurement arrangement, value, risk profile, category and market profile and other relevant factors.	













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## Contract requirements












Relating to	Status	Category	Value	Obligation	Reference
Proportionate liability in construction contracts			Any	You <b>may</b> only contract out of Part 4 of the <i>Civil Liability Act 2002</i> in a construction contract when an assessment clearly demonstrates that it is justified.	<a href="#">PBD 2017-03 Civil Liability Act 2002 Proportionate Liability</a>
			Any	You <b>must</b> submit a report to NSW Procurement whenever you exclude proportionate liability in a construction contract. The report must set out the reasons for excluding proportionate liability.	
Indemnities		 	Any	You <b>should</b> cap indemnities required from suppliers, as uncapped liability by a supplier in favour of the state is not considered reasonable. The default position is for indemnities to be capped as a multiple of the per annum contract value.	<a href="#">Commercial approaches in contracts</a>
		 	Any	Agencies <b>should not</b> as a general rule give indemnities. If required, the agency's liability should be limited to 1x the contract value (in total).	
		 	Any	Some board-mandated contract templates may have specific indemnity requirements that differ from these settings, due to the nature of the goods or services being procured.	
Guarantees		 	Any	You <b>should</b> limit the use of financial securities, bank guarantees, or performance guarantees to necessary circumstances.	
Intellectual property (IP)		 	Any	<p>You <b>should</b> ensure that whichever party owns intellectual property (IP) at the start of the contract retains that ownership.</p> <p>You <b>should</b> allow suppliers to retain ownership of IP in any product developed under contract, with the agency given a perpetual, transferable, royalty free licence to use the IP.</p> <p>If there is a case for the agency to retain ownership of IP, you <b>may</b> decide whether the supplier is to be granted a licence to use that IP without charge (including the right to commercially exploit the IP), or place restrictions on the use of the IP.</p>	
Dispute resolution		 	Any	You <b>should</b> require the agency and supplier to seek to resolve disputes in good faith, with mediation the preferred method if this fails. Expert determination <b>should</b> be avoided.	<a href="#">Premier's Memorandum 2016-03 Model Litigant Policy for Civil Litigation</a>



## Contract requirements





















Relating to	Status	Category	Value	Obligation	Reference
Price refresh mechanisms		 	Any	You <b>should</b> consider the individual circumstances of the contract, product and/or service to determine the appropriate price adjustment mechanism.	<a href="#">Commercial approaches in contracts</a>
Extension options		 	Any	You <b>may</b> include extension options in contracts, although the total contract term should not generally exceed five years.  Extension options should only be exercised if the contract is meeting the agency's needs and supplier performance is satisfactory.	
		 	Any	Extension options <b>must</b> only be exercised where it can be demonstrated the contract will continue to deliver value for money.	
Termination		 	Any	You <b>may</b> require the right to terminate for convenience but provide for suppliers to be compensated for out of pocket costs reasonably incurred prior to receiving the notice of termination, in the expectation that the agreement or project would continue.	

## Notifying and briefing the market










Relating to	Status	Category	Value	Obligation	Reference
Advance notice		 	Any	You <b>should</b> provide as much advance notice as possible of upcoming procurement opportunities. Advance notice can be provided by publishing <i>Annual Procurement Plan</i> <sup>1</sup> , publishing a notice of <i>proposed RFT</i> or other early industry engagement activities.	<a href="#">SME and Regional Procurement Policy</a>
Pre-tender briefings			Any	You <b>must</b> provide pre-tender briefings when reasonably requested by SMEs and regional suppliers.	
		 	Any	You <b>should</b> provide tender briefings for all significant or complex procurements to allow suppliers to better understand the requirements.	
		 	Any	You <b>should</b> provide group pre-tender briefings rather than to individual suppliers, to ensure all suppliers have equal access to tender information.	

<sup>1</sup> Annual Procurement Plans are mandatory for accredited agencies.

## Notifying and briefing the market







Relating to	Status	Category		Value	Obligation	Reference
Online advertising				Any	You <b>must</b> advertise <i>open tenders</i> electronically on the eTendering website and not by print advertising, except where exceptional reasons require the use of print. In these cases, eTendering must still be used to, at a minimum, notify the market of the tender.	<a href="#">M2011-16 NSW Government Tenders</a>
				Any	You <b>may</b> also publish the advertisement on other platforms as determined by the agency.	
				≥\$657,000 ≥\$9.2 million	For <i>covered procurements</i> , you <b>must</b> include the information detailed in the <a href="#">IPA Guidelines</a> in the tender notice on the <a href="#">eTendering website</a> .	<a href="#">PBD-2017-06 International Procurement Agreements</a>
Tender periods				Any	You <b>must</b> ensure tender periods give all businesses reasonable time to effectively price and prepare their submissions or bids.	
<i>Covered procurements</i>				≥\$657,000 ≥\$9.2 million	You <b>must</b> comply with the minimum tender periods in the <a href="#">IPA Guidelines</a> , if the tender is for a <i>covered procurement</i> .	<a href="#">PBD-2017-06 International Procurement Agreements</a>
<i>Non-covered procurements</i>				Any	You <b>should</b> allow longer timeframes for complex and/or high value tenders, e.g. construction works that involve significant design elements may warrant longer tender periods.	<a href="#">Market Approaches Guide</a>
				>\$100 million	You <b>should</b> consider the timing benchmarks provided by <a href="#">Infrastructure Australia</a> for procurements > \$100 million that involve design and construct, PPPs or alliance delivery models.	<a href="#">Infrastructure Australia: Efficiencies in major project procurement volume 1</a>

## Notifying and briefing the market
















Relating to	Status	Category	Value	Obligation	Reference
Non-covered procurements		 	<\$100 million	The following <b>minimum</b> timeframes are recommended for procurements <\$100 million	<a href="#">Market Approaches Guide</a>
				No set period	
				10 calendar days	
				25 calendar days	
				30 calendar days	
Extensions		 	Any	You <b>should</b> only extend tender periods where late addenda or some other exceptional circumstance impacts tenderers' ability to meet the initial deadline.	
		 	Any	You <b>must</b> apply the same tender extension period to all prospective tenderers.	

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



















## Notifying and briefing the market

Relating to	Status	Category	Value	Obligation	Reference
Addenda		 	Any	You <b>should not</b> issue tender addenda within five working days before the closing date. If this is not possible, you should consider extending the tender period by at least five working days.	
Late submissions		 	Any	You <b>should not</b> accept a late submission, unless the delay is due to an action or failure by the agency, or very exceptional circumstances but where no other tenderers are disadvantaged by accepting the late submission.	

## Post-award requirements










Relating to	Status	Category	Value	Obligation	Reference
Contract disclosure		 	>\$150,000 incl. GST	You <b>must</b> publicly disclose all contracts <b>&gt;\$150,000 including GST within 45 working days</b> of becoming effective.	<a href="#">Government Information (Public Access) Act 2009</a>
		 	>\$150,000 incl. GST	You <b>must</b> publish the contract details in the agency's contract register on the eTendering website.	
		 	>\$150,000 incl. GST	You <b>may</b> publish the contract details in any other location the agency makes its open access information available.	
		 	>\$150,000 incl. GST	You <b>must</b> keep the contract information publicly available for at least 20 working days, until the project is complete, or until the goods and services have been provided under the contract.	
		 	>\$150,000 incl. GST	Additional disclosure requirements apply in certain circumstances, such as if there has not been a tender process and/or the terms and conditions of the contract have been directly negotiated with the supplier. Refer to the <a href="#">GIPA Act</a> for details of the contract information to be disclosed for certain types of contracts.	

