Procurement Manual
A detailed guide to procurement for NSW Education cluster staff
Document control

This Procurement Manual is a controlled document authorised by the Chief Procurement Officer. It is located on the Procurement Solutions Directorate’s Procurement Essentials website and in a secure online folder (DOC13/17985) for editing purposes only. The information in this document is owned by the Secretary of the Department of Education.

Authorisation

<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
<th>Position</th>
<th>Signature</th>
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<tbody>
<tr>
<td>Julia Hubbard</td>
<td>29/09/2016</td>
<td>Director Procurement Governance</td>
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Release Status

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<tr>
<th>Release Number</th>
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<tr>
<td>Version 1.0</td>
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<td>New iteration of the DoE Procurement Manual.</td>
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<td>Further updating.</td>
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<td>Updates to Extensions, Variations and Piggy Back Contracts.</td>
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<td>Further update of Category Planning Procurement Planning to 3.8 Managing the Evaluation Process.</td>
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<tr>
<td>Version 4.1</td>
<td>17/07/15</td>
<td>Updates relevant to construction procurement, alignment with 9 steps procurement approach, when to complete the Code of Conduct for Procurement Activities, approvals to release and cancel RFx and requirement for full strategy documentation when releasing open tenders.</td>
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<tr>
<td>Version 4.2</td>
<td>28/08/15</td>
<td>Updates relevant to construction procurement, easy reference guide and approval of category plan.</td>
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<tr>
<td>Version 4.3</td>
<td>29/10/15</td>
<td>Update providing definition of procurement. Providing in the footer relevant to disposal of assets the requirement as found in the delegations that disposal must be undertaken without risk to health and safety of any person.</td>
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<tr>
<td>Version 4.4</td>
<td>17/02/16</td>
<td>Included reference to DoE’s new online solution, Contract (Re)Source and the Operations Manual Contract (Re)Source. Included reference to the ICT Investment Policy and Guideline. Strategy Document is now the term to be used rather than strategy checklist. PID reference has been deleted. Added the requirement in the easy reference guide page that sourcing projects valued $150,000 and above are to be released and managed through Contract (Re)Source and exceptions to this requirement must be approved by the CPO. Added links to the various vendor management agenda templates and meeting minutes template. Reference to eTendering relevant to the use of Contract (Re)Source has been updated. Updated procedures for engagement of consultants and included requirements of Board Direction 2015-04 (major suppliers).</td>
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<tr>
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<td>Procurement Method Easy Reference Guide has been updated to include Board Direction requirements such as Board Directions 2013-04 and 2016-01. This version also contains the annual update.</td>
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<tr>
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<td>12/07/16</td>
<td>Inclusion of links to Contract Negotiation Guidelines and Negotiation Planning Guide. Update of Unsolicited Proposal and Direct Negotiation information</td>
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<tr>
<td>Version 4.7</td>
<td>08/08/16</td>
<td>Revised conditions on when Purchase Order is required and inclusion of requirement for staff to consider using Purchasing Cards for low value transactions, such as purchases up to $5,000 (incl. GST).</td>
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<tr>
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<td>Changed references of detbuy to EDConnect</td>
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Enquiries

The Department’s Procurement Solutions Directorate (PSD) will continually improve this document to reflect changes in Government Acts, Regulations and as per the Department’s requirements. Enquiries and feedback should be directed to EDConnect on 1300 32 32 32.
Introduction

Procurement is a commercial approach to identifying and implementing business solutions; from the high level strategic thinking and business planning, through to the delivery, implementation and management of contracts that ensure the business objectives are realised.

This Procurement Manual explains how Education staff are to conduct procurement activities for goods, services and construction, thus, ensuring that the cluster employs consistent procurement processes that are aligned with current NSW Government policy. It should be used with reference to the Simple Procurement Guide and the Procurement Governance Manual.

The Procurement Manual has been developed in conjunction with the Procurement Governance Manual and the Operations Manual (a PSD internal manual).

Who should use the Procurement Manual?

The Procurement Manual provides guidance on procurement-related activities to staff within:

- The Department of Education, which includes:
  - Corporate directorates and business units, including Procurement Solutions Directorate (PSD) staff
  - NSW Government Schools
  - Regional offices
  - Aboriginal Affairs NSW
- Board of Studies, Teaching and Educational Standards (BOSTES)

The Procurement Manual was developed by the PSD Governance Unit in consultation with key Procurement Practitioners across the cluster and is approved by the Chief Procurement Officer.

Review

- The Procurement Manual is reviewed annually by the PSD Governance Unit or when a policy, procedure or template must be amended.
- Requests for change are recorded and managed through the Department’s Procurement Compliance Manager.
- All changes are communicated to users using the channels outlined in PSD’s Communications Plan.
Document Map

Policy and compliance
- References
- Procurement Method Easy Reference Guide

Who can help
- Procurement support

Process steps
- Purchasing
- Category Planning
- Business Case
- Engage procurement
- Develop strategy
- Manage sourcing project
- Source (go to market)
- Evaluate
- Execute
- Disclose
- Implement and manage
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*Handy hint: to search a topic in this document, press “Ctrl + F” on your keyboard, type in the search term and hit “Enter”.*
1. References

The processes described in this manual consider the following issues:

**Risk management**

The Department’s [Enterprise Risk Management (ERM) Framework](#) is maintained by the Strategic Delivery Directorate and is available on the Intranet. The ERM Framework helps staff to identify and manage risk and aligns with:

- NSW Treasury Policy TTP-09-5 – Internal Audit and Risk Management Policy for the NSW Public Sector

Accordingly, all staff involved in risk analysis should have an awareness of the ERM Framework and have an understanding on how to use it.

PSD has adopted and implemented the risk management processes covered by the ERM. PSD actively identifies, records and manages risk during the procurement lifecycle.

PSD manages a Procurement Risk Register that covers procurement activities across the cluster. The register includes major risks impacting the Department’s ability to maintain procurement accreditation as well as risks related to sourcing projects and business initiatives.

Any relevant high level risks will be added to the Department’s Enterprise Risk Register. The Procurement Risk Register is reviewed by the Procurement Governance Committee.

**Fraud and corruption**

The Department’s [Code of Conduct](#) articulates the organisational values and ethics staff must adhere to through all activities, including procurement processes. The Code also applies to tenderers and contractors, their employees and subcontractors. Tenderers and suppliers should be aware of and adhere to the Department’s [Statement of Business Ethics](#).

Elements of the Code of Conduct relating to procurement require staff to:

- Behave honestly and with integrity
- Not make improper use of inside information, or their duties, status or power or authority, in order to gain a benefit for themselves or any other person.
- At all times behave in a way that upholds the values, the integrity and the good reputation of the Department.

**Corruption Prevention**

Corruption can occur whenever a person supplies or has access to resources or information or has the responsibility for decision making. The Department has prepared [Corruption Prevention Procedures](#) to mitigate this risk.
Compliance with procurement policies

Staff is required to comply with Government policies and frameworks. PSD monitors compliance through:

- Monthly reporting
- Analysis of spend data and eProcurement statistics
- Activity reminders
- Quarterly process audits conducted by its governance unit
- Investigating reported instances of non-compliance.

PSD supports education processes by:

- Maintaining and promoting the Procurement Manual
- Engaging with stakeholders
- Providing a support team for queries
- Communicating through the intranet, newsletters, emails and presentations
- Providing individual guidance as required
- Capability Development Programs.

The Procurement Governance Manual contains Procurement Non-Compliance Guidelines that guide the response to staff non-compliance with the Department’s procurement policies and related legislation/regulations. Where appropriate, compliance issues may be raised with the Employee Performance and Conduct Unit (EPAC) for investigation and with the Procurement Governance Committee for input to remedial action plans.

PSD’s Governance Unit maintains a Procurement Non-Compliance and Complaints Register that tracks all reported cases of non-compliant procurement activities by staff. The register informs the Compliance Report that is provided to the Procurement Governance Committee quarterly.

The Audit Directorate reviews procurement process compliance across the Department as part of its Audit Program.

It is a requirement of Accreditation that all NSW Procurement Board Directions are adhered to in all procurement activities.

Information technology, or stand-alone operational technology, projects are required to follow the ICT Investment Policy and Guidelines.

Complaints

The Complaints Handling Policy Guidelines provides direction in determining whether a matter should be dealt with formally. The guidelines provide information on how to make a complaint, how to deal with a complaint and how to support the people involved.

All formal complaints received by PSD are added to the Procurement Non-Compliance and Complaints Register and allocated to an appropriate officer for investigation and resolution. If complaints relate to an issue of non-compliance with procurement policy, this is noted on the register and remediation actions are taken in line with the Procurement Non-Compliance Guidelines noted in the Procurement Governance Manual. Issues are closed out of the Procurement Non-Compliance and Complaints Register with the approval of the Director Procurement Governance.
A high-level summary of complaints and non-compliance issues are reported to the Procurement Governance Committee on a quarterly basis.

The register is managed by the PSD Governance Unit.

**Reporting and review**

Procurement reporting requirements are linked to the Department’s Planning and Reporting Framework and the NSW Government’s Strategic Reporting Framework. The requirements are detailed in the [Procurement Governance Manual](#).

**Relevant Legislation and Regulations**

- Government Sector Employment Act 2013
- Public Works and Procurement Act 1912
- Public Works and Procurement Regulation 2014
- Public Finance and Audit Act 1983
- Government Information (Public Access) Act 2009
- Disability Discrimination Act 1992
- Work Health and Safety Act 2011

**Relevant NSW Government Policy and References**

- NSW Government Procurement Policy Framework
- NSW Procurement Board Directions
- ICT Investment Policy and Guidelines
2. Procurement support

The procurement support framework for staff covers all types and levels of procurement and purchasing.

**Policy support**

For queries about procurement policy, contact EDConnect on 1300 32 32 32.

**Contract Support**

**State contracts**

Visit the [ProcurePoint website](http://www.procurepoint.com) or contact the NSW Procurement Client Support Centre by emailing [nswbuy@services.nsw.gov.au](mailto:nswbuy@services.nsw.gov.au) or calling 1800 679 289.

**Cluster strategic common use contracts**

PSD’s Contract Services team manages strategic common use contacts. Details are available on the [Department’s procurement intranet pages](http://www.det.nsw.gov.au). For assistance, contact EDConnect on 1300 32 32 32.

**eCatalogue support**

PSD develops and maintains the Department’s eCatalogues. Contact EDConnect for support on 1300 32 32 32.

**Contract management support**

PSD maintains a database of contracts (for contracts valued $150,000 and above) and provides advance alerts to Category Managers to liaise with Contract Managers across the cluster for appropriate action. Register your contract over $150,000 total life value and send to [procurementprogram@det.nsw.edu.au](mailto:procurementprogram@det.nsw.edu.au).

For help and guidance on managing contracts and suppliers contact EDConnect on 1300 32 32 32.

**Sourcing support**

For help to conduct or to seek approval for sourcing activities (such as tenders or quotes valued $150,000 and above), complete the [Contract Management Plan Form](http://www.det.nsw.gov.au) and email it to [procurementprogram@det.nsw.edu.au](mailto:procurementprogram@det.nsw.edu.au).

For help and guidance on sourcing activities, contact EDConnect on 1300 32 32 32.

**Alignment with your business**

The Department’s Procurement staff works with category specialists to form Category Management Teams. Major categories are:

1. Goods and Services
2. Information Technology Services
3. Professional Services
4. Community Services
5. Construction
6. Facilities Management

Click here for a detailed list of sub-categories.

