

NSW Health Procurement (Goods and Services)

Summary This Policy Directive details the principles and processes that NSW Health agencies must apply when procuring or disposing of goods or services and managing the resulting contracts.

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NSW Health Procurement (Goods and Services)

Policy Statement

NSW Health entities must develop effective procurement strategies that deliver value for money outcomes and ongoing benefits to support service delivery across NSW Health.

Summary of Policy Requirements

This Policy Directive applies to the procurement of goods and services of any kind by NSW Health entities (including the procurement of goods and services forming part of construction and infrastructure projects).

NSW Health takes a risk-based approach to procurement. This means that the required procedures, roles and responsibilities of NSW Health entities will depend on the value and the level of risk of the procurement.

Goods and services procurement

NSW Health entities are responsible for conducting their own procurement (except ICT-related procurement) when:

- Using existing procurement arrangements for goods or services of any value.
- Procuring outside existing procurement arrangements (and approaching the market) for goods or services valued at less than \$250,000.

NSW Health entities must refer goods and services procurements outside of existing procurement arrangements valued at \$250,000 or more to HealthShare NSW.

NSW Health entities must refer ICT-related procurements outside of whole-of-Health or whole-of-Government contracts valued at \$150,000 or more to eHealth NSW.¹

NSW Health entities must use whole-of-Government or whole-of-Health contracts for obtaining goods and services to which those contracts apply in accordance with the NSW Procurement Board Direction [PBD 2021-04](#) *Approved procurement arrangements*. Limited exceptions and exemptions apply, including:

- Where a social policy exemption is utilised.
- Where the goods and services are valued at \$10,000 or less.

¹ Health Infrastructure may conduct the procurement of goods and services (excluding ICT-related goods and services) forming part of construction and infrastructure projects.

- To the extent of any inconsistency with a decision of Cabinet or any Cabinet Standing Committee.
- Where the NSW Health Chief Procurement Officer has approved an exemption.

NSW Health entities must use whole-of-Government prequalification schemes or procurement lists for obtaining goods or services to which those prequalification schemes or procurement lists apply, if they are mandated by the NSW Procurement Board Direction [PBD 2021-04](#) *Approved procurement arrangements*.

Limited exceptions and exemptions apply.

For procurements outside existing procurement arrangements which are valued at less than \$30,000, streamlined procedures apply, including the need for one written quote for procurements valued between \$10,000 and less than \$30,000.

For procurements outside existing procurement arrangements which are valued at \$30,000 or more, NSW Health entities must:

- Use the Risk Assessment Tool to determine the procurement level (level 1, level 2 or level 3).
- Comply with the applicable procedures for the procurement level (more detailed procedures apply for procurements which are high value or high risk).

NSW Health entities are required to conduct certain minimum contract management activities depending on the contract value and/or method of procurement.

The NSW Health Chief Procurement Officer may grant exemptions to specific policy or process requirements.

ICT-related procurements

When procuring ICT-related goods and services, NSW Health entities must:

- Use whole-of-Government or whole-of-Health contracts for ICT procurements of any value.
- Where the ICT-related goods and services are valued at less than \$150,000 and are not available on an existing contract, NSW Health entities must use the [SCM0020](#) *ICT Services Scheme*.
- Where the ICT-related goods or services are valued at \$150,000 or more and are not available on a whole-of-Government or whole-of-Health contract, the procurement must be referred to eHealth NSW (even if these goods or services are available on the [SCM0020](#) *ICT Services Scheme*).

The NSW Health Chief Procurement Officer may grant exemptions to specific policy or process requirements.

Revision History

Version	Approved By	Amendment Notes
PD2024_044 December-2024	Secretary, NSW Health	<ul style="list-style-type: none"> 1.2 <i>Definitions</i>: updated to include definitions of local supplier, modern slavery and product of modern slavery. 1.3 <i>Legal and legislative framework</i>: updated to include ICAC and modern slavery legislation. 2.2 <i>EPP Direction</i>: updated to include impacts of the <i>PBD2024-02 Increasing opportunities for local suppliers to supply to government</i>. 4.6.1 <i>Small and Medium Enterprises</i>: updated to provide additional guidance. New section 4.6.2 <i>Increasing opportunities for local suppliers</i>: reflecting the requirements of <i>PBD2024-02 Increasing opportunities for local suppliers to supply to government</i>. New section 4.6.4 <i>Reducing modern slavery risks</i>: setting modern slavery requirements, per the <i>Modern Slavery Act 2018 (NSW)</i> and the Anti-Slavery Commissioner's <i>Guidance on Reasonable Steps</i>. 5.2.2 <i>Procurement of professional services</i>: updated to include a definition of consultancy and professional services, additional schemes per PBD2023-05 and other relevant guidance. 6.1.1 <i>Procurements valued at less than \$30,000</i>: updated to reflect Pcard directive PD2022_038. 6.3 <i>Check if Gateway Review Process applies</i>: updated to reflect changed gateway framework. 6.13 <i>Release approach to market documentation</i>: updated to reflect changed requirements per PBD2024-01. 8.6 <i>Financial risk management</i>: updated to provide further information in line with TPP21-14.
PD2024_027 August-2024	Chief Procurement Officer	Updated to amend small and medium enterprise requirements in section 4.6 and mandatory contract, scheme and procurement list usage requirements in sections 5.1 and 5.2. Inclusion of ICT contracting requirements.
PD2024_021 July-2024	Chief Procurement Officer	Updated to amend small and medium enterprise requirements per Procurement Board Direction PBD2023-03.
PD2024_009 February-2024	Deputy Secretary, Financial Services and Asset Management & Chief Financial Officer	Updated to amend small and medium enterprises requirements in section 4.6 and mandatory contract, scheme and procurement list usage requirements in sections 5.1 and 5.2. Inclusion of ICT contracting requirements.
PD2023_028 October-2023	Secretary, NSW Health	Updated to amend professional services requirements in section 5 and incorporate eHealth feedback on ICT procurement requirements.
PD2022_020 June-2022	Secretary, NSW Health	Updated to comply with whole-of-government policy changes, clarify legislative requirements and provide additional guidance for NSW Health agencies.

PD2019_028 July-2019	Deputy Secretary, Financial Services and Asset Management & Chief Financial Officer	Updated policy and procedures documents, based on user experience during past six months
PD2018_030 August-2018	Deputy Secretary, Financial Services and Asset Management & Chief Financial Officer	Updated policy, procedures and risk assessment tool
PD2014_005 March-2014	General Governance, Deputy Director Workplace and Corporate	Addition of new clause 4.3.6 Purchasing from Aboriginal Businesses
PD2013_023 August-2013	Deputy Director General Governance, Workplace and Corporate	Sets the latest procurement policy and introduces the new Goods and Services Procurement Policy Manual. This policy combined with the new Goods and Services Procurement Policy Manual replaces the Supply Procedures, and the Purchasing and Supply manuals and the following associated Policy Directives and Information Bulletins: PD2005_093, PD2005_146, PD2005_260, PD2007_073 PD2009_021, PD2009_054, PD2011_017, IB2006_005 IB2006_009, IB2007_002, IB2007_039, IB2009_008 IB2009_022, IB2010_059, IB2011_016.

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1. Background

1.1. About this document

This Policy Directive outlines the relevant roles and responsibilities for procurement within NSW Health as well as mandatory requirements for procuring goods and services and managing contractual arrangements with suppliers.

This Policy Directive applies to all NSW Health entities.

This Policy Directive is to be read in conjunction with the *NSW Health Procurement Procedures (Goods and Services)* (**Procedures**). The Procedures are an extension of this Policy Directive, providing further context and detail on procurement procedures at NSW Health.

NSW Health entities must comply with both this Policy Directive and the Procedures.

