

Procurement List

SCM100002 Procurement List for construction work over $9 million

Agency Guidelines

November 2023

Published by Department of Regional NSW

[buy.nsw.gov.au](https://buy.nsw.gov.au/)

Title: SCM100002 Procurement List for construction work over $9 million

Subtitle: Agency Guidelines

Department reference number: DOC20/710974

More information

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What’s Changed?

To facilitate procurements above $9M excluding GST, a separate Procurement List (PL) has been established.

The PL for construction work was originally established in 2020 as part of Scheme SCM1461 to meet the requirements of PBD 2019-05-Enforceable Procurement Provisions (EPP).

With the IT System changeover to the buy.nsw Supplier Hub System, NSW Public Works, in collaboration with the Department of Customer Service (DCS), has taken this opportunity to streamline the application process and flow of prequalification information to users.

The new online application form for SCM100002 has gone live on the buy.nsw Supplier Hub System and it is available at <https://buy.nsw.gov.au/scheme/C4ACD80D-4BB7-4FC2-8B0DADB72831651B>.

The existing prequalified suppliers with Individual Financial Thresholds above $9M have been transferred to the newly created Procurement List SCM100002.

Already prequalified suppliers who want to increase their allocated individual financial threshold or apply for additional work categories/capabilities must update their profile and submit the required information through the Supplier Hub System for assessment and approval.

Where to Start

buy.nsw

PL Conditions and associated documents for Applicants and Agencies are available at <https://buy.nsw.gov.au/schemes>.

Terms and Definitions

Refer to Terms and definitions used in this document.

## Supplier Hub

Registered buyers on Supplier Hub can view the current list of Suppliers included on the PL by logging into their account at <https://buy.nsw.gov.au/login>

Enquiries

For enquiries please contact: contractorprequal@pwa.nsw.gov.au

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# 1 Construction Work above $9 million

These guidelines are for Agencies procuring construction work above $9 million from the PL. This document should be read in conjunction with this PL Conditions for Participation.

The following table provides a summary of the key features of the PL:

|  |  |
| --- | --- |
| Item | Description |
| Scope of the PL | Construction work above $9 million  |
| Work Categories: | * Building Works
* Heritage
* Modular Building
* Fit out and Refurbishment
* Civil Works
* Water Infrastructure
* Wastewater infrastructure
 |
| Compliance with PBD2019-05 – EPP  | Yes |
| Application deadline | The PL is always open for Applications |
| Duration of the PL | It will continue to operate until Agencies and Suppliers are notified of its termination |
| Minimum number of quotes to be sought from Suppliers | Three |
| Criteria Agencies must use when inviting Suppliers for submissions | Agencies inviting a limited number of Suppliers for a specific procurement must do so based on those Suppliers’:* Nominated Work Category
* Relevant experience, wherever it has occurred
* Financial capacity to undertake the proposed work
* Availability and capacity for undertaking the proposed work
 |
| Complaints management | Complaints must be managed in accordance with the [NSW Procurement Board Complaint Management Guidelines](https://buy.nsw.gov.au/resources/complaint-management-guidelines). |

# 2 Procurement List Overview

This PL provides a mechanism for the NSW Government, local councils and universities to procure construction work above $9 million.

This PL was established in accordance with Part 6 of the EPP and may be used for a procurement to which the EPP applies. Section 8 of this document describes the EPP and includes the policy framework and legislation applicable.

The NSW Government invites international and domestic Suppliers to make an Application to be included on this PL. Applications are continuously open and the period of the PL is indefinite, which means it will continue to operate until Suppliers are notified of its termination (refer to section 6.7).

The Application process must be completed via the Supplier Hub website, previously called the eTendering system (refer section 1.5). If the NSW Government is satisfied that the Applicant meets the conditions for participation outlined in section 3.1, the Applicant will be included on the PL as a Supplier.

Only Suppliers, or a limited number of Suppliers, included on the PL may receive invitations from NSW Government agencies to make submissions relating to procurements for which the list was established.