## Post-award requirements

Relating to	Status	Category	Value	Obligation	Reference
Contracts with Aboriginal owned businesses			>\$50,000	You <b>must</b> disclose all goods and services (excluding construction) contracts >\$50,000 with an <i>Aboriginal owned business</i> <b>within 45 working days</b> of becoming effective. The disclosures must be made using the Contract Award Notice functionality on the eTendering website.	<a href="#">Aboriginal Procurement Policy</a>
Debriefing prospective suppliers			Any	You <b>must</b> provide post tender briefings when reasonably requested by SMEs and regional suppliers.	<a href="#">SME and Regional Procurement Policy</a>
		 	Any	You <b>should</b> provide post tender briefings for any unsuccessful applicant when reasonably requested.	
FX Risk				If the contract or procurement agreement involves goods and/or services sourced from outside Australia, it is likely there will be an FX risk.	<a href="#">TPP18-03 NSW Government Foreign Exchange Risk Policy</a>
		 	Any	You <b>should</b> consult with Treasury and TCorp about managing FX risk if the contract could be affected by foreign currency movements, including the level of exposure is uncertain or could change over the life of the contract.	<a href="#">TCorp Foreign Exchange Execution Framework</a>
		 	>A\$500,000	You <b>must</b> hedge identified FX risks within three business days after committing to the contract or transaction, if the FX exposure amount is known and over the FX Risk Policy Threshold (currently A\$500,000 or equivalent).	
Aboriginal participation			>\$10 million	You <b>must</b> require successful suppliers to provide a final <i>Aboriginal Participation Plan</i> following contract award, for applicable goods and services contracts.	<a href="#">Aboriginal Procurement Policy</a>
			>\$1 million, or targeted to aboriginal communities	You <b>must</b> require successful suppliers to provide a final <i>Aboriginal Participation Plan</i> following contract award, for applicable construction projects.	<a href="#">Aboriginal Participation in Construction Policy</a>

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information

## Post-award requirements







Relating to	Status	Category	Value	Obligation	Reference
Aboriginal participation		 	>\$10 million >\$1 million	You <b>must</b> enter the commitments made in <i>Aboriginal Participation Plans</i> into the <a href="#">Aboriginal Participation Portal</a> . You <b>must</b> submit the <i>Aboriginal Participation Plans</i> to the Procurement Board.	<a href="#">Aboriginal Participation Portal</a>
<b>Additional requirements for construction contracts</b>					
Work, health and safety			Any	You <b>must</b> require the selected principal construction contractor to provide a <i>WHS Management Plan</i> (contracts <\$1 million) or a <i>Project WHS Management Plan</i> (contracts >\$1 million) before work commences on the construction project.  You <b>must</b> review the Plan to ensure it addresses the elements identified in the <a href="#">WHS Management Systems and Auditing Guidelines</a> .	<a href="#">WHS Regulation 2017</a> <a href="#">WHS Management Systems and Auditing Guidelines</a>
Environmental management			Any	You <b>must</b> require successful suppliers to prepare and implement an appropriate site-specific <i>Environmental Management Plan</i> prior to work commencing.	<a href="#">Environmental Management Systems Guidelines</a>
Quality management			Any	You <b>should</b> require successful service providers to provide <i>Quality Management Plans</i> and/or <i>Inspection and Test Plans</i> and provide relevant product certifications prior to work commencing or a product being accepted for use on the project. Requirements should be determined based on the value and risk profile of the contract.	<a href="#">Quality Management Systems Guidelines</a>



















### Other category-specific requirements









Relating to	Status	Category	Value	Obligation	Reference
ICT procurements				You <b>must</b> use the Procure IT Framework for any procurement of ICT goods and services:	<a href="#">PBD-2018-02 Procure IT Framework</a>
			<\$500,000	<ul style="list-style-type: none"> <li>• <a href="#">Core&amp; Agreement (Low Risk)</a> - low risk ICT procurements &lt;\$500,000</li> </ul>	
			>\$500,000	<ul style="list-style-type: none"> <li>• <a href="#">ProcureIT v3.2</a> - long form contract agreement template for high risk and/or ICT procurements &gt;\$500,000</li> </ul>	
Cloud services			Any	You <b>must</b> evaluate cloud-based services when procuring ICT goods and services. The evaluation must be based on cost-benefit analysis and achieving value for money over the life of the investment.	<a href="#">DFSI-2015-04 NSW Government Cloud Policy</a>
Telecommunications			>\$100,000	<p>You <b>must</b>, when procuring telecommunications services with a total contract value &gt;\$100,000:</p> <ul style="list-style-type: none"> <li>• buy through the <a href="#">Telecommunications Purchasing Arrangements (Contract 2210)</a></li> <li>• cap the maximum term of contracts (including extension options) to: <ul style="list-style-type: none"> <li>- 3 years for mobile and fixed voice services</li> <li>- 4 years for data and internet services in metropolitan areas</li> <li>- 5 years for data and internet services in all other areas.</li> </ul> </li> <li>• seek quotes from at least three providers for telecommunications services at contract expiry, unless purchasing the lowest price offer through Contract 2210</li> <li>• analyse the effect of proposals on overall competition within the marketplace when assessing proposals</li> <li>• provide data related to telecommunications agreements to the Procurement and Technical Standards - Working Group (PTS-WG) if requested.</li> </ul>	<a href="#">PBD-2019-02 Telecommunications Procurement</a>

## Other category-specific requirements

















Relating to	Status	Category	Value	Obligation	Reference
Telecommunications			>\$100,000	You <b>must</b> request an exemption from the PTS-WG if you cannot meet these compulsory requirements or an automatic exemption is not applicable. Refer to <a href="#">ProcurePoint</a> for information on the exemption process and the list of automatic exemptions.	
			Any	You <b>should</b> consider separating telecommunications RFPs to encourage a more contestable supply market, for example by location (e.g. metro or regional) or by service tower (e.g. voice, data or mobile).	
			Any	You <b>must</b> apply the Link Sharing Principles and Commercial Principles when purchasing any new telecommunications services or building new wide area network (WAN) links.	<a href="#">DFSI-2017-01 Telecommunication Sharing</a>
Radio communications			Any	You <b>must</b> be a signatory to the <a href="#">Memorandum of Understanding for Licensed Use of NSW Government Communications Facilities</a> if you currently have, or intend to enter into, agreements with other agencies for licensed use of an operational communications site or equipment.	<a href="#">PBD-2015-03 Radio Communication Site Licences</a>
			>\$500,000	You <b>must</b> seek approval from the NSW Telco Authority for new sites or new towers on a site, or any expenditure over <b>\$500,000</b> on new radio communications assets and commercial services, unless exempted under DFSI-2016-02.	<a href="#">DFSI-2016-02 NSW Government Operational Telecommunications Policy</a>
			Any	You <b>must not</b> approach the Australian Communications and Media Authority (ACMA) in relation to radio frequency allocation and related matters. The NSW Telco Authority will negotiate with the ACMA on behalf of agencies.	

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information

## Other category-specific requirements

Relating to	Status	Category	Value	Obligation	Reference
Professional services Standard commercial framework				A <i>standard commercial framework</i> applies to engagement types 1 to 13 of the <a href="#">Performance and Management Services Prequalification Scheme (PMS Scheme)</a> .	<a href="#">PBD 2019-01 Engagement of Professional Services Suppliers</a>
			<\$250,000	You <b>may</b> directly engage a supplier on any of the above engagement types for single engagements <\$250,000 that comply with the <i>standard commercial framework</i> .	
			Any	<p>You <b>must</b> follow a more stringent approval process for engagements that do not comply with any element of the <i>standard commercial framework</i>, including:</p> <ul style="list-style-type: none"> <li>when engaging a supplier that has not accepted the <i>standard commercial framework</i> (as listed on <a href="#">PBD 2019-01</a>), <b>or</b></li> <li>where the engagement proposal is not compliant with the <i>standard commercial framework</i>.</li> <li>Non-compliant engagements <b>must</b>:</li> <li>be approved by the Department Secretary, Executive Agency Head or cluster Chief Financial Officer, but only if they are satisfied the work cannot be undertaken under the <i>standard commercial framework</i></li> <li>be competitively bid with at least three bids to ensure value for money</li> <li>be reported through the Procurement Board's <a href="#">Major Supplier's Portal</a> when approved.</li> </ul>	
			Any	You <b>must</b> report any contract with a supplier that has not accepted the <i>standard commercial framework</i> , including contracts outside the PMS Scheme.	









## Other category-specific requirements

Relating to	Status	Category	Value	Obligation	Reference
Human services			Any	You <b>must</b> use the <a href="#">NGO Registration Scheme</a> as a first step to sourcing information about NGOs which are seeking to, or are contracted to, deliver <i>human services</i> on behalf of NSW government.  The Registration Scheme is not a prequalification scheme and should not be used to shortlist applicants for procurement activities.	<a href="#">PBD 2016-04 Accessing Information about Human Services NGOs</a>
			Any	You <b>must</b> use the Human Services Agreement template when procuring <i>human services</i> from NGOs.	<a href="#">PBD 2017-04 Procuring Human Services</a>
			Any	You <b>are encouraged</b> to use the <a href="#">Human Services Outcomes Framework</a> when commissioning for the delivery of <i>human services</i> .	<a href="#">Human Services Outcomes Framework</a>
Legal services			Any	You <b>must</b> refer core legal work to the Crown Solicitor in accordance with the <a href="#">NSW Government Core Legal Work Guidelines</a> .	<a href="#">M2016-04 NSW Government Core Legal Work Guidelines</a>
			Any	You <b>may</b> engage the Crown Solicitor for legal matters that are not core legal work, although this work will not be funded from the Attorney General's Legal Fund.	
Travel			Any	You <b>must</b> manage official travel undertaken by public officials using public money in accordance with the <a href="#">Travel and Transport Policy</a> .	<a href="#">Travel and Transport Policy</a>
			Any	You <b>should</b> observe the <a href="#">Travel Operational Guidelines</a> .	<a href="#">Travel Operational Guidelines</a>
Fuel			Any	You <b>must</b> use E10 and biodiesel blends where possible, unless there is a clear operational requirement that precludes the use of biofuels.	<a href="#">M2012-08 Use of Biofuels</a>





















































Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



### Other category-specific requirements



















































Relating to	Status	Category		Value	Obligation	Reference
Resource efficiency				Any	<p>You <b>must</b> comply with the <a href="#">government's resource efficiency requirements</a> for:</p> <ul style="list-style-type: none"><li>• owned and leased office buildings and data centres</li><li>• new electrical appliances including whitegoods, televisions, pool pumps, commercial electrical equipment and air conditioning equipment</li><li>• ICT hardware, printers, photocopiers and DVD players</li><li>• new buildings and fitouts</li><li>• owned or leased light vehicles</li><li>• use of 6% GreenPower</li><li>• water using appliances</li><li>• surface coatings and other VOC emitting products such as adhesives, sealants, carpets and carpet underlays</li><li>• mobile non-road diesel plant and equipment, whether purchased, leased, or contractor-supplied in new buildings and infrastructure.</li></ul>	<a href="#">Government Resource Efficiency Policy</a>
				Any	<p>You <b>must</b>, for contractor-supplied plant and equipment in new buildings and infrastructure, including upgrades to existing buildings and infrastructure valued &gt;\$10 million:</p> <ul style="list-style-type: none"><li>• incorporate a weighting for air emission standards, in conjunction with other environmental considerations, during the tender selection process, and apply a consistent weighting to preference the lowest emission engines</li><li>• include a requirement for contractors to report on engine conformity with emission standards and the fitting of any exhaust after-treatment devices in procurement contracts.</li></ul>	
				Any	Implementation and reporting on the GREP is voluntary for agencies with fewer than 100 employees.	

## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#">Government Information (Public Access) Act 2009</a>				>\$150,000 incl. GST			
Legislation	<a href="#">Public Works and Procurement Regulation 2014</a>				Any			
Type	<a href="#">Work Health and Safety Regulation 2017</a>				≥\$250,000			
Policy	<a href="#">Aboriginal Participation in Construction Policy (APIC)</a>				<\$250,000 >\$1 million			
Policy	<a href="#">Aboriginal Procurement Policy (APP)</a>				<\$250,000 >\$10 million			
Policy	<a href="#">Agency Accreditation Scheme for Construction</a> (pre-2015)				Any			
Policy	<a href="#">DFSI-2015-04 NSW Government Cloud Policy</a>				Any			
Policy	<a href="#">DFSI-2016-02 NSW Operational Communications Strategy</a>				>\$500,000			
Policy	<a href="#">DFSI-2017-01 Telecommunication Sharing and Commercial Principles</a>				Any			
Policy	<a href="#">Environmental Management Systems Guidelines</a>				Any			
Policy	<a href="#">Government Resource Efficiency Policy</a>				Any			
Policy	<a href="#">M2012-08 Use of Biofuels</a>				Any			












































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## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Policy	<a href="#">M2014-11 Additional Evaluation Criteria for Major Projects Valued Above \$100M</a>				>\$100,000			
Policy	<a href="#">M2016-04 NSW Government Core Legal Work Guidelines</a>				Any			
Policy	<a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a>				Any			
Policy	<a href="#">PBD 2013-01C Financial Assessments</a>				>\$1 million			
Policy	<a href="#">PBD 2014-03C Threshold for Unaccredited Work</a>				>\$1.3 million			
Policy	<a href="#">PBD-2015-03 Radio Communications Site Licence Agreement Framework</a>				Any			
Policy	<a href="#">PBD-2016-03 Construction Standards and Conformance</a>				Any			
Policy	<a href="#">PBD 2016-04 NGO Registration Scheme</a>				Any			
Policy	<a href="#">PBD 2017-03 Civil Liability Act 2002 – Proportionate Liability</a>				Any			
Policy	<a href="#">PBD 2017-04 Procuring Human Services from NGOs</a>				Any			
Policy	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>				>\$10 million >\$500 million			
Policy	<a href="#">PBD-2017-06 International Procurement Agreements</a>				≥657,000			
Policy	<a href="#">PBD-2017-06 International Procurement Agreements</a>				≥\$9.2 million			



## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Policy	<a href="#">PBD 2017-07 Supplier Conduct</a>				Any			
Policy	<a href="#">PBD-2018-02 Procure IT Framework</a>				Any			
Policy	<a href="#">PBD 2019-01 Engagement of Professional Services Suppliers</a>				Any			
Policy	<a href="#">PBD-2019-02 Telecommunications Procurement</a>				\$100,000			
Policy	<a href="#">Premier's Memorandum 2016-03 Model Litigant Policy for Civil Litigation</a>				Any			
Policy	<a href="#">Quality Management Systems Guidelines</a>				Any			
Policy	<a href="#">SME and Regional Procurement Policy</a>				<\$50,000 <\$250,000 <\$1 million >\$3 million			
Policy	<a href="#">TPP18-03 NSW Government Foreign Exchange Risk Policy</a>				Any			
Policy	<a href="#">Travel and Transport Policy</a>				Any			
Policy	<a href="#">Work Health and Safety Management Systems and Auditing Guidelines</a>				Any			

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## References






Type	Reference	Status	Category		Value	Plan	Source	Manage
Guidelines	<a href="#">Commercial approaches to key contract terms</a>				Any			
Guidelines	<a href="#">Corruption prevention, fairness and probity</a>				Any			
Guidelines	<a href="#">Financial Assessments Reports Central Repository</a>				>\$1 million			
Guidelines	<a href="#">Human Services Outcomes Framework</a>				Any			
Guidelines	<a href="#">Market Approaches Guide</a>				Any			
Guidelines	<a href="#">TCorp Foreign Exchange Execution Framework</a>				Any			
Guidelines	<a href="#">Travel Operational Guidelines</a>				Any			
Templates	<a href="#">Construction contract templates</a> (unaccredited and partially accredited agencies)				>\$1.3 million			
Templates	<a href="#">Goods and services contract templates</a>				Any			
Templates	<a href="#">ICT contract templates</a>				Any			
Templates	<a href="#">NSW Human Services Agreement</a>				Any			

Table 12 References: Source

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information



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# Manage

























Manage contracts and develop supplier relationships to deliver the best outcome for your agency and the government.

## Contract and supplier management

Relating to	Status	Category	Value	Obligation	Reference
Contract and supplier management		 	Any	Signing an agreement is not the end of a process, but rather the start of an ongoing relationship with the supplier. Both the contract and supplier relationship need to be managed to deliver the best outcome for the agency.	<a href="#">NSW Procurement's approach</a>
		 	Any	<p>You <b>should</b>:</p> <ul style="list-style-type: none"> <li>• ensure smooth transition of services, especially if there is a new supplier</li> <li>• jointly establish systems and processes with the supplier team to ensure compliance with contract terms and performance requirements, and determine who is responsible for key tasks and activities on the agency and supplier sides</li> <li>• define and maintain the right level of management and resources according to the business criticality and complexity of the procurement arrangement</li> <li>• manage performance, drive continuous improvement and encourage innovation in coordination with the supplier and key stakeholders</li> <li>• track and report benefits to demonstrate how value for money is being delivered.</li> </ul>	



## Contract and supplier management

Relating to	Status	Category	Value	Obligation	Reference
Supplier relationship management		 	Any	Supplier relationship management (SRM) delivers value over and above the minimum levels of performance covered under contracts by focusing attention on the whole value stream.	<a href="#">Supplier Relationship Management Guidelines</a>
		 	Any	You <b>may</b> wish to identify strategic suppliers to develop relationships through proactive performance and innovation management to deliver additional value.	
Supplier conduct		 	Any	You <b>must</b> use best endeavours to identify adverse findings against suppliers and report such findings to the Procurement Board.	<a href="#">PBD 2017-07 Supplier Conduct</a>
Paying suppliers on time  Small businesses		 	<\$10,000	You <b>should</b> pay invoices up to \$10,000 as soon as possible by PCard for <a href="#">applicable expenditure categories</a> , unless a more cost-effective electronic alternative is available or the supplier cannot accept electronic payment methods.	<a href="#">Faster Payment Terms Policy</a>
		 	\$10,000 – \$1 million	You <b>must</b> pay registered small businesses (<20 FTEs):	
				≤ 20 calendar days of receipt of correctly rendered invoice, unless an existing contract or standing offer provides for an alternative time.	
				From 1 January 2020, ≤ 5 business days of receipt of a correctly rendered invoice, unless an existing contract or standing offer provides for an alternative time period.	
		 	\$10,000 – \$1 million	The Office of the Small Business Commissioner (OSBC) monitors and reports on agency payment performance to <i>small businesses</i> . This process has been automated using the NSW Procurement Spend Cube to develop a <i>small business</i> reporting dashboard.	
Annual reporting		 	Any	Your agency <b>must</b> provide details of its performance in paying accounts, including details of any actions taken to improve performance, in its annual report.	<a href="#">Annual Reports (Departments) Regulation 2015<sup>2</sup></a>
		 	Any	Your agency <b>must</b> report all instances where interest has become payable due to late payment, and the reason for the delay in making that payment, in its annual report.	



