The Procurement Solutions Category Managers establish and manage category strategies, support Department staff with sourcing needs.

**Complaints**

Contact EDConnect on 1300 32 32 32 to register complaints.
3. Process overview

Procurement can be anything from a simple purchasing exercise to a detailed planning, execution and implementation process depending on the level of complexity, value and risk.

The Department’s procurement processes are outlined in the 11 stages below and detailed in the next chapters (3.1 - 3.11).

<table>
<thead>
<tr>
<th>Stage / Chapter</th>
<th>3.1. Purchasing and Use of Contracts or Panels</th>
<th>3.2. Category Planning / Procurement Planning</th>
<th>3.3. Business Case</th>
<th>3.4. Engage Procurement</th>
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<tr>
<td>Example Detail</td>
<td>• Low value Contracts • Delegations</td>
<td>• Analysis • Drivers</td>
<td>• Requirements • Governance • Risks • Gateway</td>
<td>• Register your project</td>
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<tr>
<td>Forms / Templates</td>
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<tr>
<td>*Tools / Links</td>
<td>• Purchasing Guide • eCatalogues • eProcurement • Contract (Re)Source</td>
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3.6. Project Management

• Program Review
• Risk Management

3.7. Sourcing Process

• Governance • Specifications • Publishing Tenders

3.8. Evaluation Process

• Evaluation Plan • Governance • Negotiation • Probity

3.9. Contract Execution & Award

• Contract checks • Award • Execution • Notifications (letters) • Delegations

3.10. Disclosure Information

• Contract Award Notice • Contracts $150k and above

3.11. Contract Implementation & Management

• Contract Managers • Implementing contracts • Delegations

*HP Records Manager (HPRM), which is a records management tool, supports all functions

*Contract (Re)Source (CRS) is the Department's online procurement contract management and sourcing solution. When Contract (Re)Source is used in implementing a sourcing project, the detailed process steps found in the Operations Manual: Contract (Re)Source are required to be referred to.
3.1 Delegations, purchasing and use of Contracts or Panels

The procurement activities are subject to the requirements set out in the Public Works and Procurement Act 1912, the Government Sector Employment Act 2013 and the Public Finance and Audit Act 1983. Treasurer’s Directions, cluster delegation schemes and its policies and procedures for managing expenditure.

Delegations are powers delegated by the Minister or Secretary to public servants under legislation to perform financial and administrative functions on their behalf.

The Department’s delegations are monitored and updated by the Business Services Administration Policy Unit to account for changes to NSW legislation, the Department’s business requirements and restructures.

Other cluster entities manage their own delegations as required with CPO input to ensure policy currency and to maintain accreditation with the NSW Procurement Board.

**Procurement delegations**

A procurement delegation is the authority conferred upon an individual who will ensure a specific procurement activity is conducted in line with policy and that risks associated with any proposed exception or deviation from policy are adequately controlled.

Procurement delegations and financial delegations are different things, but often interdependent; an officer may be authorised to undertake a particular procurement delegation (such as, the disposal of assets) up to the limit of their financial delegation.

We have aligned procurement delegations and financial delegations where possible; for example, for values up to $150,000, the procurement method can be approved by officers under financial delegation and for construction only, subject to the additional approval by local Asset Management Unit Manager. However, for procurement valued over $150,000, if not buying from an existing DoE catalogue, or existing Department contract or standing arrangement, or from a single supply state contract, approval is required from an authorised delegate (refer to Procurement delegations – PWP001, Categories, 1, 2 or 3).

The Department of Education is the accredited agency within the Education cluster, and as such, in accordance with the Public Works and Procurement Act 1912 and NSW Procurement Board Direction 2013-03, it is authorised to enter into arrangements with suppliers for the procurement of goods and services on behalf of the cluster and any entities that are granted concurrence to its procurement authority. As at 1 October 2014, the following cluster entities are subject to the delegations noted:

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1. Disposal of plant and equipment must be undertaken in a way that is, so far as is reasonably practicable, without risks to the health and safety of any person in the workplace.

2. On 24 June 2013, the Department was awarded a level 3B accreditation to conduct goods and services procurement to a value of up to $210 million. The accreditation is for a period of three years commencing 1 July 2013 and is subject to the Department’s compliance with the scheme’s guidelines.

3. On 30 March 2016, the Department was awarded a level 3B accreditation to conduct construction procurement to a value of up to $210 million. The accreditation is for a period of three years commencing 30 March 2016 and is subject to the Department’s compliance with the scheme’s guidelines.
Entity | Delegations
---|---
NSW Department of Education:  
- Corporate Offices  
- NSW Public Schools  
- Aboriginal Affairs NSW |  
- Procurement delegations  
- Financial delegations

NSW Board of Studies, Teaching and Educational Standards (BOSTES) |  
|  
- Procurement delegations  
- Financial delegations

**Financial delegations**

Financial delegations specify the amount of money that public servants are authorised to spend on behalf of the Department. Generally, the amount increases with an officer’s grade. You can access the financial delegations relevant to your area of the cluster from the table above.

Where Executive Agencies have their own approved financial delegations, they should use them in conjunction with the procurement-specific delegations noted above.

Except for centrally-managed, non-commitment contracts, Procurement delegates may only approve procurement activity subject to funding being confirmed by the delegated financial authority and in respect of construction this includes the budget approved by the Minister for Education under the annual budget plan.

**General purchasing**

Purchasing is the simple acquisition of goods and services under an existing contract or an acquisition where the value and risk is low (refer to the Simple Procurement Guide).

The request to purchase must be approved by an officer with appropriate financial (expenditure) delegation.

Correct processes must be followed with regard to ordering, receipting and payments. For Shared Services accounts payable procedures, refer to procure to pay processes. Schools should refer to their School Manual on Financial Management, Chapter 6.3: Initiating Procurement Action. Payment for Construction Projects is in accordance with the respective Contracts.

You will achieve better value for money if you plan your purchasing in advance. The purchasing process usually consists of the following steps:

1. **Confirm funding** - Check first that you have a budget, and the financial delegation to sign off on the proposed expenditure. For construction the annual budget confirms the funding to proceed with the procurement process. **Check for an existing contract or scheme** - If there is a DoE Contract available, you must use it⁴.

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⁴ Some exceptions exist – [click here](#) for details.
Otherwise, check if there is a suitable NSW Government Contract or Scheme.  

2. **Identify suppliers** - Research the appropriate suppliers to approach. Regardless of whether there is a contract or scheme, you still need to identify who to approach and document why you are approaching them over others.

3. **Obtain procurement delegation** - Obtain approval under procurement delegations for the procurement approach.

4. **Source / purchase** – Arrange your purchase or market approach.

5. **Contract and manage** – Seek advice from PSD or Legal to ensure you use the right agreement or terms and then monitor whether the objective of the procurement and the identified value is achieved. For Construction, standard form contract documents, administered by the Office of Finance need to be used. Refer to https://www.procurepoint.nsw.gov.au.

When obtaining quotes (refer to the Procurement Method Easy Reference Guide) the selected quote must provide the best value for money when evaluated against the assessment criteria. Best value is not necessarily lowest price. It should be a combination of quality, reliability, timeliness, service, whole-of-life costing and other relevant factors. Refer to the Statement on Value for Money.

### Order splitting

As noted in the Department’s Statement of Business Ethics, suppliers, contractors and staff must not request, encourage or facilitate the prohibited act of “order splitting” (splitting one order into a succession of orders for the purpose of obtaining the good or service under a financial delegation level).

Staff found to be facilitating order splitting will be investigated as per the Procurement Non-Compliance Guidelines detailed in the Procurement Governance Manual.

### Buying from contract

Staff must use whole-of-government contracts where available as directed by NSW Procurement Board Direction 2012-02 – Obligation by government agencies to use whole-of-government-arrangements. For exceptions, see “Purchasing Outside of Department or State Contracts” below.

Whole-of-government arrangements can either be a State Contract, standing offer agreement or a prequalification Scheme – these arrangements are established for NSW Government agencies to purchase from as directed in the user guide on www.procurepoint.nsw.gov.au.

Department-specific contracts or prequalification schemes are established and managed by PSD or other cluster units or entities. If an arrangement exists under both State and the Department, you must use the Department arrangement.

You can buy direct without quotes when:

- There is a contract that has only one supplier (single source supply – e.g. electricity)
- There is a Department catalogue

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5 Some schemes are also mandatory
• Engaging Contingent Workforce (although for Contingent Workforce it is recommended you allow the Contractor Central Team to send your requirements to several suppliers on the prequalification Scheme to maximise your chance of finding the best candidate. For more detail refer to Contingent Workforce)

Where there is more than one supplier on a contract or panel that does not have a Department catalogue, you are required to obtain quotes as per the Procurement Method Easy Reference Guide to ensure value for money. This includes for engagement of consultants or contractors (excluding Contingent Workforce).

Before obtaining quotes from a Prequalification Scheme ensure a Department-approved agreement is issued. For construction projects the respective pre-qualification schemes must be checked for any existing contract/agreement. Alternatively, the Department approved agreement must be used.

For the procurement of ICT related goods and services, the use of the ProcureIT framework is mandatory under Board Direction 2012-05.

When purchasing from existing State Contracts, review the terms and conditions of that contract. A specific order form may need to be submitted with reference to the Department’s purchase order.

For further information on State and other Government contracts, see the NSW Government procurement contract user guides. For information on Department contracts, refer to the PSD intranet pages.

### Purchasing outside of Department or State contracts

Generally, purchasing outside of Department or State contracts occurs when the required products are not available on State arrangements or DoE specific arrangements. There are, however, circumstances where purchasing an item outside of a Department or State Contract is acceptable, even if that item is available on contract – examples are noted below. In all these situations, you must make a record of decisions made and supporting documentation to satisfy audit requirements. Emergency purchases will require approval under delegation.

#### Purchases up to $5,000 (incl. GST)

Staff members may purchase goods and services from any supplier valued up to $5,000, except for goods and services covered on the mandated contracts list. Staff members should consider using Purchasing Cards to undertake these low value transactions for greater processing efficiency. Click here for more information on the Department’s Purchasing Card program.

#### Emergency purchases

In an emergency situation, a financial delegate may approve the procurement activities outside of procurement policy to a value sufficient to meet that particular emergency. Such authorisations must be reported to the Chief Procurement Officer as soon as possible. The law does not authorise the procurement of goods and services in excess of those necessary to meet the immediate needs of any emergency.

Examples of acceptable emergency include when action is needed to avoid:

- The closure of any facility
- Injury or health risk
- Serious damage to property, or to control existing damage
- Practicality – when an urgent purchase is required:
  - For a critical project with strict timeframes
• To maintain immediate operational activity or maintain business continuity
• To remove or manage a work health and safety issue
• If the item is perishable or if the item would not be on time because of the locality of the contracted supplier.

Alternate supply request

If an equivalent product to an on-contract item can be purchased at less overall cost through an alternative provider and value for money has been established, you can complete an Alternate Supply Request form and email it to detbuy@det.nsw.edu.au.

The Alternate Supply Request must be submitted and approved before you can purchase off contract in the following circumstances:

• If the item to be purchased is on the mandatory contracts list, or
• If the item to be purchased is on a DoE or State Contract for items valued over $5,000 (incl GST).