NSW Government agencies may also seek to conduct negotiations relating to any procurements from Suppliers included on the PL. This may include post tender negotiations with the preferred tenderer.

The following table lists the key benefits of the PL:

|  |  |
| --- | --- |
| Benefits to NSW Government | Benefits to Suppliers |
| Easy identification of Suppliers to be included in submissions for construction work. This reduces the time, cost and risk to agencies who need to comply with the EPP provisions | Ability to be invited by NSW Government to make submissions for construction work |
| A centralised prequalification assessment based on objective criteria to appoint suitable Suppliers | Continuously open Application process including to increase the maximum value for which the Supplier is prequalified based on financial capacity and previous experience |
| Sharing of performance related information and volume allocation to construction Suppliers across the NSW Government | A streamlined approach to submit a single Application and prequalify for all agencies |

# 3 Procurement Planning

## 3.1 Link to NSW Government Procurement Framework

This PL is relevant to [NSW Procurement’s Plan-Source-Manage approach](https://buy.nsw.gov.au/buyer-guidance) to procurement. It assists Agencies in the planning phase to identify Suppliers who are suitability qualified to tender for construction work above $9 million.

Please note:

* the source and manage phases of procurement are outside of the scope of the PL
* agencies using this PL are encouraged to develop their own sourcing strategies in accordance with the NSW Procurement Policy Framework and the EPP.

## 3.2 Compliance with the EPP Requirements

The NSW Procurement Board issued a Direction in response to its obligations under international procurement agreements. The PBD-2019-05-EPP under the Public Works and Procurement Act 1912 requires that unless the Direction states otherwise, Agencies:

* must not discriminate against any Supplier due to its degree of foreign affiliation or ownership, location, or the origin of its goods and services (EPP clause 8)
* must use an open approach to market for all procurements to which the EPP applies, unless the procurement is from a Supplier on a PL that was established in accordance with EPP Part 6 and is for goods or services for which that PL may be used (clause 13c)
* must, in determining a limited number of Suppliers who may receive the invitations to make a submission in relation to a procurement, apply the criteria set out in the PL Conditions in selecting those limited number of Suppliers (clause 25, 8).

The PL was established in accordance with EPP Part 6 and Agencies can therefore use the PL instead of an open market approach as long as the criteria for selecting the limited number of Suppliers set out in section 5.2 are followed.

## 3.3 Estimating the Value of the Procurement

Agencies need to assess the estimated value of their procurement to correctly determine if they can use Scheme SCM1461 or this PL for procuring construction work.

As per EPP clause 7, the estimated value of a procurement is an estimate of the maximum value (excluding GST) of the proposed procurement contract made by the Agency, and is to include the value of the following:

* the goods or services to be procured,
* all forms of remuneration payable by the government Agency, including any premiums, fees, commissions, interest and other revenue streams that may be provided for in the proposed contract,
* any options, extensions, renewals or other mechanisms that may be executed over the life of the contract.

If a procurement is to be conducted in multiple parts with a number of proposed procurement contracts awarded either at the same time or over a period of time, with one or more Suppliers, the estimated value of the procurement must include the estimated value of all of the proposed procurement contracts.

A procurement must not be divided into separate parts if a purpose of the division is to avoid a relevant procurement threshold.

If the maximum value of a proposed procurement cannot be estimated, the procurement is taken to have an estimated value that exceeds the relevant EPP procurement threshold for the procurement.

Agencies are to note that the threshold for a procurement of construction services is $9.584 million. This PL can be used for procurements above $9 million. The lower threshold of $9 million has been chosen as it is easier to communicate to Agencies and Suppliers and allows for adjustments to the EPP threshold which may occur in the future.