<sup>2</sup> To be replaced by a Treasurer's Direction or Regulation under the *Government Sector Finance Act 2018*.



## Contract and supplier management

Relating to	Status	Category		Value	Obligation	Reference
Construction – security of payments				Any	You <b>must</b> ensure construction contractors receive progress payments in compliance with the <a href="#">Security of Payment Act</a> .	<a href="#">Building and Construction Industry Security of Payment Act 1999</a> <a href="#">PBD 2013-01C</a>
				Any	You <b>must</b> , as part of ongoing contract management activities, take steps to verify the claims of head contractors about payments made to subcontractors.	
Aboriginal participation				>\$1 million >\$10 million	You <b>must</b> monitor suppliers' progress in implementing Aboriginal Participation Plans and allocating eligible spend (for construction contracts), and ensure progress reports are provided via the Aboriginal Participation Portal as follows:	<a href="#">Aboriginal Procurement Policy</a> <a href="#">Aboriginal Participation in Construction</a> <a href="#">Aboriginal Participation Portal</a>
					<b>Frequency</b>	
				>\$1 million	Quarterly progress reports (construction only)	
				>\$10 million	Monthly progress reports	
				>\$1 million >\$10 million	You <b>must</b> ensure suppliers provide an <b>Aboriginal Participation Report</b> at the end of the contract, or on a periodic basis depending on the agency's requirements.  You <b>must</b> submit Aboriginal Participation Reports to the Procurement Board.	
Construction contracts				>\$1 million	You <b>must</b> ensure suppliers on construction contracts that cannot, or do not, fully allocate Aboriginal Participation funds to eligible spend types, distribute the remainder of the funds to the APIC policy's list of approved bodies, in consultation with the Procurement Board.	<a href="#">Master Builders Association of NSW</a> <a href="#">Literacy for Life Foundation</a>

## Contract and supplier management

Relating to	Status	Category	Value	Obligation	Reference
Resource Efficiency		 	Any	Your agency <b>must</b> report annually against the policy initiatives in the <a href="#">GREP</a> to the Department of Planning and Industry, including a statement of compliance with the procurement standards in the policy. The reporting deadline for the previous financial year is the last working day in November each year. Compliance with the GREP is voluntary for agencies with fewer than 100 employees.	<a href="#">Government Resource Efficiency Policy</a>
FX Risk		 	Any	Your agency <b>must</b> provide an annual FX Attestation Statement to Treasury by 31 October, for the previous financial year.	<a href="#">FX Risk Policy</a>
		 	Any	You <b>must</b> monitor and annually report to Treasury on FX exposures and any <i>hedges</i> in place.	
Extensions		 	Any	Routinely exercising extension options or rolling-over contracts reduces competition and limits access to new suppliers, products and services. Agencies should consider using extension options on a case by case basis, allowing enough time to conduct a new procurement exercise if the contract is not meeting the agency's needs or delivering value for money.	
		 	Any	You <b>must</b> only exercise extension options where it can be demonstrated the contract will continue to deliver value for money.	
		 	Any	You <b>should</b> conduct a strategic assessment of the market prior to rolling-over or extending a contract, including how the extension will impact competition and create (or continue) barriers to new suppliers.	

Key  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information

















### Additional requirements for goods and services contracts

Relating to	Status	Category	Value	Obligation	Reference
SME and sustainability commitments			>\$3 million	You <b>must</b> monitor supplier compliance with SME and sustainability commitments made in response to the <i>SME and Sustainability Criteria</i> , as part of contract management activities.	<a href="#">SME and Regional Procurement Policy</a>
			>\$3 million	You <b>must</b> ensure suppliers with contracts >\$3 million provide monthly reports on SMEs that have been engaged in the delivery of the contract to meet SME and sustainability commitments, via the online SME reporting portal.	
Human Services			Any	You <b>must</b> report amendments to the prescribed template NSW Human Services Agreement to the Human Services Category Management Group (CMWG) each year.	<a href="#">PBD 2017-04 Procuring Human Services from NGOs</a>
			Any	You <b>must</b> require <i>NGO</i> service providers to report the: <ul style="list-style-type: none"> <li>• service delivery location (local government area (LGA)) where their services are delivered to the service user</li> <li>• service user location (LGA) where the service user resides.</li> </ul>	
			Any	You <b>may</b> seek an exemption from location reporting requirements from the Procurement Leadership Group.	

## Additional requirements for construction contracts













Relating to	Status	Category	Value	Obligation	Reference
Apprenticeships and trainees			>\$10 million	You <b>must</b> ensure contractors report <b>at least quarterly</b> on the engagement of apprentices and trainees on relevant projects (>\$10 million), and progress in achieving the project target.	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>
			>\$10 million	Your agency <b>must report quarterly</b> to the Department of Industry on the engagement of apprentices and trainees reported by contractors.	
Financial assessments				You <b>must</b> regularly analyse the financial status of contractors throughout the course of construction contracts. At a minimum, financial assessments must be conducted:	<a href="#">PBD 2013-01C Financial Assessments</a>
			<b>Value</b>	<b>Frequency</b>	
			\$1 million – \$10 million	every six months	
			>\$10 million	every three months	
			Any	You <b>must</b> use the <a href="#">Financial Assessments Prequalification Scheme</a> to source financial assessment reports, or request recent reports for specific contractors from the <a href="#">central repository</a> held by NSW Procurement, unless the agency has capability to conduct financial assessments itself.	<a href="#">Financial Assessments Prequalification Scheme</a> <a href="#">Financial Assessments Repository</a>
			Any	You <b>must</b> address identified risks and recommended actions in financial assessment reports throughout the life of the contract.	
Industrial Relations			Any	You <b>must</b> ensure contractors comply with the <a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a> and, if applicable, the <i>Workplace Relations Management Plan</i> .	<a href="#">NSW Industrial Relations Guidelines</a>



### Additional requirements for construction contracts

Relating to	Status	Category	Value	Obligation	Reference
WHS			Any	You <b>must</b> review contractors' WHS performance throughout the life of the contracts, including WHS management monthly reports and investigating any <i>Notifiable WHS incidents</i> . You <b>must</b> also:	<a href="#">Work Health and Safety Management Systems and Auditing Guidelines</a>
			<b>Value</b>	<b>Requirement</b>	
			<\$1 million	Review the contractor's implementation of the <i>WHS Management Plan</i>	
			≥\$1 million	Agree and implement an audit schedule of the contractor's <i>WHS Management Plan</i> , with a minimum of two audits conducted over the life of the contract. You <b>must</b> ensure any corrective and preventive actions are carried out within agreed timeframes.	
Environmental Management			Any	You <b>must</b> regularly review the contractor's implementation of the <i>Environmental Management Plan</i> over the life of the project, including on-site evaluations.	<a href="#">Environmental Management Systems Guidelines</a>
Quality Management			Any	You <b>should</b> conduct regular reviews, audits and/or inspections to monitor contractors' implementation of <i>Quality Management Systems, Quality Management Plans</i> and/or <i>Inspection and Test Plans</i> , based on the value and risk profile of the contract.	<a href="#">Quality Management Systems Guidelines</a>

## Managing the lifecycle of goods and assets

Relating to	Status	Category	Value	Obligation	Reference
Disposal of goods of assets		 	Any	The <i>Public Works and Procurement Act 1912</i> defines procurement to include the disposal of goods that are unserviceable and no longer required. Accordingly, any Board Direction or policy that refers to procurement also applies to the conduct of disposals.	<a href="#">Public Works and Procurement Act 1912</a>
		 	Any	<p>You <b>must</b> ensure that disposals are approved by the appropriate authority and that due process and disclosure is undertaken including:</p> <ul style="list-style-type: none"> <li>• complying with the agency's authority to conduct the disposal (refer to <a href="#">Authority to Procure</a>)</li> <li>• disposal specifications and requirements are disclosed equally to all suppliers invited to quote, if required</li> <li>• supplier selection evaluation criteria are established prior to receiving quotes</li> <li>• proper processes are followed for managing market requests and for receiving and opening quotes.</li> </ul>	
Circular economy		 	Any	You <b>should</b> consider the product lifecycle when conducting needs analysis and developing product specifications, including <i>circular economy</i> principles, so that reuse, repurposing, recycling and/or disposal of goods or assets is planned into the procurement process.	<a href="#">NSW Circular Economy Policy Statement</a>
		 	Any	You <b>must</b> ensure any disposal or repurposing is consistent with environmental and waste management legislation, regulations and policies.	