Where a Contract or Scheme is not available to meet your needs:

• Under $150,000, you can canvass suppliers from appropriate directories or referrals and determine their interest / capability to provide the type of thing that you need so that you can invite them to quote. To assist you through the quote assessment process:
  o For quotes up to $30,000, use the Low Value Quote Evaluation Guide.
  o For quotes above $30,000 and up to $149,999, use the Medium Value Quote Evaluation Plan and Report.
• From $150,000 and above, you may need an open market approach and will need to refer to your approved procurement delegate or the Procurement Solutions Directorate.

Note: Under the Procurement delegations (PWP001, Note 7), the Procurement Solutions Directorate must be advised before a market approach for any procurement valued at $150,000 or more. This condition applies to all procurement, that is, even when procurement is through other Government Agencies like Public Works, Government Architects Office or Department of Industry, Infrastructure NSW (INSW) etc.

Unsolicited proposals

In line with Government Procurement reform, the Department is seeking to capture innovative ideas from industry that provide real and tangible benefits. For unsolicited proposals follow the NSW Government’s Unsolicited Proposals Guidelines. Contact PSD for support with this process.

Direct negotiations

Direct negotiations are discouraged but acceptable in certain circumstances; refer to the ICAC Direct Negotiation Guidelines for further information. Direct Negotiations must be approved under the “procurement method” delegation.
Large and complex acquisition requirements

See sections 3.3 Developing a Business Case and 3.4 Engaging Procurement Solutions Directorate Services of this Manual for more information. All procurement activity $150,000 and above must be registered in advance with PSD.

Engaging Consultants, Contingent Workers, and other Service Providers/Contractors

Before engaging any resource to provide a service, first consider if the skill is available internally. If not, you then need to consider whether you require a Consultant, a Contractor or Contingent Worker and obtain approvals and engage accordingly.

Determining your requirements:

1. A Consultant is an organisation or an individual engaged under contract on a temporary basis to provide specialist advice that assists decision making. Generally, the advisory nature of the work differentiates a consultant from a contractor. Refer to ProcurePoint – Procurement of Consultancy Services for a more complete definition.

   In practice the difference between Consultants and other Service Providers/Contractors is not always clear cut and judgements will need to be made based on the particular circumstances.

   The example below is offered as an illustration:

   Currently, the ProcurePoint guidance material on procurement of consultancy services is silent with regard to Legal Services. However, for clarity, the archived C2004-17 (Guidelines for the Engagement and Use of Consultants) includes the following definition:

   Legal

   • A person or firm engaged primarily to advise on legal issues relating to a proposed innovation or amendments to legislation is a consultant.
   • A person or firm engaged primarily to provide routine legal services such as conveyancing, advocacy, drafting documents etc even though that includes professional advice, would not be a consultant.

2. A Contingent Worker is a resource working onsite under the direction of a Departmental supervisor. The terms of the service provided by the Contingent Workforce staff member may change, offering flexibility in the delivery of services.

3. A Contractor differs from a Consultant or Contingent Worker in that it is not delivering specialist advice and is an organisation (or an individual with an ABN) with professional expertise unlikely to be found through the Contingent Workforce panel. A contractor works to the Department's direction to complete a defined task.

   a) A business contractor is defined as a subject matter expert who can deliver a defined outcome within a specified timeframe. Examples include those engaged to write software or education programs, to prepare plans, drawings or documentation including architects, engineers, quantity surveyors or manage projects, or to conduct a training program.
   b) A construction contractor is a person or an organisation engaged under a contract on a temporary basis to provide professional expertise and services for the construction projects. These services are,
for example, architects, engineers, quantity surveyors, project managers, construction management etc.

Engaging Consultants

- The **consultant engagement approval process** must be followed when needing to engage a Consultant.

  The process steps are summarised as follows:

1. Complete and submit the Consultant Use Application Form to seek approval from a Deputy Secretary to utilise a consultant to provide a service.

2. Seek approval from an appropriate financial delegate to incur expenditure to engage a consultant under MO23. (Items 1 and 2 might occur simultaneously)

3. Seek approval from the procurement delegate (PWP001) to approve the procurement method (see further information below).

4. Seek approval from the procurement delegate to award and execute the contract to engage a consultant under PWP003, when the report on the finalised evaluation or negotiation process has been submitted to the delegate.

5. If a major supplier listed in **Board Direction 2015-04** (with services valued over $50,000) is to be engaged or awarded a contract:
   - access the NSW Government Major Suppliers Portal to:
     - obtain relevant information on the supplier to be engaged, and
     - create and seek approval for a new engagement with a major supplier.
   - manually complete and submit to the Chief Financial Officer (CFO) the Approval by the CFO to Engage a Major Supplier Application Form to seek to approve in the NSW Government Major Suppliers Portal the engagement of a major supplier.

- When seeking approval under PWP001, consideration should be given to identifying whether the proposed method to procure the engagement of a consultant should be under the **NSW Government prequalified panels**.

  One of these prequalified panels is the **Performance and Management Services Prequalification Scheme**. This prequalification scheme established by the Department of Premier and Cabinet with the Department of Finance and Services and Innovation, is a panel of pre-qualified service providers that can work with NSW Government agencies and statutory corporations in:

  - Performance reviews
  - Infrastructure and major projects
  - Service delivery improvement
  - Organisational capability
  - General technical expertise
  - Information and communication technology (ICT) capital investment services.
• Probity Advisers – If probity advice is required for procurement activity contact PSD. External probity
advisers for procurement can only be engaged by PSD or by Internal Audit. Refer to Use of Probity
Advisers.

Before a consultant or contractor is engaged the Department must be satisfied that:

• The proposed work is essential and cannot be undertaken by existing staff
• The terms of reference are well defined
• The outcomes of the contractor/consultant’s work are clearly stated
• There is a fixed timetable for completion of the work
• The fees are justified and are fixed
• Funds are available for the engagement
• Competitive quotes have been obtained, as per requirements noted in the Procurement Approach Easy
Reference Guide.

You should:

• Refer to ProcurePoint for reporting requirements relating to consultants engaged from the
prequalification scheme (i.e. on engagement and on project completion).
• Refer to Extending contractors and consultants before re-engaging or extending a consultant.
• Note that consultancies from outside the prequalification scheme with a contract value of $150,000
and above must be procured via an appropriate market process and must first be referred to PSD to review
the project and provide necessary support.
• Note that Board Direction 2015-04 requires the Department to report information about the engagement
of major suppliers and its outcome through the NSW Government Major Suppliers Portal.

Engaging Contingent Workers

The Department has implemented Contractor Central as a solution for the engagement and management of
Contingent Workforce staff that have been prequalified under the Contingent Workforce prequalification scheme
(scm0007). Contractor Central comprises a centralised tool and an onsite support team that allows the
Department’s corporate hiring managers to:

• Simplify the engagement and timesheet approval process for contractors.
• Reduce the administrative workload associated with Contingent Workforce staff engagement and
management.
• Get help and support relating to Contingent Workforce staff and the use of the new tool.

Contractor Central uses Fieldglass as its vendor management system (VMS) for job postings and managing
Contingent Workforce staff. Typical features of a VMS include order distribution, central timesheeting and
significant enhancements in reporting capability.

All requests for new Contingent Workforce staff or extensions to Contingent Workforce staff need to be entered
into the Fieldglass tool that is managed by the Contractor Central team.
Engaging Other Service Providers/Contractors

The approach for engaging an individual/contracting business is the same as for other procurement, as outlined in the Procurement Approach Easy Reference Guide. A whole of Government arrangement, which includes prequalification schemes must be used if it exists for the service type required.

Refer to Board Direction C2014-04 when dealing with procurement of construction works valued up to $1 million by or for a government agency.

Refer to Major Suppliers of Consultancy and other Services, to determine the approval process to engage a major supplier of services valued over $50,000, in accordance with the requirements of NSW Procurement Board Direction 2015-04 and the Department’s protocols.

If engaging an individual/contracting business through a selective process, the business must have an ABN, plus its own arrangements for WorkCover, public liability insurance, taxation and superannuation. Please note: If the business derives more than 80 per cent of its income from the Department over a financial year, they may be considered an employee, with the Department potentially liable for employee related obligations and entitlements over the entire term of the engagement.

The Procurement Approach Easy Reference Guide describes the approach required when engaging a consultant or contractor. Before a contractor or consultant is engaged, the following must be established:

- The proposed work is essential and cannot be undertaken by existing staff
- The terms of reference are well defined
- The outcomes of the contractor/consultant’s work are clearly stated
- There is a fixed timetable for completion of the work
- The fees are justified and are fixed
- Funds are available for the engagement
- Competitive quotes have been obtained, as per requirements noted in the Procurement Approach Easy Reference Guide.

You should:

- Refer to ProcurePoint for reporting requirements relating to contractors engaged from the prequalification scheme (i.e. on engagement and on project completion).
- Refer to Extending contractors and consultants before re-engaging or extending a contracting business.
- Note that Board Direction 2015-04 requires the Department to report information about the engagement of major suppliers rendering services valued over $50,000 and its outcome through the NSW Government Major Suppliers Portal.

### Major Suppliers of Consultancy and Other Services

NSW Procurement Board Direction 2015-04 requires anyone engaging major suppliers of consultancy and other services valued over $50,000 to:

- Gain prior approval from the Department’s Chief Financial Officer (CFO), but only once satisfied that either no similar work has been purchased by the government since 1 December 2015 or if work has been purchased by the government that a significant discount has been given, and
- Record and report all engagements.
The above actions are required to be conducted through the NSW Government Portal. Refer to the Major Suppliers Portal Guide that provides instructions on the use of this portal.

The latest list of major suppliers covered by the above requirements can be found under Board Direction 2015-04. Since this list will be updated from time to time, reference should be made directly to the Board Direction found in the ProcurePoint website.

NSW Procurement Board Direction 2015-04 states that any service provided by a major supplier is covered by this direction, irrespective of whether it meets the definition of consultancy advice or services.

So, if a major supplier listed in Board Direction 2015-04 (with services valued over $50,000) is to be engaged or awarded a contract, staff must:

- Ensure that approvals for the engagement have been obtained from appropriate financial and procurement delegates, in accordance with prescribed Department protocols, under financial delegation MO23 and procurement delegations PWP001, PWP003.
  
  Note: Use the Consultant Use Application Form to seek approval to use a consultant from your Deputy Secretary. Refer to process steps listed above under Consultants.

- Access the NSW Government Major Suppliers Portal to:
  - obtain relevant information on the supplier to be engaged, and
  - create and seek approval for a new engagement with a major supplier.

- Manually complete and submit to the CFO the Approval by the CFO to Engage a Major Supplier Application Form to seek approval in the NSW Government Major Suppliers Portal to engage a major supplier.

- Report all engagements and their outcomes in the NSW Government Major Suppliers Portal, and

- Provide relevant information to PSD on whether award of contract is to be made to a major supplier for services over $50,000.

## DoE Code of Conduct

All resources must be made aware that they must adhere to the Department’s Code of Conduct during their engagement. While contractors and consultants are not subject to disciplinary action, conduct assessed as being a serious breach of the Code of Conduct may result in their contract being terminated.

Contractors and consultants should sign a Non Disclosure Agreement (NDA) before the commencement of their engagement.

### Code of Conduct for Procurement Activities

Anyone involved in a procurement project over $30,000 should also complete and sign the Code of Conduct for Procurement Activities, as it includes a procurement-specific non-disclosure agreement.

The Code of Conduct for Procurement Activities is not required to be completed and signed:

- When the procurement activity is less than $30,000, or
- When implementing a purchasing activity (e.g. purchasing contract items that are available on the DoE catalogue, or making payments under an agreement following a competitive process to the value of the engagement).
Working with children

Any contractor or consultant who will perform a service that involves face-to-face contact with children must complete a Working With Children Check.