Agencies undertaking procurement with a value greater than $1 million and below $9 million are encouraged to consider [SCM1461](https://buy.nsw.gov.au/schemes/contractor-prequalification-and-best-practice-accreditation-scheme-for-construction-and-related-work-valued-%241-million-and-over). If the procurement is below $1 million, Agencies must use [SCM0256](https://buy.nsw.gov.au/schemes/general-construction-works-up-to-%241-million).

# 4 Work Categories

## 4.1 Building Works

This category is for multi-trade building works for new buildings and additions to existing buildings.

Includes some design coordination and design management and may also involve minor heritage works, associated civil works and elements of fit out and refurbishment work, as well as the final preparation of internal areas for occupation by the client in new and existing buildings.

## 4.2 Heritage Building

Heritage specialty including restoration and conservation works and or associated stonemasonry, carving & fixing, roofing, carpentry, plastering and painting.

## 4.3 Modular Building

Modular building specialties including portable buildings, prefabricated buildings, modules or sections manufactured off-site and amenable to on-site expedited delivery or modular assembly.

## 4.4 Fit Out and Refurbishment

This category is for fit out and refurbishment work. It further includes the final preparation of internal areas for occupation by the client in new and existing buildings.

## 4.5 Civil Works

This category is for civil engineering works including excavation and bulk earth works, minor roads and related works, water and wastewater infrastructure and drainage works.

## 4.6 Water Infrastructure

Water supply infrastructure specialties including reservoirs, dams and or associated pipelines, pumping stations, balance tanks, surge tanks, storage tanks and discharge structures.

## 4.7 Wastewater Infrastructure

Wastewater infrastructure specialties including sewage treatment plants and or associated pipelines and pumping stations.

# 5 Contract Systems

Procuring entities may approach Suppliers for the provision of services under the following contract systems:

* **Construct Only (C)**: The Supplier may be responsible for completing the Principal’s design and carrying out design documentation and design coordination to the extent specified and for construction using designs and documentation prepared by the Principal. The Supplier’s design obligation may include preparation of fabrication drawings and may include completion of other design details. This includes the contract system often called Design Development and Construct.
* **Design and Construct (D&C)**: The Supplier is responsible for a significant part of the design, design development, and documentation and design coordination, as well as construction.
* **Managing Contractor (MC)**: The managing contractor may be engaged on a project brief, to commission, manage and accept responsibility for consultants that design the works and subcontractors that construct the works. The Principal may also engage a Project Manager or Project Director to manage the Managing Contractor Contract and to support and advise the Principal. A Managing Contractor Contract usually involves the payment of actual reasonable costs (up to a Guaranteed Construction Sum(s), where agreed for construction work, or a Guaranteed Price for all the work) plus fees.

# 6 Accessing Approved Suppliers List

Agencies can have confidence that Suppliers included on the PL demonstrated the required capacities and abilities. For further information please refer to the PL Conditions for Participation document.

A list of prequalified suppliers for this PL is only available for registered buyers on Supplier Hub.

NSW Government employees, or eligible non-government buyers, can sign up as a [buyer on Supplier Hub](https://buy.nsw.gov.au/login/signup) by providing their name, email address, and password.

For additional details, refer to the [Buyer User Guide](https://buy.nsw.gov.au/help/schemes#help-and-support) available on the buy.nsw Help and Support Page.

Once logged in, the buyer dashboard will show the overview bar, recent activity, and a range of buy.nsw apps will appear as shown below:



Scroll down to the “Scheme lists” tile and click on it. Scroll down the page to the PL tab and click the ‘Download members CSV’ file. The file will be downloaded on your desktop.

# 7 Inviting Submissions from Suppliers

## 7.1 Market Approaches Guide

Refer to the [Market Approaches Guide](https://buy.nsw.gov.au/buyer-guidance/plan/approach-the-market) on buy.nsw for approaching the Supplier market.

## 7.2 Tendering Rules

Agencies inviting tenders **must seek submissions from** **three** **Suppliers** as a minimum.