1.2. Key definitions

The key definitions in this Policy Directive are outlined in the table below. For more definitions, please refer to the Procedures.

contracting delegate	means the person who has authority to execute a contract on behalf of a NSW Health entity.
covered procurement	means a procurement that is covered by the EPP Direction.
EPP Direction	means the NSW Procurement Board Direction PBD 2019-05 Enforceable Procurement Provisions made under the <i>Public Works and Procurement Act 1912</i> (NSW), as amended from time to time.
existing procurement arrangements	means: <ul style="list-style-type: none">• whole-of-Government and whole-of-Health contracts• whole-of-Government prequalification schemes and procurement lists• agreements managed by other NSW Government or NSW Health entities.
financial delegate	means the person who has authority to commit to financial expenditure and grant relevant approval on behalf of a NSW Health entity.

local supplier	<p>means a supplier that has:</p> <ul style="list-style-type: none"> • an active ABN • a main business address with a NSW postcode on the Australian Business Register.
modern slavery	<p>means situations where offenders use coercion, threats or deception to exploit victims and undermine their freedom.</p> <p>The term encompasses a number of exploitative practices including (but not limited to):</p> <ul style="list-style-type: none"> • forced labour • slavery • servitude • debt bondage • human trafficking • deceptive recruiting for labour services • child labour • forced marriage.
prequalification scheme	<p>means a list of prequalified suppliers that meet minimum relevant experience and qualification standards to supply certain goods and services.</p>
procurement delegate	<p>means the person who has authority to approve specified procurement activities on behalf of a NSW Health entity.</p>
procurement list	<p>means a list of prequalified suppliers that meet minimum experience and qualification standards to supply certain goods and services, including categories covered by the EPP Direction.</p>
product of modern slavery	<p>means a good or service produced in whole or in part through modern slavery.</p> <p>Modern slavery at any point in the supply-chain (including during the production or distribution of components or goods) renders any downstream good or service, at any subsequent tier, a product of modern slavery.</p>

All dollar values and thresholds in this Policy Directive are in Australian currency and are exclusive of GST (unless otherwise stated).

A reference to goods and services is a reference to either goods, services, or both.

1.3. Legal and legislative framework

The *Public Works and Procurement Act 1912* (NSW) establishes the NSW Procurement Board, which requires NSW Health entities to procure goods and services in accordance with NSW Procurement Board policies and directions, including the NSW Government [Procurement Policy Framework](#).

NSW Health entities must also comply with all other applicable laws and Government policies, including the following procurement-related legislation:

- *Government Information (Public Access) Act 2009* (NSW)
- *Government Sector Finance Act 2018* (NSW)
- *Health Administration Act 1982* (NSW)
- *Health Services Act 1997* (NSW)
- *Independent Commission Against Corruption Act 1988* (NSW)
- *Modern Slavery Act 2018* (Commonwealth)
- *Modern Slavery Act 2018* (NSW)
- *Plastic Reduction and Circular Economy Act 2021* (NSW)
- *Public Works and Procurement Act 1912* (NSW)
- *Public Works and Procurement Regulation 2019* (NSW)
- *State Records Act 1998* (NSW)

2. Procurement Framework

2.1. Procurement governance

2.1.1. HealthShare NSW

Unless using an existing procurement arrangement, NSW Health entities must refer procurements valued at \$250,000 or more to HealthShare NSW (except ICT-related procurements).¹

Where required, HealthShare NSW must provide procurement guidance to NSW Health entities. NSW Health entities must seek an exemption from the NSW Health Chief Procurement Officer for the NSW Health entity to proceed contrary to this advice.

Procurements valued at \$30 million or more must also be approved by the NSW Health Chief Procurement Officer.

2.1.2. eHealth NSW

For ICT-related procurements, NSW Health entities must:

- Use whole-of-Government or whole-of-Health contracts for ICT-related procurements of any value where available under contract.
- Where the ICT-related procurement is valued at less than \$150,000 and not available on an existing contract, use [SCM0020 ICT Services Scheme](#) (where goods and services are available) in line with section 5.2.3 of this Policy Directive.
- Where the ICT-related procurement is valued at \$150,000 or more and not available on a whole-of-Government or whole-of-Health contract, the procurement must be referred to eHealth NSW (even if the goods and services are available on [SCM0020 ICT Services Scheme](#)).
- For ICT-related procurements valued at \$150,000 or more, eHealth NSW must endorse the:
 - Procurement Plan
 - Evaluation Plan
 - Evaluation Report.

Where required, eHealth NSW must provide procurement guidance to NSW Health entities. NSW Health entities must seek an exemption from the NSW Health Chief Procurement Officer for the NSW Health entity to proceed contrary to this advice.

¹ This does not apply to the Ministry of Health or Health Professional Councils Authority, which may conduct procurements (except ICT-related procurements) valued at \$250,000 or more on their own behalf. This does not apply to Health Infrastructure (refer to section 2.1.3).

eHealth NSW may approve the Procurement Plan, Evaluation Plan and Evaluation Report for ICT-related procurements valued at \$150,000 or more that are undertaken within eHealth NSW.

Procurements valued at \$30 million or more must also be approved by the NSW Health Chief Procurement Officer.

2.1.3. Health Infrastructure

Health Infrastructure must conduct all procurement of goods and services which form part of construction and infrastructure projects.

In doing so, Health Infrastructure must use an existing procurement arrangement, unless either:

- The goods and services required are not covered by an existing procurement arrangement.
- Health Infrastructure can obtain better value for money (assessed from a whole-of-Health perspective) outside existing procurement arrangements.

Health Infrastructure must also:

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

Procurements of goods and services by Health Infrastructure valued at \$30 million or more must be approved by the NSW Health Chief Procurement Officer.

2.2. EPP Direction

The EPP Direction defines the requirements for procurements conducted by certain NSW Government agencies.

The NSW Government agencies listed in Schedule 1 of the EPP Direction must comply with the EPP Direction when conducting covered procurements. The Ministry of Health is the only NSW Health entity listed in Schedule 1 of the EPP Direction and therefore the only NSW Health entity required to comply with the EPP Direction.

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

- On behalf of the Ministry of Health, or any other listed NSW Government agency.

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- Valued at more than the relevant procurement threshold.
 - Not subject to any applicable exemptions.

Where a covered procurement is being conducted, NSW Health entities must follow the level 3 procurement process.

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

- An open approach to market.
- A procurement panel established by an open approach to market.
- A procurement list established under Part 6 of the EPP Direction.

SCM0020 ICT Services Scheme

Additional requirements apply to procurements under the [SCM0020 ICT Services Scheme](#) for NSW Government agencies covered by the EPP Direction. For procurements by or for the Ministry of Health, and valued at \$680,000 or more, NSW Health entities must refer the procurement to eHealth NSW, who must ensure that:

- At least three written quotes have been obtained.
- Justification has been provided in the approach to market documentation for limiting the number of suppliers invited to provide quotes, in line with section 14.1 of the [SCM0020 ICT Services Scheme Rules](#).
- The suppliers invited to quote are selected in compliance with section 14.2 of the [SCM0020 ICT Services Scheme Rules](#).
- The procurement process is otherwise EPP Direction compliant.

Meeting the local market testing requirements

The purpose of the NSW Procurement Board Direction [PBD 2024-02 Increasing opportunities for local suppliers to supply to government](#) is to:

- Ensure local suppliers are provided a full and fair opportunity to compete for government contracts.
- Better inform the NSW Government about the NSW procurement landscape.

The Direction does not require a particular outcome when NSW Government agencies are selecting suppliers.

NSW Government agencies can apply the Direction to applicable procurements while continuing to comply with requirements for approaching the market in the EPP Direction and ensuring that local suppliers are not disadvantaged by the procurement specifications or conditions for participation.