This check may be required for other contractors used in construction projects as considered appropriate by the respective business unit or school.
**PROCUREMENT METHOD EASY REFERENCE GUIDE**

A guide to the appropriate method to approach the market for your procurement activity, based on spend.

<table>
<thead>
<tr>
<th>Contract/purchase value (incl. GST)</th>
<th>Procurement method required</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $30,000</td>
<td>◦ Minimum 1 written quote*</td>
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<tr>
<td></td>
<td>◦ The Low Value Quote Evaluation Guide may assist</td>
</tr>
<tr>
<td>&gt; $30,000 - $149,999</td>
<td>◦ Minimum 1 written quote if on a Department or State Panel Contract or Scheme*</td>
</tr>
<tr>
<td></td>
<td>◦ Minimum 3 written quotes if not on a Department or State Panel Contract or Scheme</td>
</tr>
<tr>
<td></td>
<td>◦ Use the RFQ Template</td>
</tr>
<tr>
<td>$150,000 +</td>
<td>◦ Advise Procurement Solutions Directorate (PSD) of the project</td>
</tr>
<tr>
<td></td>
<td>◦ See your approved procurement delegate* or complete the Contract Management Plan Form</td>
</tr>
<tr>
<td></td>
<td>◦ Use the Medium Value Quote Evaluation Plan and Report</td>
</tr>
<tr>
<td></td>
<td>◦ Advised that your procurement strategy is the GIPA Act. All market approaches must be supported by a strategy document without exception.</td>
</tr>
<tr>
<td>Up to $1 million</td>
<td>◦ Use the Prequalification Scheme for General Construction Works, which is covered by the categories listed in the Scheme, unless:</td>
</tr>
<tr>
<td>(Construction only)</td>
<td>◦ Issuing an open tender through the eTendering website</td>
</tr>
<tr>
<td></td>
<td>◦ Engaging a contractor using powers available in clause 4 or clause 5 of the Public Works and Procurement Regulation 2014 or Board Direction 2013-04</td>
</tr>
</tbody>
</table>

### Exceptions to the Easy Reference Guide

#### Obtaining quotes

- Purchasing contract items that are available on the Department catalogue (e.g. stationery), or;  
- Making payments under an agreement following a competitive process to the value of the engagement.

Only one quote is required when procuring from an approved Australian Disability Enterprise, or up to the value of $150,000 (incl. GST) from an eligible Aboriginal enterprise or up to $30,000 (incl. GST) from a registered small business. Value for money must still be achieved.

#### Use of Department and State contracts/arrangements

- Department Contracts or State contracts must be used where they are available, except for:
  - Purchases up to $5,000 (incl. GST), unless the goods or services to be purchased are available on the mandated contracts list.
  - Australian Disability Enterprises: Aboriginal enterprises up to $150,000 (incl. GST); or registered small businesses up to $30,000 (incl. GST)
  - Emergency purchases, or,  
  - Where an Alternate Supply Request form has been submitted and approved

See chapter 3.1 of the Procurement Manual for further information.

### Easy Reference Guide general notes

1. You must ensure value for money with all procurement – this may require more than the minimum number of quotes.
2. All purchases must first be approved under the relevant financial delegations for your unit/entity.
3. Generally,
   - For the procurement of goods and services using the Department’s finance systems, a Purchase Order is required regardless of value (when the commitment is entered into with the vendor i.e. before goods and/or services are rendered) as part of the order process. Purchase orders are not required where approved alternative purchasing methods are used such as purchasing cards, cabcharge cards, petty cash and payments to staff for reimbursement of out-of-pocket expenses.
   - Regardless of the purchasing method used, approval by an appropriately delegated DoE officer and an explanation stating the business nature of the expenditure is required for all purchases. The purchases also need to be supported by original receipts/tax invoices.
4. Procured items must not be split nor placed as a succession of orders for the purpose of obtaining the goods or services under a financial delegation level. Non-compliance will be reported to the Employee Performance and Conduct Directorate.
5. Quotes must include the total costs, including the initial purchase price, ongoing service and operational costs that will be incurred as part of the purchase or engagement.
6. Where the requirements of this guide differ from those published elsewhere, the more stringent standard should be applied.
7. This guide does not apply to the acquisition and disposal of motor vehicles, land or buildings.
8. Sourcing projects valued $150,000 and above are to be released and managed through Contract (Re)Source. Exceptions to this requirement must be approved by the CPO.
9. You should consider using purchasing cards to undertake low value transactions, such as purchases up to $5,000 (incl. GST), for greater processing efficiency. Click here for more information on the Department’s Purchasing Card program.

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6 The procurement method applicable to $150,000 or more, as detailed in the above table, is to apply, in the case of information gathering from the market where no contract value is indicated or committed (e.g. Request for Information or Expression of Interest) and the indicative contract value would be $150,000 or more if the subject were to be sourced.

* Record details of verbal quotes or price checks that helped satisfy the value test

** Refer to Procurement delegations (PWP001)
3.2 Category Planning / Procurement Planning

All major procurement activities require planning. This is conducted either through long term customer outcome procurement planning or, if a category plan is not in place, through immediate planning.

The Department is required to develop and manage Co-Procurement Plans which apply a strategic focus across similar areas of spend for the cluster. The intent is to optimise total value opportunities and avoid multiple, disparate and expensive procurement arrangements.

PSD establishes Co-Procurement Management Teams using the expertise of business units across the cluster.

Procurement Solutions’ Category Directors lead six procurement categories, with 3 Co-Procurement teams:

- Goods and Services
- Information Technology Services
- Professional Services
- Community Services
- Construction
- Facilities Management

The category strategy is informed by extensive research, incorporating the needs of all parties and contributing to the objectives of the Strategic Procurement Plan and each is sponsored by a DoE executive. The category plan is required to be endorsed by the Category Sponsor and approved by the CPO.


The elements involved in both category planning and procurement planning are the same. However category plans have a broader, longer term view that may cross categories, whereas procurement plans focus on more immediate procurement needs. Category planning drives procurement activity.

The following sections describe common elements required for all major procurement activities.

**Spend profile and analysis**

“Spend analysis” is the collation and analysis of procurement expenditure data to achieve spend visibility and contract compliance.

Procurement expenditure data is organised via supplier hierarchies, product/commodity alignment and expenditure amount to ascertain:

- The true size of the category
- Category sourcing opportunities through demand aggregation, product and supplier rationalisation
- Expense reduction opportunities through increased compliance in the form of budget variance, vendor rebates, maverick spend and contract compliance.

For example, a high spend associated with non-preferred suppliers in a managed category means a spend leakage is occurring, the reasons for which need to be investigated and resolved. Similarly, a category that is
fragmented because similar products are purchased from multiple suppliers could be consolidated into fewer suppliers, allowing the negotiation of better prices due to potential higher volumes.

Procurement expenditure data is stored in a Spend Cube. Analysis provides insights into demands for various procurement categories. Through this, each category is profiled to determine:

- The value of spend and time period
- Who the suppliers are and how many there are
- Category expenditure by key items
- How many and which cost centres are buying the goods/service
- Value of compliant vs. non-compliant spend and identification of maverick spend
- The maturity of the category; i.e. compliance to contract to determine gains by aggregation or opportunity to improve a less mature category.

PSD conducts spend analysis to inform decisions, identify improvement opportunities and forecast demand for category or procurement plans.

### Demand analysis and demand drivers

Historical expenditure and trend data coupled with changes in the demographic, economic and market data helps identify demand drivers that can inform future demand and support procurement strategies and manage procurement risks.

Reports identify the opportunities to:

- Eliminate the demand
- Reduce the frequency of use/consumption
- Identify alternative methods of fulfilling demands
- Encourage reuse/recycle where appropriate
- Simplify and/or standardising specifications
- Reduce the product and services portfolio range and complexity
- Prepare for and negotiate to reduce the impact of increased demands.

Demand assessment considers demand drivers and methods to manage demand without impacting the cluster’s ability to deliver its services.

Stakeholders can provide details about their budgets, forward planning and potential technology needs that will impact demand in the future. Demand can be measured and informed by:

- Demographic analysis (population growth, regional analysis)
- Surveys
- Using market intelligence by understanding market trends
- Service delivery trends (e.g. trends in education delivery)
- Requirements and impacts of transitioning in and out of a new contract (e.g. any disposal costs or contract exit fees – refer to the [NSW Procurement Value for Money Statement](https://www.business.nsw.gov.au/NSW-PVFS) for more information)

### Market intelligence and supplier market analysis

Supply market analysis provides insight into:

- Cost drivers within a market and how a market works
Market trends and the direction in which a market is heading
The competitiveness of a market
The key suppliers
The cluster’s buying power and value to suppliers as a customer
The roadmap for products, services and solutions.

This helps inform, improve and shape what we source and how we source it, and improve procurement outcomes, such as better value for money or service, reduced prices or achieving the cluster’s service delivery outcomes.

Supplier markets are analysed to:

- Inform Co-Procurement Management teams, business stakeholders and Plans
- Determine internal vs. external supply options
- Better understand the supply market
- Manage supply risks to the cluster
- Align procurement strategies with the cluster’s priorities in areas such as environmental or social initiatives or support for small and medium enterprises.

The scope of the supply market analysis will depend on factors such as the criticality of the product or service to the cluster’s business, the level of expenditure and the complexity involved.

Rapid changes in some industries require closer monitoring of the supplier market. Less extensive supply market analysis is carried out on goods or services that may be easy to acquire but at a significant aggregate cost (such as office supplies).

The following resources are used in the analysis:

- Market engagements, RFI, Information Sessions
- Current suppliers
- Market research services and tools, (e.g. IBIS World, Gartner, Australian Bureau of Statistics and Infotech, CASME, Procurement Leaders)
- Supplier and industry exhibitions and conferences
- Financial Review online
- Industry benchmarking reports
- Supply market analysis tool.

We investigate how the private sector and other government bodies in Australia and globally procure the same items and leverage industry expertise where appropriate.

The threats and opportunities that lie within any procurement or category will differ for each plan. Where applicable, significant risks are included in the Category Risk Management Plan with possible remedial actions. This research guides the procurement strategy, which in turn drives the most relevant sourcing strategy.

<table>
<thead>
<tr>
<th>Alignment with NSW Government Procurement Policy Framework</th>
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<tbody>
<tr>
<td><strong>Stage 1: Analyse Business Needs</strong></td>
</tr>
<tr>
<td>• Define the need</td>
</tr>
<tr>
<td>• Internal and external engagement</td>
</tr>
<tr>
<td>• Identify options to satisfy the need</td>
</tr>
<tr>
<td><strong>Stage 2: Analyse &amp; Engage Market</strong></td>
</tr>
<tr>
<td>• Define project scope and objectives</td>
</tr>
<tr>
<td>• Develop preliminary procurement strategy</td>
</tr>
<tr>
<td>• Develop preliminary risk, stakeholder and</td>
</tr>
</tbody>
</table>
- Justify decision to procure
- Decide to procure
- Identify relevant category management plan
- Assessment of previous arrangements (supplier performance, contract management issues)
3.3 Developing a Business Case

**Internal Business Case**

Procurement projects with a value of $150,000 and above must be registered with PSD as the Secretary must have sight of all contracts from this value. An internal Business Case is to be developed by the Business Unit with funding approved before sourcing of the required goods or services can commence. An internal business case should not be confused with a NSW Treasury Business Case which is required for high value procurements – see below. In the construction category, funding is approved as part of the annual budgetary process. This annual budget provides a list of projects with their allocated funding approved by the Minister of Education following review of respective business case(s) and submissions.