**Key**
 Mandatory 
  Recommended 
  Goods and services 
  Construction 
  ICT 
  Human services 
  Additional information



## References

Type	Reference	Status	Category		Value	Plan	Source	Manage
Legislation	<a href="#">Annual Reports (Departments) Regulation 2015<sup>3</sup></a>				Any			
Legislation	<a href="#">Building and Construction Industry Security of Payment Act 1999</a>				Any			
Legislation	<a href="#">Work Health and Safety Regulation 2017</a>				≥\$250,000			
Policy	<a href="#">Aboriginal Participation in Construction Policy (APIC)</a>				<\$250,000 >\$1 million			
Policy	<a href="#">Aboriginal Procurement Policy (APP)</a>				<\$250,000 >\$10 million			
Policy	<a href="#">DFSI 2015-02 Efficient Electronic Payment Methods Policy</a>				<\$10,000			
Policy	<a href="#">Environmental Management Systems Guidelines</a>				Any			
Policy	<a href="#">Faster Payment Terms Policy</a>				<\$1 million			
Policy	<a href="#">Government Resource Efficiency Policy</a>				Any			
Policy	<a href="#">NSW Circular Economy Policy Statement</a>				Any			
Policy	<a href="#">NSW Industrial Relations Guidelines: Building and Construction Procurement</a>				Any			
Policy	<a href="#">PBD 2013-01C Financial Assessments</a>				>\$1 million			

<sup>3</sup> To be replaced by a Treasurer's Direction or Regulation under the *Government Sector Finance Act 2018*.

## References




















































Type	Reference	Status	Category		Value	Plan	Source	Manage
Policy	<a href="#">PBD-2016-03 Construction Standards and Conformance</a>				Any			
Policy	<a href="#">PBD 2017-04 Procuring Human Services from NGOs</a>				Any			
Policy	<a href="#">PBD 2017-05 Construction Training and Skills Development</a>				>\$10 million >\$500 million			
Policy	<a href="#">PBD 2017-07 Supplier Conduct</a>				Any			
Policy	<a href="#">Quality Management Systems Guidelines</a>				Any			
Policy	<a href="#">SME and Regional Procurement Policy</a>				<\$50,000 <\$250,000 <\$1 million >\$3 million			
Policy	<a href="#">TPP18-03 NSW Government Foreign Exchange Risk Policy</a>				Any			
Policy	<a href="#">Work Health and Safety Management Systems and Auditing Guidelines</a>				Any			
Guidance	<a href="#">Financial Assessments Reports Central Repository</a>				>\$1 million			
Guidance	<a href="#">Supplier Relationship Management Guidelines</a>				Any			
Guidance	<a href="#">TCorp Foreign Exchange Execution Framework</a>				Any			

Table 13 References: Manage

**Key**  Mandatory  Recommended  Goods and services  Construction  ICT  Human services  Additional information







## Section 3

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### • GOVERNANCE AND FEEDBACK •



**Governance**



**Accreditation schemes**



**Government procurement arrangements**



**Complaints and feedback**



**Procurement board directions**



# Governance

## The NSW Procurement Board

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

The Secretary of The Treasury is the chairperson of the Procurement Board. The board is made up of the cluster Secretaries, or approved deputies.

Three subcommittees currently operate as governance bodies supporting the board:

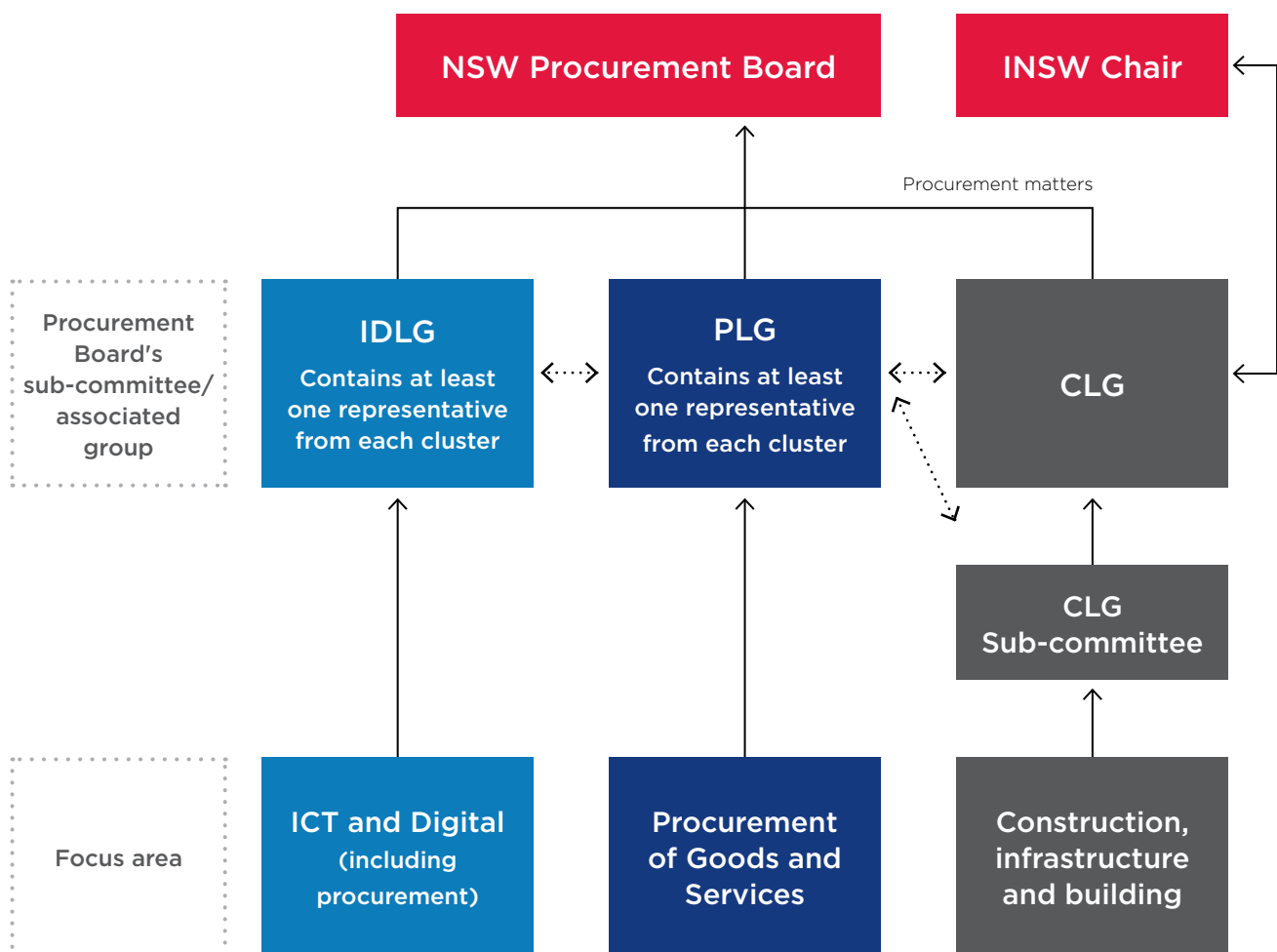


Figure 1: NSW Government procurement governance structure

### Procurement Leadership Group (PLG)

The PLG is the principal advisory group to the Procurement Board on government goods and services procurement. The PLG considers and advises the board on whole-of-government procurement strategies, practices, policies and guidelines relating to the procurement of goods and services.

The PLG is made up of the cluster Chief Procurement Officers or approved delegates.

### ICT and Digital Leadership Group (IDLG)

The IDLG is responsible for translating the Government's ICT strategy, procurement and associated implementation plans into outcomes across government. The IDLG considers matters relating to the procurement of ICT and digital products and services and advises the board on ICT related procurement policy.

The IDLG members include cluster Chief Information Officers or approved delegates.

### Construction Leadership Group (CLG)

The CLG advises the NSW Procurement Board on construction and infrastructure-related procurement strategies and policies. The [CLG's Action Plan: A ten point commitment to the construction sector](#) details the CLG's current priorities and work plan.

The CLG is made up of senior executives from each cluster with responsibility for construction infrastructure.





## Accreditation schemes

The Procurement Board has established separate goods and services and construction accreditation schemes. The accreditation schemes:

- establish minimum standards for managing procurement activities
- effectively manage risk
- promote the delivery of outcomes towards strategic priorities
- drive continuous improvement and capability development across the sector.