Procurements to establish or renew a whole-of-Government contract

HealthShare NSW and eHealth NSW must ensure the procurement process used to establish or renew whole-of-Government contracts complies with the EPP Direction (unless an exemption outlined in Schedule 2 of the EPP Direction applies).

3. Effective Procurement, Probity and Fairness

3.1. Ethical and professional conduct

The probity principles of 'fairness', 'impartiality', 'accountability', 'transparency' and 'value for money' must govern procurement decision-making by NSW Health entities. The following NSW Health Policy Directives must be complied with:

- *Code of Conduct* ([PD2015_049](#)).
- *Conflicts of Interest and Gifts and Benefits* ([PD2015_045](#)).

Appropriate records must be kept in relation to procurement planning, management and decision-making in accordance with the *State Records Act 1988* (NSW). All confidential information that is provided by suppliers, including as part of approach to market responses, must be treated fairly, impartially and securely.

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

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

3.2. Supplier Code of Conduct

The NSW Government [Supplier Code of Conduct](#) (the Code) sets minimum expectations and behaviours for doing business with NSW Government agencies. The Code expects that suppliers and their supply chains commit to the highest ethical standards, including that they protect and prevent the release of NSW Government information, disclose real or perceived conflicts of interest, not offer NSW Government employees or contractors any financial or non-financial benefits and comply with modern slavery obligations.

The Code advises suppliers that non-compliance with the Code may lead to termination of contracts, loss of future work, loss of reputation, investigation for corruption, criminal investigation or suspension or removal from prequalification schemes and panel arrangements.

All suppliers must agree to the terms of the Code and a copy must be included in all sourcing documents and the contractual documents provided to the supplier.

4. Getting Started

4.1. Identify business need

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

4.2. Align with the NSW Health Asset Management Framework

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

NSW Health entities must also consider whole-of-lifecycle asset management requirements, costs and benefits when developing the asset procurement strategy, assessing value for money and establishing contract management requirements.

4.3. Consider sustainability and resource efficiency

NSW Health entities must ensure applicable goods and services (for example, electrical appliances and water using appliances) comply with the minimum standards set out in the [Government Resource Efficiency Policy](#).

4.4. Calculate estimated contract value

NSW Health entities must calculate a genuine, estimated contract value for the goods and services to be procured.

Where the estimated contract value increases during the procurement process such that it passes a relevant procurement threshold, the NSW Health Chief Procurement Officer or procurement delegate must be notified and may advise of further steps to be taken.

Procurement must not be 'split' to avoid reaching the next procurement threshold.

4.5. Procurements valued at \$10,000 or less

NSW Health entities may procure goods and services valued at \$10,000 or less directly from any supplier, regardless of whether they are available on an existing procurement arrangement.

Goods and services must still meet all applicable quality, safety, security and regulatory requirements and rates must be reasonable and consistent with normal market rates.

All procurements of ICT-related goods and services valued at \$10,000 or less must be sourced using existing whole-of-Government or whole-of-Health contracts. Where the items are not available on an existing contract, the [SCM0020 ICT Services Scheme](#) should be used where goods and services are available.

Note that this section 4.5 does not apply to the procurement of professional services, where the appropriate scheme must be used for all engagements.

4.6. Check for social policy preferences, exemptions and requirements

The NSW Government [Procurement Policy Framework](#) provides for social policy preferences, exemptions and requirements.

These include policy exemptions and preferences for:

-
- Small and medium enterprises (SMEs) and regional suppliers.
 - Local suppliers.
 - Aboriginal-owned businesses.
 - Australian disability enterprises.
 - Social enterprises.

Some of these policy exemptions and preferences apply to procurements up to specified dollar values (e.g. allowing NSW Government agencies to directly negotiate with suppliers for procurements valued at less than \$250,000 for Aboriginal businesses, SMEs and regional suppliers, including where there is a whole-of-Government procurement arrangement in place).

When utilising these social policy exemptions, NSW Health entities must:

- Obtain one written quote.
- Meet applicable quality, safety, security and regulatory requirements.
- Obtain approval from financial and contracting delegates.

In addition to the steps above:

- For procurements valued at \$250,000 or more for Australian disability enterprises, NSW Health entities must also obtain approval from the NSW Health Chief Procurement Officer to use this exemption.
- For professional services engagements, NSW Health entities must also use the relevant schemes listed in section 5.2.2.

NSW Health entities are to consider procuring from certain suppliers for relevant procurements.

4.6.1. Small and medium enterprises

NSW Health entities must ensure compliance with all requirements of the [Small and Medium Enterprise and Regional Procurement Policy](#) and the NSW Procurement Board Direction [PBD 2023-03 Procurement opportunities for small \(and medium\) businesses](#), including (but not limited to):

- First considering buying from an SME for goods and services procurements valued at less than \$3 million.
- Only requiring SMEs to provide insurance details and/or a certificate of insurance at the time of contract award rather than when responding to a request for submission.
- For goods and services contracts valued at \$3 million or more, NSW Health entities must include in the non-price evaluation criteria as a minimum:
 - 10 per cent allocated to SME participation
 - 10 per cent allocated to support for the NSW Government's economic, ethical, environmental and social priorities.

- Ensuring compliance with the SME participation requirements on contracts valued at \$3 million or more.

NSW Health entities may negotiate directly with and engage SMEs for goods and services valued at less than \$250,000.

ICT/Digital SME procurement commitments

The NSW Government has [committed to a range of measures](#) to support growth of SMEs in the technology sector through its procurement opportunities:

- For engagements valued at less than \$250,000, NSW Health entities may buy ICT-related goods and services directly from an SME, regardless if they are on a whole-of-Government contract.
- For engagements valued at \$3 million or more, ICT-related contracts must have a minimum addressable spend target of 25 per cent to be directed to SMEs via subcontracting or supply chain spend.
- 30 per cent of NSW Government's total addressable direct ICT spend to be with SMEs.

4.6.2. Increasing opportunities for local suppliers

In line with the NSW Procurement Board Direction [PBD 2024-02](#) *Increasing opportunities for local suppliers to supply to government*, NSW Health entities must ensure that local suppliers have full and fair opportunity to participate in procurement processes.

NSW Health entities must:

- Embed upfront local market testing in procurement plans for projects with contracts valued at \$7.5 million or more, taking reasonable steps to identify if any local supplier with the required capacity and capability can supply the goods or provide the services required.
- Ensure any NSW based suppliers identified during the planning stage are given full and fair opportunity to participate in the procurement.
- State in decision-making documents for tender processes for projects or contracts with a budget of \$7.5 million or more, on an 'if not, why not' basis, why a local supplier has not been selected if one is available.
- Provide details of all procurements valued at \$7.5 million or more to the Ministry of Health as requested to meet the quarterly reporting requirements of the NSW Procurement Board, including (but not limited to):
 - the procurement category
 - whether a capable local supplier or suppliers were identified during the planning stage
 - whether the procurement was awarded to a NSW-based (local) supplier, other Australian or New Zealand based supplier, or other international supplier
 - the key reasons that each supplier was not awarded the contract, aligned to value for money criteria.

4.6.3. Aboriginal owned businesses

NSW Health entities must ensure compliance with all requirements of the [Aboriginal Procurement Policy](#), including (but not limited to):

- whenever feasible, giving first consideration to Aboriginal businesses for procurements valued at less than \$250,000.
- NSW Health entities may negotiate directly with and engage SMEs for procurements valued at less than \$250,000.
- NSW Health entities must include minimum requirements for 1.5 per cent of the contract value to be directed toward Aboriginal participation in all contracts valued at \$7.5 million or more.