All procurement projects require a Risk Management Plan that identifies project risks, assesses them for likelihood and impact and provides recommended mitigation actions, as per the Department's Enterprise Risk Management Guidelines.

Sourcing projects managed or supported by PSD incorporate a Project Roles and Responsibilities and Risk Plan, which includes a Risk Management Plan. The Project Review Meeting (PRM) monitors planned and active projects for current or potential risks (refer to section 3.6 Managing procurement projects).

Both project-based and operational risks identified can be escalated to the Procurement Governance Committee for review and appropriate action. For further information on the Procurement Governance Committee, see the Procurement Governance Manual.

**High value/risk procurement**

- Goods and Services projects over $5 million may require a Treasury Business Case or Gateway Review.
- Construction projects are approved separately through annual budgetary approval process.

**Treasury Business Case**

**NSW Treasury Guidelines** require evidence-based methodology that demonstrates:

- The case for change – demonstration, justification and priority of the service need based on demand assessment and consideration of demand management options.
- Analysis of the proposal offers value for money relative to alternatives (refer to demand analysis and drivers sub-section under chapter 3.2 Category planning/procurement planning)
- The agency has the capacity to procure, implement and realise the benefits.
- Treasury’s Gateway Business Case Workbook template may assist.

**Gateway Review**

The relevant Category Manager will provide advice on conducting a Gateway Review using the Gateway Project Profile Assessment Tool.

**Stage 1: Analyse Business Needs**

- Develop business case
- Have Funding Approval
3.4 Engaging Procurement Solutions Directorate services

Procurement activities may be initiated by staff, provided the Department’s processes are followed and the mandatory requirements of the [NSW Government Procurement Policy Framework](#) are met.

**Contract Management Plan**

All staff seeking PSD’s support to conduct a procurement activity (e.g. tender or quote) should complete a [Contract Management Plan Form](#) and email it to procurementprogram@det.nsw.edu.au. The request will be registered as a 'concept' and assigned to a Category Manager who will make contact within two business days to determine the best course of action. Considerations will include:

- If the item can be sourced from existing contracts or join with a similar tender
- The level of PSD involvement required based on risk, complexity and business capability to ensure all requirements of accreditation are met.
- Resource expertise and availability.

The latter two dot points will be determined on discussion using the Project Roles and Responsibilities and Risk Plan template that is populated and signed when strategies are agreed. Refer to 3.6.

**Strategy Document (SD)**

A completed [Strategy Document](#) (SD) will be reviewed by the Project Acceptance Committee and approved by the relevant procurement delegate under [Delegation PWP001](#).

High value/risk procurements may require a Treasury Gateway Review process (refer to [3.3 Developing a Business Case](#)). If the contract value is higher than the amount the Department is accredited to undertake, it will need to be submitted to the NSW Procurement Board for approval. Refer to section [3.6 Managing procurement projects](#) for ongoing engagement activities.

**Project Acceptance Committee (PAC)**

The [Project Acceptance Committee](#) (PAC) meets fortnightly to assess resourcing, priorities and joint opportunities. The PAC will assess and provide approval for projects to proceed, which have been submitted as a Strategy Document within the Contract Source tool.

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<table>
<thead>
<tr>
<th>Alignment with NSW Government Procurement Policy Framework</th>
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</thead>
<tbody>
<tr>
<td><strong>Stage 2: Analyse &amp; Engage Market</strong></td>
</tr>
<tr>
<td>- Identify and supply the requirements of agency procurement plan and relevant category management plan</td>
</tr>
<tr>
<td>- Confirm authority to carry out procurement</td>
</tr>
<tr>
<td>- Confirm consistency with internal external engagement outcome</td>
</tr>
</tbody>
</table>
3.5 Developing project procurement strategies and approach

Procurement delegation PWP001 requires that the procurement approach for contracts must be approved by any of the authorised delegates under Categories, 1, 2, 3 or 4, depending on the value of the procurement. All market approaches valued at more than $150,000 must be supported by a Strategy Document without exception.

A Contract Manager must be assigned to manage a contract by the Executive Director of the business before procurement delegation PWP001 is executed.

Strategy Document

The Strategy Document (SD) template guides the considerations to develop the appropriate strategies and approach.

The staff member undertaking the procurement activity is responsible for developing their procurement strategy. They must consider internal and external factors and explain the rationale behind the strategy decisions. In assessing opportunities, they should consider:

- Cross-entity opportunities (the Project Acceptance Committee will also review this)
- Existing suppliers, contracts or piggy-back clauses to ensure compliance and avoid any unnecessary market approach at cost to both suppliers and the department
- The potential to in-source or outsource (this is usually already considered in the development of the original business case)
- Potential international participation (consider mandatory international obligations).

PSD will provide guidance for or direct these procurement related strategies as relevant. The following provides a high level indication of considerations required.

Procurement Strategy

The Procurement Strategy indicates the best method to create the most competitive bidding market. It should be based on what the business expects to achieve from a procurement solution and cover a range of procurement strategies, such as:

- Aggregation: combining purchases for similar products or services supplied from the same industry market to improve suppliers’ economies of scale.
- Consolidation: combining related purchases for different products and services supplied from across industries and/or markets to improve suppliers’ turnover.
- Unbundling: breaking up/unpacking components of spend into separate lots to access more suppliers from more industries and increase competition.
- Alternate product: swapping current product requirement with a different specified product or different solution product at lower price, operating cost or lower risk.
- Rationalisation: reducing the number of elements in a procurement solution (e.g. suppliers, products, etc.) to increase the value of the project to the market and increase competition.
- Process re-engineering: re-design procedures at any point in the procurement cycle, but particularly purchasing to reduce administration and lower servicing costs.
- Standardisation: making a range of products or specifications the sole choice to increase aggregation, lower lifecycle costs, reduce administration and increase competition.
These strategies consider the total cost of ownership, incorporating the customer’s needs, organisational goals and market conditions, resulting in the best value product or service. PSD Category Managers can assist in identifying the appropriate Procurement Strategy.

**Sourcing Strategy**

The Sourcing Strategy outlines how to approach the market and is informed by a robust supplier market analysis and an understanding of supply chain drivers and market structure (refer to section supplier market analysis). This strategy determines whether a request will be issued for information (RFI), expressions of interest (EOI), a request for quote (RFQ) proposal (RFP) or tender (RFT) and whether these are to be open or invited. If a direct negotiation is considered, it must meet ICAC Direct Negotiation Guidelines and provide justification for this approach.

The Sourcing Strategy also includes the supplier selection strategy to determine the number, size, type and location of the suppliers required. This ensures the Small and Medium Enterprises (SME) Policy Framework is considered with every project and factors in any other socially responsible considerations. (The SME policy Framework does not apply to construction projects) This also ensures that the requirements of NSW Procurement Board Direction 2014-02 is considered with every project.

The formation of the Sourcing Strategy should include a strategic assessment of opportunities, including cross-entity opportunities and the potential to in-source or outsource. It should also consider if the contract should be whole of government or have a piggyback clause. For more information, see “Whole of government contracts for procurement” in the NSW Government Procurement Policy Framework. The Strategy Document provides rationale for selecting a sourcing strategy and is guided by sound market analysis. Alternative sourcing strategies such as direct negotiation or NSW Procurement’s Procurement Innovation Stream can also be considered at this stage.

Mechanisms for managing any conflicts of interest throughout the sourcing process are noted in the risk profile of the project, located within the Strategy Document, the evaluation process and the Contract Management Plan (for further information, see the Contract and Vendor Management Guide).

**Purchasing, Ordering and Payment Strategies**

**Purchasing Strategy**

The purchasing strategy considers how a business is going to buy or acquire and pay for the procured item once the contract is in place. It covers both Ordering Strategy and the Payment Strategy, in line with purchasing policy.

**Ordering strategy**

The ordering strategy identifies the process for purchasing from the supply arrangement. It considers whether it is a product or a service that is to be centrally or self-managed, an ongoing requirement or one-off purchase, program-delivered or an operational expense, and whether there is designated or discretionary funding. Ordering options include e-catalogue, electronic, manual, bulk or centrally issued purchase orders. There is some effort, time and cost involved in setting up ordering processes; to what degree will depend on the option agreed and the planning time allowed.

**Payment Strategy**

The payment strategy considers:

- Which business area owns the budget
- Who will authorise the payment
- What conditions have to be met for payment to be made (note: compliance is required with Treasury Circular - NSW TC 11/12 for payment of account to be made to small business suppliers within 30 days of receipt of a correctly rendered invoice or statement for goods and services)
- Whether supply is a coordinated spend such as a staged payment basis, or delivered on demand requiring a single invoice
- Whether the invoice is to a particular site or whether it is to be sent to a central point or if it is to be consolidated with other sites’ purchases
- In the case of consolidated invoicing or any “one point of invoice delivery” how individual sites will be able to see and understand their individual charges e.g. via statement or portal.

### Contract implementation and management strategies

Contract implementation and management strategies ensure the objectives and requirements are understood by all parties to manage risks and realise benefits. They drive ongoing value to services, deliver and track savings and performance, support innovation and ensure a high level of end user participation and satisfaction as detailed in chapter 3.11. For reference to savings classifications, click [here](#).

The Contract Implementation Strategy considers what is needed to achieve the contract objectives and the means by which all parties to the contract will be informed and supported. Each contract will be unique in its requirements but should consider issues such as order, delivery, receipt, installation, timeframes, help desk or support, supplier induction, account management, sales and support staff, contractors, accounting and reporting staff and requirements.

The Contract Management Strategy defines how both parties will manage the contract. Contract management may include negotiating and ensuring compliance with terms and conditions, mitigating price creep, and documenting and agreeing any changes or amendments that may arise.

This information, captured at the commencement of the project, can then be properly included in the sourcing documentation and negotiation processes to form a functional Contract Management Plan (see [Implementing and managing contracts](#)).

For Construction contracts, a separate Contract Management Plan is not required as such requirement is detailed in the respective contracts.

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### Alignment with NSW Government Procurement Policy Framework

**Stage 3: Finalise Procurement Strategy**

- Select market engagement method
- Prepare specification
- Ensure the strategy embeds the requirements of:
  - Value for money guidelines;
  - Small and medium enterprises policy;
  - Ethical employment policy;
  - Sustainability policy;
  - Category Management Plan
- Plan for transition arrangements
- Prepare probity plan
- Have procurement plan approved
3.6 Managing procurement projects

The Department has a comprehensive framework in place to manage the development and implementation of its procurement projects.

**Category Directors**

Category Managers are responsible for overall management and delivery of all projects that form part of Category Plans within their category portfolios. Category Directors ensure their nominated team members (Project Managers and Project Officers) regularly update the status of each project against milestones that are established upon approval of the Project Acceptance Committee (PAC) (refer to section 3.4 Engaging procurement services). Progress against targets is assessed via performance reporting tools. Category Directors are also responsible for ensuring the projects are managed to meet their objectives.

For sourcing projects that are not related to a category plan, Business Managers and Procurement Practitioners must ensure projects are approved under delegation and the project is managed according to these requirements and are responsible for the contracts to ensure the objectives are realised.

**Program Review Meeting**

A Program Review Meeting is held every two weeks to oversee the procurement program and provide clear visibility to current and planned procurement projects.