### Goods and services accreditation

Level 1 accredited	Agencies <b>may</b> independently conduct procurement activities up to a maximum contract value based on the risk profile of the procurement as follows:	
	Low risk	<\$50 million
	Medium risk	<\$35 million
	High risk	<\$20 million
	Concurrence from a Level 2 accredited agency or NSW Procurement is required for a Level 1 accredited agency to conduct procurements above these thresholds.	
Level 2 accredited	Agencies <b>may</b> independently conduct procurement activities in line with approved budgets, financial delegations and procurement delegations. The responsibilities of Level 2 accredited agencies include: <ul style="list-style-type: none"> <li>• taking a leadership role in relation to procurement in the cluster</li> <li>• taking lead buyer status for a category to establish and manage whole-of-government contracts.</li> </ul>	

Accredited agencies are responsible for establishing and managing internal procurement systems and governance mechanisms, in compliance with board directions and policies.

Accredited agencies **must** annually report to the board on performance over the previous year, and procurement plans for the next 12 or 24 months. Accredited agencies **must** also monitor and report trigger events that could impact their ability to meet accreditation requirements.

## Construction accreditation

The construction accreditation scheme is currently under review. The updated accreditation scheme will become available in 2019.

Two legacy construction accreditation schemes are currently in place:

### Accredited pre-2015



[Agency Accreditation Scheme for Construction: Guide for Agencies](#)

### Accredited post-2015

[Agency Accreditation Scheme for Procurement](#) (joint scheme including goods and services procurement)

Construction accreditation assesses agencies for the planning and delivery phases of procurement. An agency may be accredited to undertake construction project planning without support but be required to obtain external support for the delivery phase. Unaccredited and partially accredited agencies must use the *Government Procurement System for Construction* for construction work valued above \$1.3 million. Fully accredited agencies can undertake procurement without external support using their own procurement system.

## Resources

Category	Reference
 Goods and services	<a href="#">Accreditation Program Requirements</a>
	<a href="#">Agency accreditation status list (goods and services)</a>
 Construction	<a href="#">Agency Accreditation Scheme for Construction: Guide for Agencies</a> (accredited pre- 2015)
	<a href="#">Agency accreditation Scheme for Procurement</a> (accredited post-2015)
	<a href="#">Agency accreditation status list (construction)</a>







# Government procurement arrangements

NSW Government procurement arrangements include contracts, prequalification schemes, standing offers and panels, covering a broad array of goods and services including construction.

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## Whole-of-government arrangements

### Standing offers and panels

*Standing offers*, including panels, are used by NSW government agencies to purchase goods and services that are required on a recurring basis across the sector. Standing offers are usually established using a tender process.

A *standing offer* is an arrangement setting out the terms and conditions, including a basis for pricing, under which a supplier agrees to supply specific goods and services to an eligible buyer for a specified period.

A *panel arrangement* involves more than one supplier whereby a standing offer is established with each supplier covering the same or similar goods or services, including a basis for pricing, for a specified period.

Standing offers and panels, routinely referred to as *whole of government contracts*, are a closed procurement arrangement where suppliers are approved to provide eligible buyers with a selection of goods and/or services for a fixed period.

The successful suppliers provide goods and services during the contract period, including any contract extensions, and generally no new suppliers are added during the contract period.

Whole-of-government contracts are mandated and must be used by NSW Government agencies to purchase the goods and services they cover (refer [Section 2:01 Plan, Existing arrangements](#)).

Current NSW Government whole-of-government contracts can be viewed on [ProcurePoint](#).

## Prequalification schemes

*Prequalification schemes*, also known as Multi-Use Lists, Approved Lists or Procurement Lists, allow suppliers to apply to qualify for business opportunities with government agencies. The NSW Government's Prequalification Schemes provide a more flexible procurement approach to meet the government's sourcing requirements.

Prequalification schemes provide government buyers with access to lists of resources that meet relevant experience and qualification standards. The schemes aim to reduce red tape and streamline the process for agencies to source and engage external expertise, and for suppliers to register for a range of business opportunities.

NSW government prequalification schemes have the advantage of not 'locking-up' a market, with new suppliers able to register at any time, or at least periodically.

See the list of [all NSW Government prequalification schemes](#).

## Agency-specific procurement arrangements

Agencies may have specific or unique procurement requirements or need to purchase goods or services on a one-off basis. In these cases, agencies establish their own contracts, standing offers or prequalification schemes to meet their specific needs.

While individual agencies establish and manage these arrangements, they may be made available for other agencies to use via a *piggybacking* clause. *Piggybacking* allows other agencies to use the arrangement, under the existing terms and conditions.

## Government procurement solutions

<a href="#">eTendering</a>	<ul style="list-style-type: none"><li>• Single entry point for NSW Government buyers and suppliers to advertise and respond to tenders</li><li>• <a href="#">Upcoming</a>, <a href="#">current</a> and <a href="#">closed</a> business opportunities</li><li>• <a href="#">Government contract register</a> for awarded contracts &gt;\$150,000 (incl. GST)</li><li>• <a href="#">Apply for prequalification schemes</a></li></ul>
<a href="#">buy.nsw</a>	<ul style="list-style-type: none"><li>• <a href="#">buy.nsw</a> is a new platform for ICT cloud products and services</li><li>• Allows <a href="#">online registration</a> to become a buyer or seller</li></ul>
<a href="#">NSW eQuote</a>	<ul style="list-style-type: none"><li>• Online quoting system used by agencies to seek quotes from prequalified businesses</li></ul>
<a href="#">NSW eCatalogues</a>	<ul style="list-style-type: none"><li>• Online catalogue and purchasing system connecting buyers and suppliers</li><li>• Allows suppliers to list goods and services under contract</li><li>• Visible to public, but without pricing information</li></ul>
<a href="#">ProcurePoint</a>	<ul style="list-style-type: none"><li>• One place for all NSW Government procurement</li><li>• Provides procurement information and tools to help NSW government agencies and current or potential suppliers</li></ul>

The Procurement Board is undertaking a refresh of the sector's digital procurement capabilities.

## Responsibilities of suppliers

Suppliers to NSW Government need to fulfil a number of requirements in accordance with their agreements, which may include:

- conducting their business relationships in accordance with law and accepted standards of behaviour
- complying where relevant with the NSW Procurement Policy Framework, the [NSW Code of Practice for Procurement](#), the [NSW Industrial Relations Guidelines: Building and Construction Procurement](#) and the contracting agency's Statement of Business Ethics
- ensuring goods or services are delivered as per their contract with the buyer
- ensuring accurate documentation including invoices
- completing reporting requirements in relation to orders and contract spend
- participating in performance management activities with the contracting agency
- updating their contact information, product and pricing information on NSW eCatalogues.

Findings of dishonest, unfair, unconscionable, corrupt or otherwise illegal conduct, regardless of whether such conduct occurs in the context of a relationship with the NSW Government, can adversely affect the Government's reputation as a procurer. Such findings can have a range of consequences for individual suppliers, including as serious as exclusion from contracting opportunities with the Government.





# Complaints and feedback

The NSW Procurement Board's responsibilities under the [Public Works and Procurement Act 1912](#) includes investigating and dealing with complaints about the procurement activities of agencies.

The [NSW Procurement Board's Complaints Management Guidelines](#) describes the process for managing complaints made about procurement, including setting out the circumstances in which the NSW Procurement Board may investigate complaints. It does not apply to complaints of a criminal or corrupt nature which should be referred to the relevant authorities for investigation.

Agencies are responsible for resolving complaints concerning their procurement actions at the appropriate agency level (usually commencing at the area undertaking the procurement), escalating as necessary and referring to external statutory bodies as appropriate. The complaints management process should be based on the government's [six commitments to effective complaint handling](#): respectful treatment, information and accessibility, good communication, taking ownership, timeliness, and transparency.

Complaints unresolved after this process may be referred by the complainant to the Procurement Board, via the [NSW Procurement Service Centre](#). In this instance copies of all correspondence with the agency concerned and all other relevant material will need to be provided.

The Procurement Board will review the material and information supplied by the complainant and the agency before making any decision to investigate a complaint. Where the board considers the agency has dealt with a complaint in an appropriate manner, it will decline to investigate separately.

If a complainant submits a complaint to the board prior to complaining to the relevant agency or where the agency is still considering the complaint, the board will refer the complainant to the agency concerned.

Agencies which are considered not to have complied with requirements will be required to take corrective action in relation to future procurement action. The board may issue directions and policies regarding corrective action.

## Complaints handling

An effective complaints management process is integral to the principles of probity and fairness. It demonstrates the agency places a high level of importance on conducting procurement in an honest, fair, accountable and transparent manner. Complaints processes can also assist in diagnosing shortcomings in government procurement and provide a means for continuous improvement of procurement systems and standards of service.