4.6.4. Reducing modern slavery risks

Under the *Public Works and Procurement Act 1912* (NSW), NSW Government agencies must take reasonable steps to ensure that goods and services procured by and for the NSW Government agency are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW) and must report on these steps and related matters.

HealthShare NSW and eHealth NSW conduct annual reviews of risks in categories covered by whole-of-Government and whole-of-Health contracts and schemes led by those entities. When procuring outside existing arrangements, NSW Health entities must refer to the list of categories considered at heightened risk of modern slavery that is published on the Office of the Anti-Slavery Commissioner's [website](#). NSW Health entities must also:

- Take reasonable steps to monitor and evaluate supplier performance relating to modern slavery during the contract term.
- Where appropriate, conduct audits of suppliers in moderate or high-risk categories that address modern slavery.
- Where appropriate, HealthShare NSW and eHealth NSW will survey their high risk suppliers' workforce about working conditions, risks associated with temporary migrant workers and recruitment fees.
- HealthShare NSW and eHealth NSW will conduct supplier capability development activities, as appropriate, to improve supplier modern slavery risk management performance.
- HealthShare NSW and eHealth NSW will take steps to remedy harm by providing or enabling access to effective grievance mechanisms that can provide remedy to affected stakeholders.
- Use their leverage to support the development and implementation of effective grievance mechanisms in their value chain.
- Withdraw from a relationship with a supplier as a last resort, where the supplier is unable or unwilling to effectively address modern slavery risks or concerns.
- When disclosing contracts valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more, as required by the *Government Information (Public Access) Act 2009* (NSW),

indicate whether the contract is in a category considered to have a heightened risk of modern slavery.

- Ensure that staff are provided regular and appropriate training on modern slavery.

NSW Health has annual reporting requirements under both the *Modern Slavery Act 2018* (NSW) and the *Modern Slavery Act 2018* (Commonwealth) which are led by the Ministry of Health.

5. Using Existing Procurement Arrangements

5.1. Whole-of-Government and whole-of-Health contracts

NSW Health entities must use whole-of-Government or whole-of-Health contracts for obtaining goods and services to which those contracts apply in accordance with the NSW Procurement Board Direction [PBD 2021-04](#) *Approved procurement arrangements*

Limited exceptions and exemptions apply, including:

- Where a social policy exemption is utilised (see section 4.6).
- Where the goods and services are valued at \$10,000 or less (see section 4.5).
- To the extent of any inconsistency with a decision of Cabinet or any Cabinet Standing Committee (see section 8.4).
- Where the NSW Health Chief Procurement Officer has approved an exemption (see section 8.8).

5.2. Whole-of-Government prequalification schemes and procurement lists

NSW Health entities must use the whole-of-Government prequalification schemes or procurement lists mandated by the NSW Procurement Board Direction [PBD 2021-04](#) *Approved procurement arrangements* for obtaining goods and services to which those prequalification schemes or procurement lists apply.

Limited exceptions and exemptions apply. Where the procurement will be valued at \$7.5 million or more, NSW Health entities must undertake local market testing in accordance with section 4.6.2.

5.2.1. Minimum levels of competition

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

Where the minimum levels of competition are not stated in the whole-of-Government prequalification scheme or procurement list, NSW Health entities must still ensure that value for money is achieved, including taking the following steps:

- For procurements valued at \$10,000 or less, no written quote is required.

- For procurements valued at more than \$10,000 and less than \$250,000, at least one written quote must be obtained.
- For procurements valued at \$250,000 or more, at least three written quotes must be obtained.

5.2.2. Procurement of professional services and consultancy

Definitions

The NSW Procurement Board Direction [PBD-2023-05](#) *Engagement of professional services suppliers* defines professional services and consultancies:

- Professional services are a type of service where external individuals or companies are engaged on a temporary basis to provide expertise, experience, and specialised knowledge to help a NSW Health entity implement, manage, or improve a specific area of their business.
- Consultants are a subset of professional services that provide recommendations or professional advice to assist decision-making.

The term 'professional services' may be used to refer to both consultancy and professional services engagements.

When engaging a supplier from a scheme (mandatory)

The use of relevant prequalification schemes is mandatory for professional services engagements of any value. These schemes include:

- [SCM0005](#) *Performance and Management Services Scheme*.
- [SCM0020](#) *ICT Services Scheme (Category E only)*.
- [SCM1191](#) *Consultants in Construction up to \$9 Million Scheme*.
- [SCM10611](#) *Consultants in Construction above \$9M Procurement List*.
- [SCM2701](#) *Advertising and digital Communications Services Scheme*.
- [SCM0801](#) *Government Architect's Strategy and Design Scheme*.
- [1597](#) *ICT Professional Services Purchasing Arrangements (PSPA)*.
- [2021/001](#) *Legal Services Panel*.
- [Regional and Rural Legal Services Panel](#).

NSW Health entities must take the following steps:

- Seek approval from the NSW Health Chief Procurement Officer for all professional services engagements valued at \$30,000 or more via the NSW Health Professional Services Vendor Management System (**VMS**). NSW Health entities must:
 - Justify why the work cannot be undertaken by the NSW Health entity's existing staff
 - Undertake a business needs analysis

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- Indicate the source of funding
 - Indicate the commitment of the contracting delegate to ensure that the successful supplier signs the NSW Government [Supplier Code of Conduct](#) (section 3.2).
 - Seek approval from the NSW Health Chief Procurement Officer for contract extensions and variations to professional services engagements of any value via the VMS.
 - Use the VMS to conduct all sourcing and contract management activities.
 - Save all documents into the VMS that are related to the engagement, including (but not limited to):
 - NSW Health Chief Procurement Officer approval
 - Approach to market documents
 - Contracts
 - Signed NSW Government [Supplier Code of Conduct](#) (section 3.2)
 - Conflict of interest checks
 - Milestone reporting
 - Post engagement evaluation.
 - Prior to finalising each engagement, the contract manager must undertake a formal post engagement evaluation using the template in the VMS.
 - For engagements valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more, disclose the contract in line with section 6.17 of this Policy Directive.

NSW Health entities must also ensure that procurements using prequalification schemes align with the additional rules of that scheme, including standard commercial frameworks where these exist.

A copy of the NSW Government [Supplier Code of Conduct](#) must be included with all sourcing documents. Further, successful suppliers must sign a copy of the Code prior to commencing work.

When engaging a non-scheme supplier

NSW Health entities must seek an exemption from the NSW Health Chief Procurement Officer to engage a non-scheme supplier for professional services engagements valued at \$30,000 or more.

Engagements undertaken using this exemption must follow the same process as above.

5.2.3. ICT-related procurements

NSW Health entities must conduct ICT-related procurements in line with the requirements of section 2.1.2 of this Policy Directive.

The NSW Procurement Board Direction [PBD 2021-04](#) *Approved procurement arrangements* mandates that NSW Government agencies must use the [SCM0020](#) *ICT Services Scheme* for all applicable procurements.

If a whole-of-Government contract for supply of specific ICT-related goods and services exists (for example, Microsoft, Oracle or end-user devices), then NSW Health entities must use those whole-of-Government contracts in accordance with the NSW Procurement Board Direction [PBD 2021-04](#) *Approved procurement arrangements*.

For engagements under the [SCM0020](#) *ICT Services Scheme* (except for ICT consulting and telecommunications (see below)), NSW Health entities must:

- For engagements valued at less than \$150,000, obtain one written quote.
- For engagements valued at \$150,000 or more, seek support from eHealth NSW before proceeding with the procurement.

In all cases NSW Health entities must use the [ICT Purchasing Framework](#) form of contract or seek an exemption from the Department of Customer Service.