The Committee includes the Chief Procurement Officer and a representative from each category area to discuss their sourcing projects and identify and manage project risks which may cause business delivery risks.

**Program Management Office and Contract (Re)Source System**

All procurement sourcing projects valued $150,000 and above must be registered in the Contract (Re)Source System. All projects being managed by PSD are also registered regardless of value.

The Program Management Office will oversee:

- Sourcing Projects – where a contract for the provision of goods and or services will be put in place, and
- Contract Register – maintaining the integrity of the Department’s contracts register, compliance to GIPA Act with regard to contract disclosure and flagging contract expiries for action.
- eTendering Function – managing provision of eTendering function including tender notification and reporting

**Procurement Project Roles, Responsibilities and Risk Plan**

Sourcing projects facilitated by PSD require a Procurement Project Roles, Responsibilities and Risk Plan to be completed immediately after the project is approved by the Project Acceptance Committee. Business managers facilitating ad-hoc sourcing projects should consider using this template to help them ensure required activities are conducted.

The Procurement Project Roles, Responsibilities and Risk Plan sets out the roles and responsibilities of all parties and addresses stakeholder management, communications, risk management, milestones and timeframes. These details are incorporated into the Contract (Re)Source and project closure activities. The Procurement Project Roles, Responsibilities and Risk Plan should be discussed with the business owner to align
expectations, resource and time commitments at the time of initial engagement. Once populated with strategies, risks and milestones, the business owner should sign off and it should be clearly communicated to all members of the project team.

PSD Project Managers and officers should use the MS Project template for managing and sharing project status.

<table>
<thead>
<tr>
<th>Risk Management Plan</th>
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<tbody>
<tr>
<td>A Risk Management Plan is required with every procurement activity valued $150,000 and above. Business Managers with residual high level risks in their procurement activity or where issues arise in the sourcing project should bring issues to the Program Review Meeting via the Procurement Program Manager, by emailing <a href="mailto:procurementprogram@det.nsw.edu.au">procurementprogram@det.nsw.edu.au</a>. The Procurement Project Roles, Responsibilities and Risk Plan includes a detailed Risk Management Plan relating to the sourcing activity that follows the Department’s Enterprise Risk Management Guidelines. At PSD, the ongoing monitoring of the Risk Management Plan is reported through the Program Management Office throughout the sourcing project and high level risks are escalated to the Operations Review meeting for monitoring.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contract Management Plan</th>
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<tbody>
<tr>
<td>A Contract Management Plan including a risk management plan relating to the performance and delivery of the contract and key performance indicators are included in Agreement templates and established as part of the tender and negotiation process. Business Managers are to ensure this is embedded upon implementation and managed accordingly throughout the life of the contract. For projects that form part of a Category Plan, PSD will monitor that this is done and assist where required. For further information, refer to 3.11 Implementing and Managing Contracts. For Construction contracts, the Contract Management Plan is embedded in the respective contracts and agreements.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Benefits Realisation</th>
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<tbody>
<tr>
<td>Before a project is closed, details of benefits to be realised are incorporated in CRS, e.g. savings, KPIs, etc, and the frequency with which the benefits realisation will be reported. Refer to the Benefits Realisation Plan &amp; Report template.</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Project Closure, Survey and Learnings</th>
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<tbody>
<tr>
<td>When the procurement project is complete a Project Closure Checklist is to be used to review project documentation by the Project Manager. The Project Closure Checklist details all the elements required to be completed to ensure the Department's accreditation is maintained. This includes Contract Management Plan, Benefits Realisation Plan, relevant savings form, records management details, survey etc. which must be completed. Once this review is complete, the Project Manager marks the review task as complete and closes the project in CRS. The Procurement Program Manager is then alerted to this closure by CRS, and will conduct a project closure audit. In the exceptional event of project areas being found to be incomplete, the Project Manager will re-open the project in CRS and complete required actions.</td>
</tr>
</tbody>
</table>
A project review by the client is to be documented for each sourcing project. At PSD this review incorporates a survey that is conducted with the key client and stakeholder with survey outcomes and project learnings discussed with the CPO each month. There is also an optional PSD project team member survey on client stakeholders and team members and their performance in relation to the project.

All contracts $150,000 and above must be disclosed on the eTendering website. Project Managers are to make a draft GIPA contract disclosure on the eTendering system and then alert PSD Program Management Office via procurementprogram@det.nsw.edu.au to check and publish.

<table>
<thead>
<tr>
<th>Alignment with NSW Government Procurement Policy Framework</th>
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<tbody>
<tr>
<td>Provides Oversight to all Stages 1-6</td>
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</table>
3.7 Sourcing process

It is important to establish the necessary management and governance framework before commencing any sourcing activity. Following are some general principles documented by the ICAC:

- Include the specifications in the Request for Offer documents sent to prospective suppliers
- Promote widely to generate as many responses as possible (for open market engagements)
- Keep all offers secure; the commercial advantage a company could achieve in knowing what competitors have submitted is considerable
- Before calling Requests for Offers prepare detailed criteria for assessment
- No one officer should have responsibility for arranging and assessing Requests for Offers
- Managers should ensure that officers involved in the tendering process do not have a vested interest in the outcome of the tender
- All tenders and all significant Requests for Offers should be checked by an independent officer

All staff involved in the procurement process should clearly understand what is expected of them and how the tendering process operates.

Steering Committee

A Steering Committee can provide valuable oversight to a sourcing activity especially when there is a high level of complexity or risk.

A Project Steering Committee is the key body within the project governance structure that is responsible for the business issues associated with the project. The Steering Committee is responsible for approving budgetary strategy, defining and realising benefits, and monitoring risks, quality and timeliness.

Use of Probity Advisers and Probity Auditors

In line with NSW Procurement Board Direction 2013-05, PSD will fulfil the role of Probity Adviser where required. This role reviews the sourcing processes and ensures probity for high risk and complex activities. The Probity Adviser provides advice and assistance before and during a procurement process on the development of conflict of interest and confidentiality declarations, dealing with communications with tenderers and third parties, information security, confidentiality, records and information management and setting up data facilities. If a project is particularly complex or a conflict arises with Procurement Solutions, they or Internal Audit will engage an external party to fulfil the role.

If a probity auditor is required, the Department’s Internal Audit should be engaged in to fulfil the requirement or to determine if an external party is required. A Probity auditor reviews processes after the fact if, for example, concerns are raised about procurement process by an aggrieved tenderer, the integrity of the process has been questioned, or; there is political controversy

Further detail on the role of the Probity Advisers and Probity Auditors can be found within the Project Roles and Responsibilities and Risk Plan Template.
Sourcing documentation

Sourcing documentation is what is issued to the market when seeking offers. The types of documents are detailed in the Sourcing Strategy. A description of sourcing templates and how to obtain them is available in the Sourcing Documentation Guide.

For moderate to high risk sourcing activities, the evaluation team needs to consider if they are seeking a quantitative or qualitative result from the market. All qualitative criteria is weighted using the paired analysis tool.

Evaluation Plan and criteria

The Evaluation Plan contains a set of evaluation criteria to evaluate supplier responses. An Evaluation Plan should be developed with the RFX documentation so relevant questions can be established and the Evaluation Plan should be completed and signed before a tender is released. A tender must not be opened until an Evaluation Plan which has been signed by the appropriate authority (as indicated below) has been sighted.

Evaluation criteria must:

- Be agreed prior to releasing a tender to market or requesting written quotes (along with criteria weightings). Probity issues can arise if the evaluation criteria are not approved before quotes or tenders are received.
- Be weighted in order of priority
- Be objective and be clearly defined
- Identify the tender closing date that will be advised to the market.
- Reflect the complexity of the item being purchased and the total value of the purchase, including “whole of life” costs, such as servicing and parts
- Demonstrate the ability to meet requirements and value for money.
- Be signed by either a Category Director (if they are not otherwise involved), or the Chief Procurement Officer or the Executive Director, Asset Management (or the Director, Capital Works) for Construction Projects.

It is inappropriate to make any changes to any aspect of the Evaluation Plan after tenders have been opened. Probity advice is required from a Category Manager or the Chief Procurement Officer before any proposed changes are made at this stage. Any changes deemed acceptable by the Probity Adviser must be re-signed by the original approver.

Specifications

There are three main types of specifications; properly defining them is most important.

1. Functional specifications: set the proposed function to be fulfilled by the product or other deliverables required (e.g. provision of a sewerage treatment works that treats the specified input), or service to be provided (e.g. the provision of event management services or the design of a product for a specified function).

2. Performance specifications: set the performance standards to be met by the product or other deliverable (e.g. the reliability of computer hardware, the strength and durability of concrete to be supplied or service quality or other performance attributes).

3. Technical/detailed specifications: define the products/deliverables detailed technical and physical characteristics, including physical dimensions, design such as reinforcement details, plant power input and output, controls and instruments, materials to be used etc.
A set of “strategic” specifications may also be determined; these define the ultimate need of the procurement activity and requests submissions about how tenderers can innovatively meet that need.

Specifications should:

- Be unambiguous and concise
- Contain enough information for tenderers to cost their proposals
- Include technical details and uses of goods (if applicable)
- Include criteria that allows goods/services to be evaluated by examination, trial, test or documentation
- Consider future business requirements
- Provide equal opportunity for all potential tenderers to provide specified goods/services incorporating alternative solutions
- Does not limit supply to one vendor.

The functional, performance and technical specifications are substantially prepared by the technical or business experts. Category Managers will provide guidance and advice to stakeholders and subject matter experts who will ultimately develop the specifications. The specifications form Part C of the sourcing documentation.

**Publishing tenders**

Tenders can be open or restricted depending on the approved sourcing strategy. An open tender is viewable on the NSW eTendering website by the general public. The site automatically sends notification of the tender to relevant registered suppliers. A restricted tender is sent to nominated suppliers who can only view the tender through a password.

DoE’s eTendering administration is managed within the PSD Program Management Office who releases tender advertisements.

**eTendering Publishers’ responsibilities (These responsibilities are no longer applicable for the PSD but applicable to AMD)**

An eTendering Publisher has a vital role in ensuring compliance with the procurement policy requirements and ensuring the accuracy in the tender process using NSW Government’s eTendering System.

Key responsibilities of the eTendering Publisher include:

- Reviewing and checking loaded RFT web page advertisements prior to publishing ‘to public view’, and rejecting/amending material that is non-compliant.
- Ensuring contact details for RFx advertisements include a specially created email address that is accessed by at least two people. Providing an individual’s name and details in a tender under Contact Officer can compromise that individual, create inequity if answers are provided by phone, or cause delays in unforeseen absences.
- Providing advice to the eTendering Administrator, loaders and Project Officers about documentation quality and/or non-compliance with applicable policies/guidelines.
- Establishing and communicating secure ‘encryption key’ passphrases and any associated passwords, and ensuring ‘encryption key’ passphrases are passed over to the control of the Tender Closing Office promptly, to ensure they are available for tender opening.
- Participating in training on eTendering System upgrades, tendering policies and guidelines.

For more, see the [NSW Government Procurement Policy Framework](#) and the [Sourcing Preparation Guidelines](#).
Advertising tenders

The NSW Procurement Board Direction 2015-01 prohibits agencies from using print media to advertise government tenders. However, some revenue-generating activities undertaken by schools are not considered procurement processes under the scope of the Board Direction, namely Out of School Hours programs, uniform shops and canteen providers.