The above minimum number of Suppliers to be invited does not override any approved procurement governance requirements developed for an Agency’s business. Agencies should check the relevant policies for allowable variances from the quote rules

The key principle of obtaining value for money in the procurement **must** be addressed by the procuring officer in all cases.

In determining which Suppliers should receive the invitation to make a submission in relation to a procurement, Agencies **must** **apply the criteria set out in the PL Conditions** in selecting those limited number of Suppliers (EPP clause 25, 8), namely the Suppliers’:

* Nominated Work Category
* Relevant experience, wherever it has occurred
* Financial capacity to undertake the proposed work
* Availability and capacity for undertaking the proposed work

A Supplier who is not invited to make a submission can potentially lodge a complaint with the Agency under Part 11 of the Public Works and Procurement Act alleging that the Agency has not complied with EPP provisions regarding invitations to submissions. This includes circumstances where they allege that the Agency has not applied the selection criteria set out in the notice establishing the PL. Agencies must further ensure they understand the EPP and conform with the EPP when seeking quotes and engaging Suppliers off this PL.

Unaccredited agencies are reminded that they must comply with the [assurance process for construction procurements](https://buy.nsw.gov.au/policy-library/policies/assurance-process-for-construction-procurement) valued over $1.3 million (excluding GST).

## 7.3 Tender Publishing

The buy.nsw Opportunities Hub module should be used by agencies publish the current NSW Government opportunities at <https://buy.nsw.gov.au/opportunity>

## 7.4 Contractual Agreements

The contractual agreement between the Agency and the contractor is outside the scope of this PL. However, agencies should use NSW Government’s standard construction contracts such as GC21 where appropriate.

## 7.5 Trusts and Trustees

Trustees (e.g. Trustee for the Smith Family Trust) and Trusts (e.g. Smith Family Trust) are not eligible for inclusion on the PL.

## 7.6 Insurances

For this PL, Applicants are not required to provide evidence of insurance at the time of prequalification. However, Agencies should ask for a proof of works insurance, public liability, workers compensation and/or professional indemnity insurance (as required) at the tendering and contract award stages.

# 8 Supplier Performance

## 8.1 Performance Assessment

Suppliers included on the PL are subject to a process of continuous monitoring and review in all matters related to the PL including the Supplier’s performance and project outcomes.

Agencies are encouraged to support NSWPW, which is the Agency responsible for the PL, in administering the PL by monitoring the performance of the Suppliers.

Specifically, this includes the development of Contractor Performance Reports (CPR) and their regular provision to NSW Public Works.

Agencies are further encouraged to monitor the following items and report any findings to PWA:

**Legal Capacity**

* Ethical business practices, including compliance with NSW Government Supplier Code of Conduct
* SafeWork NSW notices or on-the-spot fines issued to the Supplier on any of its contracts
* Convictions or prosecutions for workplace safety or environmental law breaches
* If the Supplier has been found guilty of professional misconduct
* Failure to obey an adjudicator’s determination under Building and Construction Industry Security of Payment Regulation 2020 (NSW), subject to other legal rights
* If the Independent Commission Against Corruption (or an equivalent body in a jurisdiction in Australia), within the previous 10 years, has made a finding or has been of the opinion that the Supplier has engaged in corrupt conduct
* If the Supplier has made one or more false declarations
* If the Supplier has failed to pay taxes
* If the Supplier has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or by a fine of $200,000 or more
* If the Supplier exhibited unprofessional conduct in a jurisdiction in Australia.

**Financial Capacity**

* Financial Performance, specifically if the Supplier remains a financially viable business
* Whether the Supplier is bankrupt or insolvent.