ICT consulting commercial framework

The [SCM0020](#) *ICT Services Scheme* includes an ICT consulting commercial framework which applies to ICT consulting engagements. Where the engagement is for ICT consulting services valued at \$30,000 or more, approval from the NSW Health Chief Procurement Officer must be sought prior to undertaking the engagement. The VMS must be used to seek NSW Health Chief Procurement Officer approval, and to conduct the sourcing and contract management activities.

For engagements that comply with the ICT consulting commercial framework, follow the standard process for engagements under the [SCM0020](#) *ICT Services Scheme*. Where the engagement is valued at \$150,000 or more, the procurement must be referred to eHealth NSW for support.

Where engagements do not comply with the ICT consulting commercial framework, or the supplier has not accepted the framework, NSW Health entities must:

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

Procurement of telecommunications

Telecommunications procurements valued at \$100,000 or more, must be purchased using existing panels and contracts. NSW Health entities must either:

- Purchase the lowest price offer.
- Obtain at least three quotes and conduct a value for money assessment.

6. Outside Existing Procurement Arrangements

For procurements outside existing procurement arrangements, NSW Health entities will need to approach the market. This section 6 applies to all NSW Health entities conducting a procurement outside an existing procurement arrangement.

6.1. Steps to commence procurements

6.1.1. Procurements valued at less than \$30,000

For procurements valued at less than \$30,000, NSW Health entities must undertake the following steps:

Estimated contract value	Steps
\$5,000 or less	No written quote required.
Less than \$10,000	No written quote required, must use a PCard where practicable
\$10,000 to less than \$30,000	Obtain one written quote.

NSW Health entities must still meet applicable quality, safety, security and regulatory requirements. NSW Health entities are to also check for any additional local arrangements, including obtaining approval by the relevant persons if required by the NSW Health entity.

The NSW Health Policy Directive *Procurement Cards within NSW Health* ([PD2022_038](#)) requires that NSW Health entities, including the Ministry of Health, are to adopt the use of Procurement Cards (PCards) and Virtual Procurement Cards, where practicable, for the purchase of goods and services up to \$10,000 where viable.

For procurements valued at less than \$30,000, NSW Health entities are only required to comply with this section 6.1.1. The remainder of section 6 does not apply.

For ICT-related procurements, NSW Health entities must:

- Use whole-of-Government or whole-of-Health contracts for ICT procurements of any value.
- Where the ICT goods and services are valued at less than \$150,000 and are not available on an existing contract, use [SCM0020](#) *ICT Services Scheme* where goods and services are available.

6.1.2. Procurements valued at \$30,000 or more

For procurements valued at \$30,000 or more, NSW Health entities must complete the Risk Assessment Tool. This tool uses the value and level of risk of the procurement to determine a procurement level of either level 1, level 2 or level 3. Where the procurement will be valued at \$7.5 million or more, NSW Health entities must undertake local market testing in accordance with section 4.6.2.

All procurement except ICT-related procurement

Estimated contract value	Steps
\$30,000 to less than \$250,000	NSW Health entities may conduct their own procurements.
\$250,000 or more	Refer procurements to HealthShare NSW.

ICT-related procurement

Estimated contract value	Steps
\$30,000 to less than \$150,000	NSW Health entities may conduct their own procurements using existing contracts or SCM0020 ICT Services Scheme where goods and services are available.
\$150,000 or more	Seek support from eHealth NSW before proceeding with the procurement.

Procurements valued at \$30 million or more

The following additional requirements apply to procurements valued at \$30 million or more:

- NSW Health entities must consult with the Ministry of Health in the early procurement planning stages.
- NSW Health Chief Procurement Officer must approve the Procurement Plan and Evaluation Report.

Procurements to establish or renew a whole-of-Government or whole-of-Health contract

Procurements to establish or renew a whole-of-Government or whole-of-Health contract are led by HealthShare NSW or eHealth NSW on behalf of NSW Health entities.

These procurements must follow the process for level 3 procurements.

When establishing or renewing a whole-of-Government or whole-of-Health contract, HealthShare NSW or eHealth NSW must:

- Consult with the Ministry of Health in the early procurement planning stages.
- Obtain the approval of the NSW Health Chief Procurement Officer for the Procurement Plan and Evaluation Report.
- Ensure the procurement process complies with the EPP Direction (unless an exemption outlined in Schedule 2 of the EPP Direction applies).

Approval of the Minister is also required before entering into a whole-of-Government contract.

6.2. Prepare Procurement Plan

For level 2 and level 3 procurements valued at \$250,000 or more (or at \$150,000 or more for ICT-related procurements), a Procurement Plan must be prepared.

For ICT-related procurements, the Procurement Plan must be endorsed by eHealth NSW.

For procurements valued at \$7.5 million or more, NSW Health entities must engage with local suppliers before going to tender.

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

6.3. Check if Gateway Review Process applies

The *NSW Gateway Policy* ([TPG22-12](#)) sets out the principles, structure and roles in the Gateway assurance system. Gateway is a system that provides project assurance through independent peer reviews at key decision points in a project or program's lifecycle. Certain capital, ICT and major recurrent projects must be registered with the [relevant Gateway coordination agency](#) as summarised in the table below:

GCA Framework	Gateway coordination agency	Mandatory Registration Criteria
Digital Assurance Framework	Department of Customer Service	All ICT and Digital Projects: <ul style="list-style-type: none"> Valued at an Estimated Total Cost (ETC) of \$5 million or more, regardless of funding source, are to be registered with DCS via the Assurance Portal. With an ETC under \$5 million that are of strategic importance or of concern may be subjected to Gateway Reviews and other assurance arrangements if nominated by the Premier, Treasurer, Minister for Customer Service, Responsible Minister or Delivery Agency.
Recurrent Expenditure and Assurance Framework	NSW Treasury	All Major Recurrent Expenditure Projects: <ul style="list-style-type: none"> Valued at an ETC of equal or greater than \$100 million over the first four years or \$50 million in any one year. Nominated by ERC, NSW Treasury or the Delivery Agency.
Infrastructure Investor Assurance Framework	Infrastructure NSW	All Capital Projects: <ul style="list-style-type: none"> Valued at an ETC of \$10 million or more are to be registered with Infrastructure NSW using the NSW Assurance Portal prior to the start of project development.

6.4. Choose procurement method and decide on approach to market method

For all procurement levels (level 1, level 2 and level 3), NSW Health entities must determine which of the following methods is most suitable for the procurement:

Procurement method	Mandatory requirements
Open approach to market	Must use an open approach to market for level 2 procurements valued at \$250,000 or more and level 3 procurements of any value unless a social policy exemption applies or the NSW Health Chief Procurement Officer approves an exemption.

Procurement method	Mandatory requirements
Limited approach to market	<p>When using a limited approach to market for level 1 or level 2 procurements valued at less than \$250,000, NSW Health entities must obtain a minimum of three quotes unless a social policy exemption applies or the NSW Health Chief Procurement Officer approves an exemption.</p> <p>Level 2 procurements valued at \$250,000 or more and level 3 procurements, must not use a limited approach to market, unless a social policy exemption applies or the NSW Health Chief Procurement Officer approves an exemption.</p>
Direct source and negotiation	NSW Health entities must obtain an exemption from the NSW Health Chief Procurement Officer before directly sourcing from a supplier, unless a social policy exemption applies.

Whilst pre-market testing can be valuable, probity and process risks must be managed.

All levels of procurement (level 1, level 2 and level 3) must identify and assemble an evaluation committee with the necessary and relevant skills to evaluate the supplier proposals.

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

6.5. Consider modern slavery risks

NSW Health entities must consider modern slavery risks in line with the requirements in section 4.6.4.