## Resources

Obligation	Reference	Classification
Guidelines	<a href="#">Applying the Commitments to Effective Complaint Handling - Guidance for Agencies</a> (NSW Ombudsman)	Recommended
	<a href="#">Six Commitments to Effective Complaint Handling</a> (NSW Ombudsman)	Recommended
	<a href="#">Complaint Management Framework</a> (NSW Ombudsman)	Recommended
	<a href="#">Complaints Management Guidelines</a> (Procurement Board)	Recommended
	<a href="#">Complaint Handling Improvement Program: Commitments Implementation Review</a> (NSW Ombudsman)	Recommended
	<a href="#">Effective Complaint Handling Guidelines, 3rd Edition</a> (NSW Ombudsman)	Recommended
	<a href="#">Managing Unreasonable Complainant Conduct</a> (NSW Ombudsman)	Recommended
	<a href="#">Respectful Treatment</a> (NSW Ombudsman)	Recommended
	<a href="#">Tips for Accessible Complaint Handling</a> (NSW Ombudsman)	Recommended





# Procurement board directions

Section 175 of the *Public works and Procurement Act 1912* grants the Procurement Board authority to issue directions to government agencies regarding the procurement of goods and

services of any kind, including construction. A direction may be issued to government agencies generally or to a particular agency. procurement systems and standards of service.

## Resources

Direction	Title	Date commenced	Review date
<a href="#">2013-01C</a>	Financial assessments	13 November 2013	-
<a href="#">2014-03C</a>	Agency accreditation scheme for construction – threshold for unaccredited work	18 August 2014	-
<a href="#">2014-04C</a>	Construction procurement prequalification schemes for work valued up to \$1 million	1 October 2014	-
<a href="#">2014-06</a>	Procurement of goods and services on behalf of other government agencies	1 October 2014	-
<a href="#">2014-07</a>	Recognising suppliers to the Australian Government	1 January 2015	N/A
<a href="#">2015-02</a>	Agency accreditation scheme arrangements	22 July 2015	N/A
<a href="#">2015-03</a>	Radio communications site licence agreement framework	1 September 2015	1 September 2025
<a href="#">2016-03</a>	Construction standards and conformance	6 July 2016	6 July 2019
<a href="#">2016-04</a>	Accessing information about non-government organisations delivering human services	6 July 2016	5 July 2019
<a href="#">2017-03</a>	2017-03 Civil Liability Act 2002 – proportionate liability	1 November 2017	-
<a href="#">2017-04</a>	Procuring human services from NGOs	13 September 2017	13 September 2019
<a href="#">2017-05</a>	Construction training and skills development	26 October 2017	26 October 2020
<a href="#">2017-06</a>	International procurement agreements	22 November 2017	-
<a href="#">2017-07</a>	Conduct by suppliers	22 November 2017	22 November 2022
<a href="#">2018-02</a>	Replacement of the ICT short form contract in the procure IT framework	1 November 2018	1 November 2023
<a href="#">2019-01</a>	Engagement of professional services suppliers	26 March 2019	26 March 2021
<a href="#">2019-02</a>	Telecommunications procurement	29 April 2019	29 April 2024
<a href="#">2019-03</a>	Access to government construction procurement opportunities by SMEs	1 May 2019	1 May 2024
<a href="#">2019-04</a>	Approved procurement arrangements	1 July 2019	1 July 2022





## Section 4

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### • GLOSSARY •

**Aboriginal owned business** refers to any business that is an Aboriginal owned business through recognition by an appropriate organisation, such as:

- NSW Indigenous Chamber of Commerce
- an organisation representing Aboriginal owned businesses in another state or territory that is a member of the First Australians Chamber of Commerce and Industry
- Supply Nation.

**Aboriginal Participation Plan** describes a supplier's commitments under the Aboriginal Procurement Policy or the Aboriginal Participation in Construction (APIC) policy, and how it will meet those commitments.

**Aboriginal Participation Strategy** describes how an agency is working with Aboriginal owned businesses to identify and develop business and employment opportunities and set measurable targets for Aboriginal participation, through goods and services procurement activities.

**Agency** refers to a government agency as defined under [s.162 of the Public Works and Procurement Act 1912](#) and includes a government sector agency (within the meaning of the [Government Sector Employment Act 2013](#)), a NSW government agency, and any other public authority that is constituted by or under an act or that exercises public functions. It excludes state owned corporations and local councils.

**Agency head** refers to the person holding the highest level of delegation within a department or an agency and includes Secretaries and Chief Executive Officers. The term 'agency head' includes a delegate of the agency head.

**Annual Procurement Plan** means a planning document that captures all types of procurement initiatives planned by the procurement function, including sourcing, contract management and category management activities. An abridged version is published on the eTendering website covering planned procurements that may result in an open tender and major or strategic initiatives that may generate procurement.

**Arrangement** is a description of a contract, standing offer, scheme, or any other form of agreement between a government agency/s and supplier/s, whether or not the arrangement creates a legal relationship between the parties. There are various models of supplier arrangements in place, including:

- contracts between an agency and a supplier
- standing offer agreements between agencies and suppliers, which establish the legal arrangements for contracts relating to the purchase of goods or services
- registration lists and prequalification schemes, under which agencies then enter into contracts.

While these models create different legal relationships between agencies and suppliers, this framework refers to these as 'arrangements' for the sake of simplicity.

**Capital expenditure** is expenditure on acquisition, maintenance or improvement of non-current (i.e. if the financial benefit extends beyond the current financial year) fixed assets, such as buildings, equipment or land.

**Capital project** is a project primarily comprised of fixed assets such as infrastructure, equipment, property developments or operational technology.

**Circular Economy** is an economy that values resources by keeping products and materials in use for as long as possible.

**Competitive neutrality** is the principle that government business activities should not enjoy net competitive advantages over their private sector competitors due to their public sector ownership. Competitive neutrality removes potential market distortions and promotes an efficient allocation of resources between public and private businesses.

**Construction** means services relating to the construction of buildings or works, including:

- pre-erection works,
- construction work,
- repairs, alterations and restorations.

**Covered procurement** is a procurement that is covered by the [IPA Guidelines](#).

**Disability employment organisation** is an entity that has a principal purpose to provide employment to persons with a disability.

**Enforceable Procurement Provisions** is defined in Schedule 1 [1] of the [Public Works and Procurement Amendment \(Enforcement Act 2018\)](#) and means a provision of a board direction or policy (or a provision of a document referred to in a board direction or policy) that is expressed to be an enforceable procurement provision by the direction or policy.



**Environmental Management Plan** is a site-specific plan that identifies environmental aspects and significant impacts of a construction project, and how contractors will manage environmental performance and conformity with the environmental conditions of the contract.

**Environmental Management System**

comprises the elements of an organisation's overall management system that ensure environmental aspects of its activities, products and services, and their significant impacts, are identified and systematically managed.

**Expression of Interest (EOI)** is the process of seeking the interest of service providers capable of undertaking specific works or services, to provide information on that capability or a detailed proposal to undertake work. It is usually the first stage of a multi-stage tender process.

**Goods and services** means any type of right, interest or thing, both physical and intangible, which is legally capable of being owned (goods); and work performed by individuals or a group of individuals for others (services). In this framework, *goods and services* excludes any item or activity defined as *construction*, unless otherwise specified.

**Government Procurement System for Construction**

consists of guidelines and procedures for the selection of procurement strategies, contract risk allocation, supplier selection (including prequalification schemes), tendering and formal dispute resolution, and contract templates for government construction works.

**Hedging** is a form of risk management strategy used to limit or offset the probability of loss from fluctuations in prices (e.g. currencies or commodities).

**Human services** mean the programs, facilities or services provided to meet the health, welfare and social needs of individuals, families and communities. This may include, for example, education, health, and community services provided across NSW, or as defined by the Human Services Data Hub Taxonomy.

**Information and Communications**

**Technology (ICT)** is a subset of goods and services consisting of information and telecommunications technology, platforms, software, hardware and services.

**Inspection and Test Plans (ITPs)** record all inspection and testing requirements relevant to a specific process to ensure quality standards are met. ITPs document the procedure to be undertaken and the evidence to be provided (including reviews and verification points) to verify that a work process/product or activity conforms to the specified requirements.

**International Procurement Agreement**

**(IPA)** is defined in Schedule 1 [1] of the [\*Public Works and Procurement Amendment \(Enforcement\) Act 2018\*](#) and means an international agreement that applies to procurements by Australian Governments and covers procurements by NSW agencies.

**Limited tender** is where an agency approaches one or more potential suppliers of its choice to make submissions, sometimes termed a direct negotiation if only one supplier is approached. It may be used for specialist work or circumstances where only one or a limited number of service providers are known to be able to fulfil the contract, e.g. markets controlled by a monopoly or oligopoly.