Advertising is permitted in local print media for these revenue generating services only. Careful wording is required when preparing advertisements for these revenue-generating activities to avoid the use of expressions “procurement” and “tendering”. See our Advertising Guidelines for more.

Advertising tenders for all other procurement can only be conducted through the NSW Government eTendering website. Any enquiries on this matter should be put to the Strategic Communications Unit, Department of Premier and Cabinet.

The minimum time that tenders or RFx must be open is detailed in the Market Approaches Guide.

Issue to market and cancellation

Before the RFx documents are issued, approvals must be obtained for the release of the documents. Approvals should be obtained from the Category Directors for procurement projects administered by PSD, or the Executive Director, Asset Management for construction projects. Approval to issue the RFx documents must only be given after review has been made to the documents and there is a firm commitment, intention and capacity to proceed.

Any proposal to cancel any RFx that has been issued must be approved in advance by the CPO for goods and services projects, or for construction projects, the Executive Director, Asset Management.

<table>
<thead>
<tr>
<th>Alignment with NSW Government Procurement Policy Framework</th>
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<tbody>
<tr>
<td><strong>STAGE 4: Approach the Market</strong></td>
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<tr>
<td>- Prepare contract and market documentation and obtain approval for release</td>
</tr>
<tr>
<td>- Ensure market documents incorporate the following requirements:</td>
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<tr>
<td>- Contract consistent with SME Contract Structuring Guidelines</td>
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<tr>
<td>- Contract provides for “piggyback” to permit use by other agencies</td>
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<tr>
<td>- No provisions requiring prior experience supplying to government</td>
</tr>
<tr>
<td>- If contract suite is amended, ensure conditions are consistent with policies on indemnities, intellectual property, guarantees, termination, dispute management, insurances</td>
</tr>
<tr>
<td>- Confirm contract and market documentation consistent with procurement strategy</td>
</tr>
<tr>
<td>- Issue to market</td>
</tr>
<tr>
<td>- Undertake relevant market engagement activities</td>
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</table>
3.8 Managing the evaluation process

Evaluations are designed to achieve best value for money within a framework of probity and fair process. They must meet the relevant NSW Government and Department procurement policies and be well documented, in order to support project transparency and accountability.

As detailed in the previous section, an Evaluation Plan should be completed and signed before a tender is released. The Plan should be signed by either a Category Director (if they are not otherwise involved), or the Chief Procurement Officer or the Executive Director, Asset Management (or the Director, Capital Works) for Construction Projects.

A tender must not be opened until an appropriately signed Evaluation Plan has been sighted.

**Low value / low risk evaluations (up to $30,000)**

For small value purchases up to $30,000, basic evaluation criteria will generally be sufficient – see the Low Value Quote Evaluation Guide for guidance.

**Medium Value/ medium risk evaluations ($30,000 - $149,999)**

For quotes above $30,000 up to $149,999, use the Medium Value Quote Evaluation Plan and Report.

**High value / high risk evaluations ($150,000 +)**

See the Tender Evaluation Plan template and Evaluation of Tenders Guidelines.

For Construction works please refer to the respective templates for Tender Evaluation Plan.

A process for communications with respondents must be clearly defined and explained to the evaluation team and a single point of contact nominated for all communications with respondents.

The Guidelines sets out key important elements to be managed, e.g. communications, confidentiality, and conflict of interests, etc.

**Tender opening and receipt**

Tenders should be handled within a framework of probity. Where tenders are manually opened (i.e. not part of a controlled system, e.g. Contract (Re)Source – CRS), a tender opening team must be formed to open and receipt the tenders. All members of the tender opening team must sign a Confidentiality/Declaration of Interest Agreement and prepare a tender opening report. Tender Opening and Receipt Guidelines may be referred for specific guidance.

**Evaluation team**

An evaluation team should be formed and the evaluation scheduled in diaries before procurement requests are made to suppliers. The evaluation team should include people with a vested interest in the outcomes and with some subject matter knowledge. The evaluation team should comprise a minimum of three people who represent:

- Commercial and business point of view.
- Technical and subject matter experts.
- Independent point of view.

All members of the Tender Evaluation Team must sign Confidentiality/Declaration of Interest Agreements.

A Register of Pecuniary and Private Interests must be completed for officers involved with tender evaluations, including those who regularly identify and assess potential suppliers through competitive quotes.

Tenders must be evaluated by the evaluation team using prior agreed evaluation criteria.

**Early notification of unsuccessful supplier during evaluation process**

The evaluation team may be required to remove a supplier from being considered any further during the evaluation process (generally in multi-stage evaluations). This is generally due to them failing to meet a mandatory requirement or the minimum technical score.

Generally suppliers would not be informed of any outcome (re: their submission) until all activities and negotiations are complete. However, if deemed appropriate, the Evaluation Plan approver can approve the notification of an unsuccessful supplier during the evaluation process.

**Evaluation Report**

The evaluation team will draft an Evaluation Report using the Evaluation Report template. The Evaluation Report will include the team’s detailed comments in relation to the strengths and weaknesses of each proposal. It should provide a recommendation of the selection in line with the approved selection strategy as detailed in the Evaluation Plan. Where no supplier is suitable, the tender process may be terminated and, if appropriate, direct negotiations may commence.

The Evaluation Report must be endorsed by the evaluation team, Steering Committee Chair (if applicable), and the relevant Category Director (or Probity Advisor) who will validate alignment to approved strategies and Evaluation Plan. The Evaluation Report is required to be approved by the senior manager in the business that has the authority to approve under procurement delegation PWP003.

The approver must ensure they have delegated authority to approve and must only approve the award of a contract, where:
- Funding approval has been verified
- They have not been involved in the sourcing or selection process
- No conflict of interest exists.

**Negotiation planning**

If a benefit will be gained by entering a negotiation phase, a Negotiation Plan should be developed and approved.

The Negotiation Plan includes:
- Key participants and decision makers and their roles and responsibilities in the negotiation process
- Requirements around probity in the negotiation process
- Guidelines on the development of negotiation strategies and procedures for their approval
• Guidelines on the development of the scope of negotiation points, for example:
  o Price
  o Key contract clauses
  o Scope of requirements
  o Service delivery
• Formulation of negotiation targets

The Contract Negotiation Guidelines and the Negotiation Planning Guide are available to assist with this process.

The same staff member who approved the Evaluation Plan should approve the Negotiation Plan before negotiations start. The probity principles of accountability, transparency, confidentiality, management of conflicts of interest and honesty apply throughout the negotiation.

**Government Information Public Access implications**

The evaluation documentation may be subject to applications under the Government Information (Public Access) Act 2009 (GIPA Act). It is important to clearly document and justify any scoring and any reasoning behind the recommendation.

Any work undertaken during a procurement process may be interrogated by suppliers, internal staff and external agencies such as the Independent Commission Against Corruption (ICAC).

Refer to the following guidelines for further information:

- Evaluation of Tenders Guidelines
- Tender Opening and Receipt Guidelines
- Statement of Business Ethics

**Alignment with NSW Government Procurement Policy Framework**

**Stage 4, Select**
- Evaluate Responses

**Stage 5, Negotiate & Award**
- Negotiate Arrangements with preferred supplier/s
3.9 Awarding and executing contracts

Refer to procurement delegation PWP003.

Awarding the contract

Upon approval of the Evaluation Report, the successful supplier/s should be notified of their acceptance “subject to successful execution of contract”. A template letter is available online. This requires work with the successful suppliers to finalise agreed service and implementation requirements and establish measuring and monitoring processes into the contract.

This process requires endorsement or input from representatives from Legal Directorate where any deviation from the standard template is proposed and from Insurance, Finance and Taxation Units for any changes to clauses related to these areas.

Executing the contract

Before finalising the contract for signature, ensure:

- Any changes made to the standard terms or any variations to the Department’s standard financial, taxation or insurance policies or processes have been reviewed by the experts in Legal, Insurance, Finance and/or Taxation directorates.
- The contract aligns with the approved procurement strategies and approach.

Upon receiving all required endorsements and the supplier’s acceptance of the document, print two originals and obtain the appropriate signature under the relevant delegation before sending to the supplier to sign and return one. If the contract is $150,000 and above PSD will assist the contract manager to arrange disclosure within 45 days of execution (refer to section 3.10 Disclosure requirements).

The executed contract is required to be uploaded to CRS and TRIM.

For information on how to implement and manage the contract, refer to section 3.11 Implementing and managing contracts.

Notification to unsuccessful suppliers

Following award of contract to the successful supplier, notification to the unsuccessful tenderers should include an offer to debrief them about the decision.

Template letters notifying other suppliers of the outcome of the evaluation are available online, for both successful and unsuccessful respondents.

Alignment with NSW Government Procurement Policy Framework

Stage 6: Negotiate & Award

- Award contract/s and execution
3.10 Disclosure requirements

It is a legal requirement to disclose all contracts awarded $150,000 and above (inclusive of GST and total value over their life) and significant variations (see below) through the NSW eTendering website.

Disclosure requirements apply equally to contracts that are revenue generating. Value or cost in determining the procurement approach should be determined by the total value the project can generate – regardless of which entity is the beneficiary of the contract.

The requirements for contract disclosure are found at M2007-01 Public Disclosure of Information. The Project Manager should complete a draft disclosure in the eTendering system using the Contract Disclosure Form for reference purpose. The Project Manager should then alert the PSD Program Management Office via procurementprogram@det.nsw.edu.au in order for PMO to check and publish the disclosure in the eTendering system.

Contract award notices

The relevant disclosure of the preferred supplier or suppliers must be published on the NSW eTendering website within 45 working days of awarding a contract.

The Contract Disclosure Form should be completed and provided to procurementprogram@det.nsw.edu.au for publication.

Exceptions, for example for security reasons, must be approved by the Chief Procurement Officer.

State Contracts

Orders of $150,000 and above against a NSW State Contract must be disclosed publicly through publication on the NSW eTendering website, or for contingent workforce on DoE’s website.

Significant Variations

All relevant disclosures must be updated if any significant variations are made to contracts. A significant variation is defined in the Procurement Delegation as where the scope or term is substantially different to what was originally contracted or where the value of the engagement varies by:

- For contracts under $150,000 – 3 times the original value;
- For contracts from $150,000 – either $500,000 or 10% of the original value, whichever is the greater.

Alignment with NSW Government Procurement Policy Framework

Stage 6: Negotiate & Award
- Contract Disclosure
3.11 Implementing and managing contracts

Contract management involves contract administration activities that ensure the objectives of the contract are met and that the product acquired is as prescribed. For further information in addition to this chapter, see the Contract and Vendor Management Guide.

**Contract Managers**

The key stakeholder for a contract will nominate an officer within their team to act as the Contract Manager for the new contract. The nominated Contract Manager for each procurement project is named in the contract schedules.

The Contract Manager will assist in developing and implementing the contract. They have primary responsibility for managing and monitoring the performance of the supplier/s or service provider/s on behalf of, and the overall risk to, the cluster once a contract has been signed and implemented.

The Contract Manager will assist in the development and execution of the Contract Management Plan, reviewing the performance of the supplier and managing the relationship between the supplier and the cluster.

Contract Managers should refer to the Contract and Vendor Management Guide to obtain best practice advice for officers required to develop Contract Management Plans and manage contracts.