6.6. Obtain financial approval

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

NSW Health entities must have financial approval before committing expenditure through a contract.

6.7. Undertake local market testing

Where the procurement will be valued at \$7.5 million or more, NSW Health entities must undertake local market testing in accordance with section 4.6.2.

6.8. Prepare approach to market documentation

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

- A description of the procurement including the nature, scope and quantity (or estimate) of the goods and services being procured.
- An explanation of the procurement process that will be followed (e.g. whether there will be a multi-staged process).

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- Any dates or the period within which the goods and services are to be delivered, or the duration of the proposed contract.
 - Any mandatory criteria or conditions of participation of suppliers, including any specific documents or certifications.
 - The NSW Health entity's contact details for clarifications or enquiries.
 - Time and date of any supplier briefings (if used).
 - Time and date that responses are due, and how to lodge the response (e.g. return email or upload to the [buy.NSW](#) Tenders module).
 - The evaluation criteria to be used in assessing submissions.
 - Any other terms or conditions relevant to the evaluation of submissions.

If a NSW Health entity is conducting a covered procurement (see section **Error! Reference source not found.**), approach to market documentation must also include the evaluation criteria to be used in assessing submissions and, if applicable to the evaluation, the relative importance of those criteria.

Formulate any mandatory criteria requirements

Any mandatory criteria must be listed in the approach to market documentation. Mandatory criteria must not discriminate against suppliers based on business size, location, ownership, or past experience in delivering government contracts, unless approved by the NSW Health Chief Procurement Officer or there is an approved policy measure.

Decide on evaluation criteria

All procurement levels (level 1, level 2 and level 3) must have evaluation criteria against which suppliers will be assessed. For level 2 and level 3 procurements, the evaluation criteria must be published in the approach to market documentation. Evaluation criteria for level 2 and level 3 procurements are sometimes complex. Preparing a sub-criteria can be used to breakdown criteria into manageable and assessable items and, if used, must be published in the approach to market documentation.

The evaluation criteria that are in the approach to market documentation must be identical to the evaluation criteria in the Evaluation Plan.

NSW Health entities must include specified evaluation criteria for certain procurements to meet the requirements of procurement-connected policies. For example, SMEs and sustainability criteria apply for procurements valued at \$3 million or more.

NSW Health entities must not have a mandatory criterion which requires suppliers to have experience in providing goods and services to the NSW Government or any NSW Government agency, including NSW Health entities, without an exemption from the NSW Health Chief Procurement Officer (see section 8.8).

Include social policy requirements

NSW Health entities must comply with social policies, including:

- [Aboriginal Procurement Policy](#).

- [ICT/Digital SME procurement commitments](#).
- [Government Resource Efficiency Policy](#).
- [Small Business Shorter Payment Terms Policy](#).
- [Small and Medium Enterprise and Regional Procurement Policy](#).

Provide minimum time limits

Suppliers must be provided with reasonable time to respond to any approach to market, consistent with NSW Health entities' own reasonable needs.

For covered procurements, minimum time periods must be assessed against the EPP Direction which may require minimum time limits of 10 or 25 calendar days depending on factors such as whether the procurement was published in the NSW Health Annual Procurement Plan.

6.9. Prepare Evaluation Plan

For level 2 and level 3 procurements, NSW Health entities must prepare an Evaluation Plan.

6.10. Prepare proposed contract

The proposed contract needs to be 'fit for purpose'. This means that the form of contract proposed is suitable for the type of goods and services being procured, as well as the value and level of risk of the procurement.

For advice on legal matters (e.g. reviewing contract terms), NSW Health entities must contact their local legal team (if the NSW Health entity has a local legal team) and/or seek external legal expertise from the [2021/001 Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate). If it would be of assistance, the Ministry of Health's Legal unit can assist in identifying an appropriate firm from the relevant panel.

NSW Health entities must comply with the NSW Health Policy Directive *Significant Legal Matters and Management of Legal Services* ([PD2017_003](#)), including complying with requirements to notify the Ministry of Health's Executive Director, Legal and Regulatory Services & General Counsel when a significant legal matter arises.

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

6.10.1. ICT-related contracts

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

The [ICT Purchasing Framework](#) is comprised of the:

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

Level 2 and level 3 procurements assessed as medium to high risk or valued at \$1 million or more must use the MICTA/ICTA contract templates. The [MICTA/ICTA contracting framework](#)

is mandated for use by NSW Government agencies for all ICT-related procurements (except for contracts commenced prior to 1 September 2021).

6.10.2. Human Services contracts

The NSW Procurement Board Direction [PBD-2017-04](#) *Procuring human services from NGOs* mandates that NSW Government agencies must use the prescribed template when procuring human services from a non-Government agency.

6.11. Obtain approval of Evaluation Plan

For level 2 and level 3 procurements, NSW Health entities must have the Evaluation Plan approved by the procurement delegate before supplier responses are opened or accessed. Any amendments to the Evaluation Plan must be approved by the procurement delegate.

6.12. Obtain approval to commence procurement

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

6.13. Release approach to market documentation

The NSW Procurement Board Direction [PBD 2024-01](#) *Mandate for the publication of NSW Government supply opportunities on buy NSW* requires that NSW Government agencies must publish all supply opportunities valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more, on the [buy.NSW](#) Tenders module. This includes (but is not limited to) the following procurement methods:

- Open approach to market.
- Limited approach to market.
- Direct source and negotiation.

Buyers may nominate limited and restricted visibility of opportunities at the time of publishing, which means the publicly available information about the opportunity and the ability of a supplier to respond is limited to nominated suppliers.

6.14. Conduct approach to market process

The approach to market process must be conducted in accordance with the information provided to suppliers in the approach to market documentation, and the requirements in sections 6.14 to 6.19 must be read in that context. Any changes to the approach to market process must be notified to the procurement delegate.

NSW Health entities must provide information or a pre-approach to market briefing when a reasonable request is made by any supplier. If a supplier information briefing is held, NSW Health entities must state whether attendance is mandatory.

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

In responding to clarification questions, NSW Health entities must:

- Answer by way of approach to market addenda issued to all prospective suppliers via the [buy.NSW](#) Tenders module if the response is intended to change the approach to market documentation.
- Not give information that may give a potential supplier an unfair advantage.
- Not discuss or disclose any other potential supplier's confidential or commercial information.

NSW Health entities must receive responses through the [buy.NSW](#) Tenders module if the approach to market was published on the [buy.NSW](#) Tenders module.

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

NSW Health entities must manage late responses in accordance with the approach to market documentation. The reasons for accepting a late response must be documented and included in the Evaluation Report.

If using a limited approach to market and the selected suppliers have not responded in a timely manner, NSW Health entities must obtain approval from the procurement delegate before proceeding with fewer than three quotes.

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

6.15. Evaluate responses and select suppliers

NSW Health entities must use the initial screening process specified in the Evaluation Plan, if applicable.

NSW Health entities must manage alternative submissions in accordance with the approach to market documentation and only accept alternative submissions if the alternative submission provides a demonstrable advantage to the NSW Health entity.

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

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

After being screened and/or shortlisted, NSW Health entities must evaluate supplier responses in accordance with the approach to market documentation, the Evaluation Plan, and based on the information provided in the supplier's response.

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

Where clarification questions are issued to address uncertainties, inconsistencies or ambiguities of responses, a written record must be kept of any such clarifications.

For negotiations during level 2 and level 3 procurements, the reasons for conducting negotiations, a summary of negotiations, and negotiation outcomes must be recorded in the Evaluation Report. Any changes to contract terms that are proposed during negotiations, must be approved by the procurement delegate.

For level 2 and level 3 procurements, NSW Health entities must prepare an Evaluation Report using the *Evaluation Report Template* (or entity's equivalent).