**Commercial Ability**

* Tendering Performance on submissions including whether the Supplier has:
	+ declined submission opportunities offered without providing valid reason
	+ failed to make a submission without providing any valid reason after having accepted the submission opportunity
	+ made late submissions
	+ made qualified, non-complying or uncompetitive submissions.
* The preparation of proper and conclusive accident and incident reports on any of the Supplier’s contracts in NSW
* The level of appropriateness of corrective actions implemented by the Supplier following the report of a serious WHS event on the Supplier’s sites
* Results of any Quality Assurance Audit, or Environmental Management System Audit, or WHS Management System Audit conducted for or on behalf of any NSW Government Agency or by any properly credentialed Auditor or Auditor group
* The Supplier’s compliance with its own business management systems, an whether these systems are kept updated in line with certification/accreditation requirements
* The Supplier’s compliance with its own Project Management systems
* Industrial relations issues that have resulted in a significant disruption to the works progress on the Supplier’s NSW Government contracts
* Aboriginal Participation in Construction and whether the Supplier achieves the targets stated in the related policy documents (if applicable)
* Training and Development and whether the Supplier complies with the requirements of the [Infrastructure Skills Legacy Program (ISLP)](https://www.training.nsw.gov.au/programs_services/funded_other/islp/index.html).

**Technical Ability**

* Project outcomes of projects delivered by the Supplier
* Client satisfaction on projects delivered by the Supplier
* Contractor Performance Reports (CPR)
* Deficiency or persistent poor performance by the Supplier of any substantive requirement or obligation under a contract.

## 8.2 Exclusion from PL

The NSW Government may exclude a Supplier from the PL. Reasons for exclusion include:

* Acted in contravention to the NSW Supplier Code of Conduct
* Failure to obey an adjudicator’s determination under Building and Construction Industry Security of Payment Regulation 2008 (NSW), subject to other legal rights
* Bankruptcy or insolvency
* One or more false declarations have been made
* Significant or persistent poor performance to requirements or obligation under a contract
* The Independent Commission Against Corruption (or an equivalent body in a jurisdiction in Australia), within the previous 10 years, has made a finding or has been of the opinion that the Supplier has engaged in corrupt conduct
* Failure to pay taxes
* The Supplier has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or by a fine of $200,000 or more
* The Supplier has been found guilty of professional misconduct or
* Unprofessional conduct in a jurisdiction in Australia.

In the above, a reference to Supplier includes, if the Supplier is a body corporate, a director and any other person involved in the management of the affairs of the body corporate.

# 9 Complaints, Review and Development of PL

## 9.1 Complaints

Any complaint from a Supplier that alleges that the Agency has contravened an enforceable provision in the EPP Direction must be managed in accordance with relevant provisions in Part 11 of the Public Works and Procurement Act (PWP Act), specifically Divisions 5, 6 and 7. This includes requirements to investigate the complaint, take action to attempt to resolve the complaint and to prepare a report. In some circumstances an Agency may need to suspend a procurement while the complaint is investigated.

Agencies are encouraged to manage any complaint in accordance with the [NSW Procurement Board Complaint Management Guidelines](https://buy.nsw.gov.au/resources/complaint-management-guidelines).

As the PL is for procurements to which the EPP applies, Agencies are to note:

* Affected Applicants and Suppliers may complain to the government Agency responsible for this PL, if they believe the government Agency responsible for this PL plans to breach, is breaching or has breached, an enforceable procurement provision in the EPP
* Affected Applicants and Suppliers may complain to an Agency using this PL, if they believe that Agency has plans to breach, is breaching or has breached, an enforceable procurement provision in the EPP
* Applicants and Suppliers may, in relation to complaints, apply to the Supreme Court to:
	+ grant an injunction to stop the Agency from breaching or proposing to breach an enforceable procurement provision,
	+ grant an injunction requiring the Agency to do any act or thing necessary to avoid or remedy a breach or proposed breach of an enforceable procurement provision,
	+ make an order for the Agency to pay compensation (limited to certain matters) to the Supplier in respect of the breach or proposed breach of an enforceable procurement provision.
* Applicants and Suppliers that wish to seek an injunction from the Supreme Court must apply within 10 days (or any other period prescribed by the regulations) after the later of:
	+ the day on which the alleged breach occurred
	+ the day on which the Supplier became aware, or ought reasonably to have become aware, of the alleged breach or the alleged proposed breach of an enforceable procurement provision in the EPP.
* Agencies must act in a timely manner to consider and resolve complaints, if agencies wish to minimise the likelihood of the Supplier taking the matter to the Supreme Court.
* The Supreme Court may allow a Supplier to apply for an injunction after the 10 day time limit has passed if the Court is satisfied that the delay is due to the Supplier’s reasonable attempt to resolve the complaint before applying for the injunction, or there are special circumstances that warrant a longer period.
* While the Supreme Court may potentially hear a complaint after the 10 day time limit, the obligation remains on Agencies to respond to complaints in a timely and responsive manner.