**Local business** has the same definition as an SME.

**Measures** include any law, regulation, policy, procedure, requirement or practice.

**Medium business** is a business with 20-199 FTEs.

**Modern slavery** includes any conduct involving the use of any form of slavery, servitude or forced labour to exploit children or other persons taking place in the supply chains of government agencies or non-government agencies.

**Non-government organisations (NGOs)** means a non-profit organisation that is independent from government. A non-profit organisation is one which 'is not operating for the profit or gain of its individual members, whether these gains would have been direct or indirect'.

**Notifiable WHS incident** is an incident involving the death of a person, or serious injury or illness of a person or a dangerous incident, (as defined in the WHS Act 2011) that must be notified to SafeWork NSW.

**Open tender** is a publicly advertised tender that is open to any interested supplier. Open tenders can include multi-stage procurements where the first stage is an open approach to market.



**Panel** means a group of suppliers that have been selected, usually through an open procurement process, to provide goods or services, including construction services, at agreed conditions. A standing offer is established with each supplier covering the same or similar goods or services, with a basis for pricing and for a specified period.

**Piggybacking** is where one agency has established an arrangement and has made the arrangement available to other agencies.

**Preference** refers to any law, regulation, policy, procedure, requirement or practice that allows favourable treatment of specified groups of suppliers, e.g. SMEs.

**Prequalification Scheme**, also known as Multi-Use Lists, Approved Lists or Procurement Lists, means a list of suppliers that meet relevant experience and qualification standards to be engaged for specified business opportunities.

**Principal contractor** is a contractor that contracts with an agency as the client and is appointed as principal contractor for nominated work, meaning they are authorised to have management or control of the workplace and discharge the duties of a principal contractor under the WHS Regulation 2017.

**Probity** is uprightness, honesty, proper and ethical conduct and propriety in dealings, and can be defined as complete and confirmed integrity, uprightness and fairness in a particular process.

**Probity advisers** act as part of a procurement/sale project team and work contemporaneously with project managers. The principal role of a probity adviser is to provide probity advice and solutions throughout the transaction.

**Probity auditors** work independently of a project team and are engaged to verify that processes followed during a procurement/sale are consistent with government regulations and best practice principles, primarily after the fact.

**Procurement** refers to a 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 contract and supplier performance, and reviewing outcomes to assess the effectiveness of arrangements.

**Project WHS Management Plan** sets out the specific WHS resources, consultation and risk management processes, responsibilities, procedures and practices, for a particular project. It describes how the supplier intends to implement its Corporate WHS Management System for the whole of the project, and Safe Work Method Statements.

**Proposed RFT** is an early notification to the market of an upcoming business opportunity or tender but is not a guarantee that the RFT will proceed.

**Purchasing** is the process of buying or purchasing from an existing procurement arrangement or directly from a supplier.

**Quality Management Plan** is a project or contract-specific plan developed by applying an appropriate Quality Management System to plan and carry out the work involved, to ensure conformity with the requirements for the project/contract and to manage quality risks.

**Quality Management System** provides a structure, including documentation and processes, which enables the delivery of products and services to be controlled and managed to consistently meet the specified requirements.

**Recurrent expenditure** is expenditure which does not result in the creation or acquisition of fixed assets (new or second-hand). It consists mainly of expenditure on wages, salaries and supplements, purchases of goods and services and consumption of fixed capital (depreciation).

**Regional business** is a business located in any area within NSW outside the Newcastle, Sydney and Wollongong metropolitan areas. A list of regional local government areas is available on [ProcurePoint](#).

**Request for Proposal (RFP)** is a request to the market to provide preliminary proposals or ideas for a business solution. A second stage may involve short listed tenderers being invited to tender for the contract or, where a best solution is sought, negotiation with the preferred service provider on the final requirements and price.

**Request for Tender (RFT)** means an invitation, by advertisement or directly, to respond to sourcing requirements by lodging a tender response. It covers all forms of tendering, including an invitation or request for quotation (RFQ) or proposal (RFP), offers, EOI, pre-registration for RFQ or RFP.

**Selective tender** means a selective procurement method whereby the procuring entity invites only qualified suppliers to submit a tender. Suppliers may be qualified via a prequalification scheme; an EOI, RFP or similar process; or due to some other qualification, accreditation, license or provision.

**Small business** is a business with 1-19 FTEs, including sole traders and start-ups.

**Small or medium enterprise (SME)**

refers to an Australian or New Zealand based enterprise with fewer than 200 full time equivalent (FTE) employees.

**SME and Sustainability Criteria** is a non-price-evaluation criterion of at least 15 per cent, which considers how potential suppliers will support the government's economic, ethical, environmental and social priorities. A minimum of 10 per cent of the total non-price criteria must be allocated to SME participation consistent with relevant exemptions in IPAs.

**Standard Commercial Framework** is a framework to engage business advisory services that provides standard definitions and capped rates for engagement and role types, a discount structure, capped expenses and a target resource mix for engagements.

**Standing Offer** is an arrangement setting out the terms and conditions, including a basis for pricing, under which a supplier agrees to supply specific goods and services, including construction services, to an eligible buyer for a specified period.

**Substantial (FX) Risk** is a foreign exchange risk considered to be substantial by Treasury and TCorp based on the size and nature of the exposure, duration and size of the procurement, frequency of the risk occurrence, timing and level of volatility of foreign currency/ies to the A\$.

**Supplier** is an entity or person who has entered into a contract with an agency.

**Sustainable procurement** is a process whereby organisations meet their needs for products, services, works and utilities in a way that achieves value for money on a whole-of-life basis in terms of generating benefits not only for the organisation, but also to society and the economy, while minimising damage to the environment.

**Tenderer** is an entity or person who has responded to an RFT or other approach to market.

**Unsolicited proposal** is an approach to government from a proponent over a commercial proposition, where the government has not requested the proposal. This may include proposals to build and/or finance infrastructure, provide goods or services or undertake a major commercial transaction.

**Value** is the genuine, estimated value over the proposed term of an acquisition (not a value per annum). Unless specified otherwise, value is exclusive of GST. If an agency undertakes more than one procurement activity with the same supplier for the same goods and services within a reasonable period, the value of all the procurements should be added together (that is, order splitting is prohibited).

**Whole-of-government arrangement** means any procurement arrangement, including whole-of-government contracts and prequalification schemes, under which an agency provides for the purchase of goods or services, including construction, by that agency, all other NSW government agencies and eligible buyers.

**Whole-of-government contract** means a standing offer or panel arrangement under which an agency provides for the purchase of goods or services, including construction, by that agency, all other NSW government agencies and eligible buyers.

**WHS Management Plan** sets out the arrangements to manage work health and safety on a construction project. It is less detailed than a Project WHS Management Plan.

**WHS Management System** is the overall management system, including organisational structure, planning activities, responsibilities, practices, procedures, processes and resources, for developing, implementing, achieving, reviewing and maintaining the supplier's WHS policy, and so managing WHS risks.

# Document control

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## Document approval

Approved by the Procurement Board: 20 February 2019

Administrative updates approved by NSWCPD: 26 June 2019

## Document version control

Version	Status	Date	Prepared by	Comments
1.0	Final	20 February 2019	Emma Cooper	Initial version approved by Procurement Board
1.1	Final	1 July 2019	Emma Cooper	<p>Administrative and approved policy updates. Includes board directions and policies approved after Procurement Board approval and prior to commencement date of 1 July 2019:</p> <ul style="list-style-type: none"><li>• PBD-2019-01 Engagement of Professional Services Suppliers, issued 26 March 2019</li><li>• PBD-2019-02 Telecommunications Procurement, issued 29 April 2019</li><li>• PBD-2019-03 Access to Government Construction Procurement Opportunities by SMEs, issued 1 May 2019</li><li>• PBD-2019-04 Approved Procurement Arrangements, issued 1 July 2019</li><li>• Government Resource Efficiency Policy, revised 21 February 2019</li><li>• Circular Economy Policy Statement, released 25 February 2019</li><li>• TPP19-03 Recurrent Expenditure Assurance Framework, issued 31 January 2019</li><li>• Replace references to Procurement (Enforceable Procurement Provisions) Direction 2019 with PBD-2017-06 International Procurement Agreements, as new Direction not yet in effect.</li><li>• Adds Construction Industry Leadership Forum (CILF) Notes, approved by Procurement Board 5 June 2019.</li></ul>

## Review Date

This policy will be updated on a quarterly schedule to include new and amended policies.

The policy will be formally reviewed by July 2021.

It may be reviewed earlier in response to post-implementation feedback from agencies, the Procurement Leadership Group, the Construction Leadership Group and the Procurement Board.