If a contract valued at \$7.5 million or more is being awarded to a supplier outside of NSW, NSW Health entities must advise why a local supplier was not selected.

The Evaluation Report must be approved by the procurement delegate for level 2 and level 3 procurements. For procurements valued at \$30 million or more, the Evaluation Report must also be approved by the NSW Health Chief Procurement Officer.

Where the procurement is for ICT-related goods and services valued at \$150,000 or more, the Evaluation Report must be endorsed by eHealth NSW.

6.16. Obtain approvals to award contract

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

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

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

6.17. Award contract

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

Issue and execute contract

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

For all procurement levels (level 1, level 2 and level 3), NSW Health entities must issue and execute the contract with the successful supplier.

NSW Health entities must retain a copy/copies of the contract executed by all parties.

Disclose contract on NSW eTendering, and PROcure or Portt

For all procurement levels (level 1, level 2 and level 3), NSW Health entities must:

- Disclose all contracts valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more, on [NSW eTendering](#) within 45 working days of becoming effective.

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- Save all contracts valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more, and associated documents on [PROcure](#) or, for whole-of-Health contracts, on [Portt Discover](#).

6.18. Notify and debrief unsuccessful suppliers

NSW Health entities must notify unsuccessful suppliers in writing. NSW Health entities must provide a debrief if a reasonable request is made by an unsuccessful supplier.

Debriefs must not:

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

If, following evaluation, there are no complying responses, no responses that provide value for money or negotiations cannot be successfully completed on terms acceptable to NSW Health, the approach to market can be terminated. The decision to terminate an approach to market must be approved by the procurement delegate.

6.19. Keep records and identify benefits and lessons learnt

NSW Health entities must, at the conclusion of the approach to market process, confirm all records are up to date, are saved into the NSW Health entity's record management system, and ready to handover to the contract management entity.

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

7. Contract Management

Contract management is the process of managing executed contracts and is a continuation of the procurement process outlined above. This section 7 requires all NSW Health entities to conduct certain minimum contract management activities depending on the contract value and/or method of procurement.

7.1. Managing contracts valued at less than \$30,000

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

7.2. Managing contracts established using existing procurement arrangements

Contracts established using existing procurement arrangements require operational contract management at the local level to:

- Confirm that the goods and services are received on time and for the agreed price.

- Confirm that the goods and services comply with the terms or rules of the existing procurement arrangement.
- Raise any minor issues with the supplier in the first instance. Issues which are ongoing or significant should be reported to the category manager or the [NSW Procurement Service Centre](#).

Where the contract is for a professional services engagement, additional requirements apply:

- The engagement must be saved into <https://procure-suppliers.portt.cloud/action-center> [PROcure](#), as prescribed by the NSW Health Chief Procurement Officer.
- All documents relating to the procurement must be kept within this system.
- Achievement of milestones and payments must be recorded.
- A formal post-engagement evaluation must be undertaken and saved in the system.

7.3. Managing contracts established outside existing procurement arrangements

Contracts established outside existing procurement arrangements for all procurement levels (level 1, level 2 and level 3), must be managed in accordance with this section 7.3 onwards.

Whole-of-Government and whole-of-Health contracts managed by NSW Health entities must also be managed in accordance with this section 7.3 onwards.

7.3.1. Contract set-up

NSW Health entities must work with HealthShare NSW or eHealth NSW when implementing whole-of-Government or whole-of-Health contracts at the NSW Health entity level.

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

- Confirm all contractual documents have been received and properly executed.
- Review and record the expected outcomes of the contract, including contract terms and requirements.
- Confirm benefits delivered through the sourcing activity and any ongoing activities to ensure full benefits realisation over the life of the contract.
- Ensure the contract (if valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more) is registered on [PROcure](#) or, for whole-of-Health contracts, on [Portt Discover](#), and that relevant documents are uploaded to the relevant system.
- Ensure all records are saved to the contract owner's record management system and passed over to the contract management entity (if not the same NSW Health entity).
- Where social policy reporting requirements apply, ensure that the contract is set up on the reporting.buy portal within [buy.NSW](#). This includes assigning a NSW Health

contract manager, entering the supplier details and the reporting commitments included in the contract.

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

The asset must also be included in the NSW Health entity's Asset Management Plan.

NSW Health entities must also classify the supplier using the Supplier Segmentation Framework if the total aggregated contract spend with that supplier (including the new contract) is \$5 million or more per annum to determine the 'supplier type' as either:

- Tactical.
- Emerging.
- Legacy.
- Strategic.

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

For contracts with emerging, legacy and strategic suppliers, NSW Health entities must prepare a Contract/Panel Management Plan. Anticipated contract benefits for emerging, legacy and strategic suppliers must be recorded in the Contract/Panel Management Plan and benefit delivery tracked against forecasts using a consistent methodology.

If a kick-off meeting is arranged, the contract manager and supplier must attend the meeting.

7.3.2. Administer contract

Contracts must be administered in accordance with their terms and conditions.

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

To better manage contract variations whilst administering the contract, NSW Health entities must:

- Comply with the variation regime of the contract.
- Not use an extension option to avoid complying with the EPP Direction.
- Seek legal advice prior to agreeing to material variations from the NSW Health entity's local legal team (if the NSW Health entity has a local legal team) and/or seek external legal expertise from the [2021/001 Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate).
- Keep relevant records related to the contract variation.
- Obtain appropriate approval for the variations from the contracting delegate.
- Obtain appropriate approvals for the variations from the financial delegate.

- Obtain NSW Health Chief Procurement Officer approval to vary the contract if the total tenure will be more than five years, or to extend contracts whose contract terms exceeds five years, on the basis that exceptional circumstances apply.
- Obtain NSW Health Chief Procurement Officer approval for variations or extensions of any value for professional services engagements.
- Obtain approval from the NSW Health Chief Procurement Officer if the proposed variation is outside the scope of the original statement of work.

Once the contract variation is approved, NSW Health entities must document:

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

NSW Health entities must record contract variations on [PROcure](#) or, for whole-of-Health contracts, on [Portt Discover](#), and for contracts valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more, disclose them on [NSW eTendering](#) if there is a material change to the contract term or price.

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

NSW Health entities must track extension dates and expiries for contracts with all supplier types and ensure there is a plan for maintaining supply or transitioning out of a contract.

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

For contracts managed by HealthShare NSW and eHealth NSW, decisions to lapse, renew or extend contracts must be made at least 12 months prior to expiry, with relevant approvals.

7.3.3. Monitor contract

NSW Health entities must monitor the supplier's performance and contract compliance for all supplier types.

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

NSW Health entities must document all instances of non-compliance, and communications addressing non-compliance, in writing.

If the supplier is in breach of their obligations and a NSW Health entity is considering invoking dispute resolution mechanisms (e.g. to issue a formal notice of dispute or to commence third party mediation), NSW Health entities must seek legal advice before proceeding by contacting the NSW Health entity's local legal team (if the NSW Health entity

has a local legal team) and/or seek external legal expertise from the [2021/001 Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate).

NSW Health entities must comply with the NSW Health Policy Directive *Significant Legal Matters and Management of Legal Services* ([PD2017_003](#)), including complying with requirements to notify the Ministry of Health's Executive Director, Legal and Regulatory Services & General Counsel if a significant legal matter arises.

Manage financial administration and track expenditure

Contract spend must be tracked and monitored over the life of contracts with emerging, legacy and strategic suppliers. NSW Health entities must also reconcile contract spend against the approved expenditure commitment or the purchase order (if applicable).

If expenditure is likely to exceed the approved contract value, NSW Health entities must:

- Obtain approval from the financial delegate for the increased contract spend.
- Update [PROcure](#) and the GIPA contract register on [NSW eTendering](#) if the contract is valued at \$150,000 (incl. GST) (or \$136,363.64 excl. GST) or more.