Applicants and Suppliers wishing to lodge a complaint in relation to an alleged breach of an enforceable procurement provision within the EPP must:

* Make the complaint in writing
* If the complaint relates directly to how this PL is established or administered or if the complaint is in relation to an Application to be included on the PL, submit the complaint to the Secretary of the Department of Regional NSW.
* If the complaint relates to an invitation to a submission or the award of a specific tender, quote, procurement or contract, submit the complaint to the agency head of the Agency that is responsible for that specific tender, quote, procurement or contract.

Applicants and Suppliers may withdraw the complaint by sending a written notice to the Agency head.

## 9.2 Review and Development of the PL

The Department provides a small, dedicated team to administer the PL, assist Agencies and Suppliers with enquiries that can be sent at: contractorprequal@pwa.nsw.gov.au

# 10 NSW Procurement Policy Framework

This section provides context about the applicable legislative and policy framework within which the PL operates.

Suppliers and Agencies must at all times comply with all relevant laws and policies, including but not limited to those listed in this section. A Supplier’s breach of any relevant policies and/or laws may result in its exclusion from the PL.

The [NSW Procurement Policy Framework](https://buy.nsw.gov.au/policy-library/policies/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.

## 10.1 Procurement Board Directions

From time to time the NSW Procurement Board issues Directions under the [Public Works and Procurement Act 1912](https://www.legislation.nsw.gov.au/#/view/act/1912/45). These Directions determine the rules and guidelines around public sector procurement within the NSW Government. A library of all current Directions in force can be found on [the buy.nsw website.](https://buy.nsw.gov.au/policy-library/policy-library-search?form=wrapper&f.Policy+Type%7CPolicyType=board+directions&query=&profile=_default&show=true&action=557003&clive=procurement-nsw-library-web&collection=procurement-nsw-meta&sort=)

## 10.2 Enforceable Procurement Provisions - EPP

The NSW Government issued a Direction in response to its obligations under international procurement agreements. The [Procurement (Enforceable Procurement Provisions) Direction 2019](https://buy.nsw.gov.au/policy-library/policies/enforceable-procurement-provisions) under the Public Works and Procurement Act 1912 includes provisions about how Government must engage with its Supplier market in a way that is fair, open and transparent to all Suppliers, including international Suppliers. This PL has been established following the requirements of part 6 of the EPP.

## 10.3 NSW Government Action Plan: A ten point commitment to the construction sector

The NSW Government recognises that it can only achieve its infrastructure objectives in partnership with the private sector, and that this depends on healthy ongoing competition between a capable field of construction firms, sub-contractors and the industry supply chain – not just now, but for years to come.

The NSW Government aims to be a “best in class” client for the construction industry and its Suppliers. In return, it expects industry to meet the highest standards of integrity, quality, innovation, diversity and inclusiveness.

In 2018 it issued [A ten point commitment to the construction sector](http://www.infrastructure.nsw.gov.au/media/1649/10-point-commitment-to-the-construction-industry-final-002.pdf) to achieve these goals.

## 10.4 NSW Government Supplier Code of Conduct

The NSW Government strives to conduct sustainable and inclusive government procurement.

Our Suppliers are our partners in delivering the best social and commercial outcomes for the state of NSW and its citizens.