**Contract Management Plan**

A Contract Management Plan is to be developed for each new contract using the Contract Management Plan template (refer Contract and Vendor Management Guide). For sourcing projects facilitated by PSD, the Category Manager will work with the Contract Manager to establish the plan to ensure the contract benefits are realised and the contractual obligations are met by both the cluster and the supplier. For Construction contracts, similar information contained in the Contract Management Plan is already embedded in Standard Construction Contracts. A combination of the value of and risk associated with a contract will determine:

- The level of detail within the Contract Management Plan
- The time and effort dedicated to contract management
- The level of contract management required (i.e. strategic, tactical or operational)
- The participants involved in contract management
- The Contract Management Plan includes:
  - The business objective
  - The outcomes and benefits (e.g. savings) established within this contract
  - Roles and responsibilities of suppliers and staff
  - Governance requirements
  - High level summary of contract e.g. term, expiry date
  - Purchase to pay processes
  - Contract risk management plan (samples assessed annually)
  - Performance management through the KPI scorecard, measures, report requirements and schedule and meetings schedule
  - Processes for submitting the Benefits Realisation Plan and Report
  - Standard templates to support contract management activities

Contract Management Plans are signed off by suppliers and included within the contract schedules.
Contracts Register

PSD maintains a register of all the cluster’s contracts valued at $150,000 and above over the life of the contract.

Central registration of contracts facilitates the cluster’s ability to satisfy the requirements of the Government Information (Public Access) Act 2009 and establish a record of contract obligations across the cluster which allows for the tabulation of the financial and legal commitments.

Contract registration provides information to identify opportunities to consolidate cluster-specific arrangements to leverage the market and deliver increased savings to the cluster. It also allows identification of forward financial obligations and to improve oversight of commercial risk.

Implementing a contract

The requirements for implementation will vary depending on the type of item procured. Broadly, implementation involves establishing the framework for ensuring the goods or services are delivered efficiently and the overall objectives are achieved.

This will include working with the supplier and all involved parties to discuss the implementation strategy and together agree on the detailed processes.

If the strategy identified products to be catalogued, the appropriate schedules would have been included in the contract and the Procurement eSolutions team will help establish the catalogue under those terms. This usually involves detailed meetings between eSolutions and the suppliers to establish exactly what needs to be provided to enable cataloguing, timing for preparation and release of the catalogue and the extent of P2P activity that will provide the best service to the cluster.

Business units must work with suppliers to manage integration of the cluster’s systems and processes with the supplier systems.

As indicated in the Contract and Vendor Management Guide, close and sometimes daily monitoring of the supplier performance is important at commencement so that the risk profile can be monitored. This can move to the routine of scheduled meeting and operations once all activities and expectations are running smoothly, are understood and being met.

Service Level Agreements and Key Performance Indicators

Service levels and Key Performance Indicators (KPIs) are incorporated in contracts as a tool to help with measuring and managing suppliers (refer to the Contract and Vendor Management Guide for more information).

It is important that the Contract Manager and the supplier understand exactly how these are to be recorded, what they mean, when remedial action will need to be undertaken and at what point issues should be escalated to Procurement Services.

Once all parties understand the roles, responsibilities and obligations, it is critical to communicate the existence of the contract to the cluster. This is done using various existing channels and suppliers are guided on how best to communicate with the various offices and schools that make up the cluster.

At this point a Project Closure Report can be prepared by the Category Management Team, a customer survey completed and the contract can be handed to the Contract Manager for the day to day management.
Benefits Realisation and Contract Review

For Goods and Services and Construction related contracts, the completed Benefits Realisation Plan is provided to procurementprogram@det.nsw.edu.au. Details are added to the Contracts Benefits Tracker as a reminder tool on when benefits are to be reviewed based on the agreed contract or supplier segmentation. Contract Managers must submit their Benefits Realisation Report showing high level outcomes at the agreed intervals. Central visibility will be provided to ensure that Contract Managers ensure remedial actions are taken where expected benefits are not being achieved or begin to slip.

Guidelines and templates for establishing and managing benefits realisation plans at a detailed level are available on the Department of Finance, Services and Innovation website.

The Benefits Realisation monitoring process provides central visibility to ensure contracts are being reviewed periodically. In addition, contract managers will be required to review their expiring contracts to ensure they are reviewed prior to their conclusion. The review analyses and summarises the benefits realisation data to report on the overall success of the contract against the business objectives. The review also identifies key lessons learnt to inform future projects.

The Contract Review reports must be filed and where applicable tabled and discussed at a fortnightly Procurement Program Review Meeting.

Evaluations undertaken by consultants are to be published unless they contain sensitive information (i.e. for commercial-in-confidence or privacy reasons).

For actual building works, benefits are monitored and measured by completing projects subject to time, budgetary and quality constraints. Any learning needs to be documented. For Major Capital Works projects, a web based platform called Project Management System (PMS) is used to develop, manage and report against the status, cost and details of this type of projects.

Varying contracts

Throughout the life of a contract, variations to the contract terms or specifications may be required. This should be reflected by way of a Contract Variation to be executed by both parties. Variations under construction contracts must be reviewed and authorised in terms of the respective contract.

The underlying objective of value for money must be considered and continue to be achieved. Action must be taken where the contract is no longer delivering value to the cluster.

Any variation whether instigated by the supplier or the cluster must be documented.

Supplier-instigated variation

The supplier is required to formally approach the cluster in writing requesting a variation. The formal advice must include:

- What is being varied
- For contract variations, reference to specific clauses in the contract that the supplier is requesting be varied and why
- If price or product variations, the supplier is required to provide justification for the increase. If the variation is driven by a third party, formal notice from the third party to the supplier is required
Cluster-instigated variation

The cluster is required to formally approach the suppliers in writing requesting a variation. The formal advice must include:

- What is being varied
- For contract variations, reference to specific clauses in the contract that the cluster is requesting be varied and why
- If product or price variations, reasons for the request with evidence based information leading to the request for the supplier to consider

The Contract and Vendor Management Guide includes further detail on contract variations.

Extending contracts

Contracts cannot exceed five years without the approval of the appropriate procurement delegate (refer procurement delegation PWP003) Contracts should not be extended without careful consideration of the benefits and risks of doing so.

An analysis should generally be undertaken 12-18 months prior to expiry to determine how to proceed beyond that date. This analysis should consider demand, business and political requirements, market changes, the contract terms and risks. This will establish if the contract should lapse, be extended or whether a fresh approach to the market is required. This review process is based on sound market analysis by Category Managers and aims to deliver best value for money outcomes.

The decision to extend or lapse a contract may also be influenced by additional value that the supplier will provide in return for securing an extension or by additional costs that may be incurred in future years. The incumbent supplier should be given an opportunity to provide input before the decision is made. The supplier must agree to any proposed extension. This decision should be documented and endorsed by business owners, key stakeholders and the additional funding approval under delegation must be obtained (refer to PWP003 notes regarding when this is required). The action should then be programmed and implemented accordingly. Once a contract has lapsed, it cannot be extended. The approved action must be notified to PSD as owner of the cluster’s central contracts register.

To action any extension, ensure the supplier is notified as per the terms of the contract. If any other changes were negotiated as part of the extension, document all changes and issue as a variation to the contract.

If the extension brings the contract to $150,000 or above, or constitutes a significant variation, it must be disclosed in accordance with the NSW Government Information (Public Access) Act 2009.

Significant Variation

A significant variation is where the scope or term is substantially different to what was originally contracted or where the value of the engagement varies by:

- for contracts under $150,000 – 3 times the original value
- for contracts from $150,000 – either $500,000 or 10% of the original value, whichever is the greater.

A significant variation must be approved by the appropriate procurement delegation, refer PWP003.
Piggy Back Contracts

Under the NSW Procurement Framework it is possible to procure from other Government arrangements. This reduces the procurement burden on agencies and suppliers by reducing the number of approaches to market. Agencies are authorised under Board Direction 2012-07 to buy from existing arrangements, where agreed by the establishing agency and the supplier.

The following points are provided for clarity:

- A piggy back is an entirely separate agreement established under the terms of the originating agency agreement.
- The type of goods or services must be the same as the original contract but the new agreement can have specific terms for the needs of the piggy-backing agency or unit and therefore their own price.
- If the new piggy backed agreement is valued $150,000 and above the agency or unit that is piggy-backing is responsible for disclosing their new agreement. (Please note, if the original contract did not have a piggy-back clause at the time of going to market, then the new arrangement must be disclosed as class 2 or 3 (depending on value), i.e. that no tender was conducted.
- A unit within an agency can piggy-back from a contract established by another Unit within the agency provided the requirement is entirely separate from the original contract. If related, it should be treated as a variation under delegation.
- Any type of contract (not just a prequalification panel, scheme, standing offers or panel contract as stated in 2012-07) can have a piggy-back clause or be piggy-backed from if the originating agency and supplier agree.

Extending contractors and consultants

Approval under Procurement Delegation PWP003 is required in order to extend contractors and consultants.

CPO approval under this delegation is also required where the scope is substantially different to what was originally contracted or where the value of the engagement varies by either $500,000 or three times the original value, whichever is the lesser amount. For further information, see Procurement Delegation PWP003 in the Procurement Governance Manual. For Construction works such approval is required from the Executive Director, Asset Management.

Managing supplier performance

The Contract and Vendor Management Guide provides advice on managing supplier performance. Performance is reviewed in terms of the respective contracts for Construction Projects.

The performance management activities include the tracking and joint review of past and current performance against agreed targets and agreement of improvement plans to address areas of poor performance.

Monitoring of performance is a dual responsibility for both the agency and the supplier and pertains to the performance of both parties to the contract. The performance criteria should be reflected in the Contract Management Plan and formally within the contract.

Performance management and monitoring can be used as a contract management tool to ensure early identification and prevention of the cluster’s technical and support personnel from inadvertently authorising the service provider/s (supplier/s) to perform outside the scope of the contract. Performance management can also be a useful risk mitigation agent by planning, reviewing and actioning key areas of responsibility on the vendor’s part in conjunction with feedback from stakeholders and end users as well as market research on trends and tension from local and global pressures.
Category Managers will work with key stakeholders to ensure that KPIs and service levels are developed to meet the core requirements that the contract is in place to deliver. Contract KPIs include initiatives to incentivise suppliers, with the aim of delivering continual improvement.

Contract Managers must undertake half yearly and annual reviews to ensure that the contract and underlying commercial structure adequately reflects and supports the current and future intents of both the cluster and the supplier.

Within the cluster, there are three Key Reporting Areas (KRAs); financial, operational and satisfaction. KPIs are to be listed under these three KRAs. These ensure monitoring of prices, costs, savings, quality, service and risks.

Each contract will have a base template for KPI reporting that suppliers must agree to and be prepared to report on as appropriate to its strategic segmentation.

**Supplier relationship management**

The *Contract and Vendor Management Guide* provides detailed advice on how Category Managers effectively manage supplier relationships to ensure the smooth running of all contracts.

Suppliers are segmented based on level of spend, risk and value and classified accordingly as operational, tactical or strategic. As noted in the *Contract and Vendor Management Guide*, this classification determines the supplier relationship management approach, including:

- The level of management and governance, as evidenced in contract schedules
- The stakeholders involved in managing the relationship (e.g. the Chief Procurement Officer and the supplier CEO will attend annual reviews for strategic suppliers)
- The agenda items and points of discussion.

The supplier relationship management process is documented and supported by supplier scorecards and templates, as well as performance reports. Regular meetings (see Meeting template) are undertaken with all three levels of suppliers, with the aim of identifying and addressing any issues within the relationship and driving greater value for both parties.

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**Alignment with NSW Government Procurement Policy Framework**

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