In association with spend tracking, NSW Health entities must consider ongoing demand across contracts with strategic suppliers.

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

Continuously monitor and manage risks

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

Contract or category managers must analyse and monitor their contract supply chains with strategic suppliers to better understand these risks, and to help identify and plan for supply bottlenecks or disruptions.

7.3.4. Manage and monitor supplier performance and relationship

The contract or category manager must monitor and regularly review contractual performance measures for emerging, legacy and strategic suppliers.

The contract or category manager must also facilitate contract review meetings with emerging, legacy and strategic suppliers. Contractual performance measures must be tracked in accordance with the contract, and issues or concerning trends discussed with the supplier at performance review meetings.

For contracts with strategic suppliers, end-user satisfaction must be measured.

Any ongoing risks or issues that arise with a supplier contracted using the [ICT Purchasing Framework](#) where a formal dispute may arise must be escalated to eHealth NSW for their advice and support.

Contracts valued at \$3 million or more may have supplier and/or NSW Government agency reporting requirements arising from social policies. NSW Health entities must monitor that the supplier is providing quarterly reporting, in accordance with the targets agreed in its contract.

Any incident of modern slavery identified in a NSW Health supplier's supply chain must be managed in alignment with section 4.6.4 and reported to the NSW Government Chief Procurement Officer.

7.3.5. Close contract

NSW Health entities must conduct a final performance review with emerging, legacy and strategic suppliers prior to contract closure.

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

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

The Contract/Panel Management Plan must be reviewed and updated with final contract spend and usage data for contracts with emerging, legacy and strategic suppliers.

NSW Health entities must also conduct a final reconciliation of benefits delivered through any contract with emerging, legacy or strategic suppliers, by finalising the benefits realisation register in either the Contract/Panel Management Plan or the Benefits Realisation Plan as applicable.

NSW Health entities must check that any end-of-contract social reporting requirements are met.

At the conclusion of any contract, NSW Health entities must confirm that all records are up to date and saved into the relevant NSW Health entity's record management system.

These records must cover:

- Contract planning documents.
- Sourcing documents including the request for quotation or request for tender, clarifications, supplier responses, Evaluation Report and any supporting documentation.
- Conflict of interest declarations and any other probity-related documentation.
- Signed and executed contracts and variations.
- Performance management records and supplier reports.
- Financial records and reconciliation of contract expenditure.
- Post-engagement evaluations for professional services engagements.

8. Other Relevant Considerations

This section 8 applies to the procurement of all goods and services, regardless of the procurement level (level 1, level 2 or level 3) or supplier type (tactical, emerging, legacy or strategic).

8.1. Legal

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

For advice on legal matters (e.g. reviewing contract terms, managing material contract variations, non-compliance), NSW Health entities must contact their local legal team (if your NSW Health entity has a local legal team) and/or seek external legal expertise from the [2021/001 Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate). If it would be of assistance, the Ministry of Health's Legal unit can assist in identifying an appropriate firm from the relevant panel.

8.2. Unsolicited proposals

All unsolicited proposals must be managed in accordance with the NSW Government [Unsolicited Proposals for Submission and Assessment](#) guide. Such proposals must not be used as a substitute for routine competitive procurement actions.

8.3. Public-private partnership arrangements

For public-private partnerships, in addition to the [NSW Public Private Partnership Policy & Guidelines](#), NSW Health entities must encourage private partners or contractors to use existing whole-of-Government and whole-of-Health procurement arrangements where possible.

8.4. Procurements approved by Cabinet or a Cabinet Standing Committee

In undertaking a procurement approved by Cabinet or a Cabinet Standing Committee, NSW Health entities must apply this Policy Directive, the NSW Government [Procurement Policy Framework](#), NSW Procurement Board Directions and policies of the Board to the extent they are consistent with the Cabinet decision.

If the procurement is covered by the EPP Direction, the NSW Health entity must comply with the EPP Direction when undertaking the procurement.

8.5. Emergency procurements

Before NSW Health entities conduct an emergency procurement, approval must be obtained from both:

- The Secretary, NSW Health or their nominee under section 4(1) of the *Public Works and Procurement Regulation 2019* (NSW).
- The financial delegate with authority under section 9.7(1)(b) of the *Government Sector Finance Act 2018* (NSW) to commit or incur expenditure for the procurement of goods and services (including equipment) to support the NSW Government's response to an emergency to a value sufficient to meet that particular emergency.

Written confirmation of the emergency procurement approval must be arranged as soon as practicable following the emergency procurement, if it cannot be provided beforehand.

Where an emergency procurement is authorised, the NSW Health Chief Procurement Officer must be notified as soon as possible. NSW Health entities must not procure goods and services in excess of those necessary to meet the immediate needs of the emergency.

8.6. Financial risk management

All NSW Health entities are required to manage select financial risks in accordance with the NSW Government *Financial Risk Management Policy* ([TPP21-14](#)). This policy applies when NSW Government agencies:

- Are transacting or are subject to exchange rate risk valued at \$500,000 or more where the NSW Government agency:
 - Buys or sells, or intends to buy or sell, goods and services in foreign currency.
 - Buys or sells, or intends to buy or sell, goods that are ultimately sourced from overseas or foreign suppliers.
 - Has actual or budgeted income, expenses, assets or liabilities that are affected by changes in the value of foreign currencies.

(Foreign exchange risk).

- If there are debt or borrowing related arrangements as part of a procurement, these require referral for assessment of interest rate and refinancing risks. This also includes leases or availability payments which have interest rate exposure. (Interest rate and refinancing risk).
- Any procurement with expenditure subject to exposure to the price of commodities (including for ongoing operations such as electricity, fuel, gas or a commodity for a large procurement such as steel) of above AUD\$20 million. (Commodity risk).

Any procurements that meet any of the above criteria must be reported to the Ministry of Health [Financial Systems Performance Branch](#) and the [Strategic Procurement Branch](#).

8.7. Disposals and donations

The disposal of goods and assets that have reached the end of the serviceable life or are no longer required by NSW Health entities must be managed to achieve value for money and meet transparency and probity requirements. Disposals must also comply with all applicable environmental standards and regulations, work, health and safety requirements, and any local council regulations.

Prior to commencing disposal activities, NSW Health entities must obtain approval from the appropriate procurement delegate confirming that the:

- Goods are suitable for disposal.
- Estimated present value of the goods is acceptable.

NSW Health entities must use the value of the goods to be disposed of to determine the disposal process to be followed, rather than the cost of the disposal.

When conducting disposals by quotations, NSW Health entities must ensure:

- That disposal specifications and requirements are provided equally to all suppliers invited to quote.
- The supplier evaluation criteria is established prior to receiving quotes.
- That proper processes are followed for closing managing quotes, awarding the disposal contract and finalising the agreement.

The disposal of assets to charitable bodies must be approved by the relevant delegate in line with the NSW Health entity's Delegations Manual.

8.8. Exemptions to this document

Exemptions will be granted by the NSW Health Chief Procurement Officer only where exceptional circumstances apply.

When seeking an exemption, NSW Health entities must:

- Demonstrate how value for money will be achieved through the non-compliant process.
- When seeking to buy alternatives to contracted goods and services, provide a comparative assessment of the alternate products or approach that addresses whole-of-life costs, interoperability, risks and benefits.
- Confirm a funding source with approval from the financial delegate.
- Obtain endorsement of the approach from the procurement delegate.
- Obtain endorsement of the approach from the relevant category manager (if applicable).
- Obtain endorsement from HealthShare NSW or eHealth NSW prior to approaching the NSW Health Chief Procurement Officer.