The NSW Government requires all Suppliers to comply with relevant standards of behaviour and must report findings of dishonest, unfair, unconscionable, corrupt or illegal conduct to the NSW Procurement Board. These requirements are essential to business confidence in the NSW Government’s procurement regime as well as public trust more broadly in the Government’s decision-making processes.

A minimum set of expectations and behaviours for doing business with NSW Government has been articulated in the [Supplier Code of Conduct](https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct). All Applicants and Suppliers to this PL must comply with it and must have a satisfactory record of compliance with the Code. This also includes ensuring that Suppliers and their subcontractors, consultants, and contractors comply with their legal obligations regarding their employees.

Applicants and Suppliers must further comply with the [NSW Industrial Relations Guidelines: Building and Construction](https://www.industrialrelations.nsw.gov.au/industries/key-industries-in-nsw/building-and-construction/).

## 10.5 Financial Assessment

[Financial assessments](https://arp.nsw.gov.au/pbd-2013-01c-financial-assessments) are part of the due diligence process in awarding NSW Government contracts. They are used to check the financial capacity of the Supplier to complete works or supply goods. Financial assessments are further undertaken during a contract to identify and assess any changes in the financial position and risks associated with the solvency of the contractor.

The Agency responsible for this PL uses financial assessments during the Application process and at regular intervals on Suppliers that are included on the PL. The NSW Government may engage a service provider prequalified under the [Financial Services Pre-qualification Scheme](https://buy.nsw.gov.au/schemes/financial-assessment-services-scheme) SCM2491 to undertake such assessments.

## 10.6 Small and Medium Enterprise (SME) and Regional Procurement

The NSW Government is seeking to strengthen its construction supply chain to accommodate its [Small and Medium Enterprise and Regional Procurement Policy](https://www.procurepoint.nsw.gov.au/policy-and-reform/goods-and-services-procurement-policies/nsw-government-small-and-medium-enterprise). This will provide greater opportunities for SMEs and local businesses in regional NSW.

The PL Application process will identify small and medium businesses with the appropriate capability and capacity to participate in construction projects. Applicants are expected to select only those regions that their current capacity and capability can support.

For further information refer to [the Procurement Board Direction PBD2019-03](https://arp.nsw.gov.au/pbd-2019-03-construction-procurement-opportunities-SME) on Buy.NSW

## 10.7 Aboriginal Procurement Policy (APP)

This PL is aligned to the principles of NSW Government’s [Growing NSW’s First Economy](https://www.aboriginalaffairs.nsw.gov.au/policy-reform/economic-prosperity/prosperity-framework) framework. The framework is a key element of [Opportunity, Choice, Healing, Responsibility and Empowerment (OCHRE)](https://www.aboriginalaffairs.nsw.gov.au/our-agency/staying-accountable/ochre/nsw-government-aboriginal-affairs-strategy).

The APP policy recognises that industry has a key role to play in broadening opportunities for Aboriginal people and that the NSW Government can use its relationship with business to deliver positive social outcomes.

APP has been developed to create opportunities for Aboriginal owned businesses and encourage Aboriginal employment and training through the supply chain of NSW Government contracts. The PL Application process will ask applicants if they are an Aboriginal business, as defined by the APP.

APP has been developed to create opportunities for Aboriginal owned businesses and encourage Aboriginal employment and training through the supply chain of NSW Government contracts. The Scheme Application process will ask applicants if they are an Aboriginal business, as defined by the [Aboriginal Procurement Policy](https://buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy) framework.

## 10.8 Skills and Training in Construction

The NSW Government has minimum levels of training for all major Government construction projects consistent with targets in the[Infrastructure Skills Legacy Program (ISLP)](https://www.training.nsw.gov.au/programs_services/funded_other/islp/index.html).

The ISLP provides an opportunity to create an on-going legacy for the people of NSW for employment, skills development and diversity in the construction workforce. The ISLP also contributes to improving productivity by building capability and capacity of the construction workforce.

For further information refer to [the Procurement Board Direction PBD2020-03](https://arp.nsw.gov.au/pbd-2020-03-skills-training-and-diversity-in-construction) on buy.nsw

## 10.9 Modern Slavery Legislation

The [Modern Slavery Act 2018](https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2018-030) (NSW) came into effect on 01 January 2022. The Act recognises that modern slavery is prevalent around the world and in NSW and sets out steps to ensure NSW is not contributing to these crimes. Applicants and Suppliers to the PL are expected to comply with the [Commonwealth Modern Slavery Act 2018](https://www.legislation.gov.au/Details/C2018A00153) and the [Modern Slavery Act 2018](https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2018-030) (NSW).

More information is available at <https://buy.nsw.gov.au/resources/modern-slavery-and-procurement>.

## 10.10 Disability Organisations

An Australian Disability Enterprise (ADE) is a not-for-profit organisation that employs people with disabilities. ADEs have the same working conditions as other employers and they empower the disabled to contribute to their communities. NSW Government agencies [are encouraged to buy from ADE organisations](https://buy.nsw.gov.au/buyer-guidance/source/select-suppliers/australian-disability-enterprises) where possible.

# Attachment A Terms and definitions

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| --- | --- |
| Term | Definition |
| [ABN](https://www.abr.gov.au/business-super-funds-charities/applying-abn)  | Australian Business Number (ABN) is a unique number issued by the Australian Business Register (ABR) which is operated by the Australian Taxation Office (ATO) Under the A New Tax System *(Australian Business Number) Act 1999.* It identifies the business and is used in commercial transactions and dealings with the ATO. |
| Agency | NSW Government agencies, and other clients using the PL. This includes State owned corporations, universities, local councils etc. (Agencies) |
| Applicant | An entity that has applied for inclusion on the PL |
| Application | Refers to the online application form and responses within it to produce a formal request to be considered for inclusion on the PL |
| buy.nsw | The central repository for all NSW Government procurement, <https://buy.nsw.gov.au>  |
| Construction Services | Services relating to construction of buildings or works, including1. pre-erection works
2. construction works
3. repairs, alterations and restorations.
 |
| Contract system | A system for managing contracts, based on the type of services provided by the Supplier |
| Contractor performance report (CPR) | A report completed using the NSW Government’s CPR template or accepted method |
| EPP (Enforceable Procurement Provisions) | The [Procurement Board (Enforceable Procurement Provisions) Direction 2019](https://buy.nsw.gov.au/policy-library/policies/enforceable-procurement-provisions)-05 under the Public Works and Procurement Act 1912 |
| Framework | NSW Procurement Policy Framework - the suite of legislation, policies, Board Directions and other rules that apply to procurement in NSW (including construction procurement) |
| Government | New South Wales Government |
| PL (Procurement List) | A list established in accordance with Part 6 of the EPP that includes Suppliers who have met the conditions of participation. A PL is intended to be used more than once for procurements by one or more Agency |
| Regional NSW | includes all areas within NSW outside the Newcastle, Sydney and Wollongong metropolitan areas |
| SCM1461 | Supplier Prequalification Scheme for Construction Works above $1 million and below $9 million (ex GST) |
| Small or Medium Enterprise | An Australian or New Zealand based enterprise with fewer than 200 full time equivalent (FTE) employees |
| Supplier | An entity that has been included on the PL to provide construction works above $9 million (ex GST) |
| Supplier Hub (formerly eTendering) | The NSW Government’s repository for past, current and future tenders. Suppliers can apply for prequalification schemes, manage their scheme Application and change contact details. Agencies use the site to select prequalified Suppliers for tendering opportunities. |
| The government Agency responsible for the PL | Department of Regional NSW |
| Work Categories | A system to classify various types of construction work, e.g. building works, civil works and fitout |
| Works  | Construction works including building works, fitout and civil works but excluding construction related consultancy services, architectural design and heritage conservation |