

**Submission
No 2**

**FOLLOW UP OF THE AUDITOR-GENERAL'S
PERFORMANCE AUDITS OCTOBER 2011 - MARCH
2012**

Organisation: Department of Finance and Services
Name: Mr Michael Coutts-Trotter
Position: Director-General
Date Received: 15/05/2013



Ref: MC13/563

Mr Jonathan O'Dea MP
Chair
Legislative Assembly Public Accounts Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

14 MAY 2013

Dear Mr O'Dea

I refer to your correspondence requesting the Department of Finance and Services (DFS) prepare a submission outlining its response to the recommendations in the Auditor-General's Report on *Managing IT Services Contracts*.

I am pleased to update you on the department's significant progress in implementing reforms in this important area.

I have enclosed the department's submission to the Public Accounts Committee detailing DFS' response to *Managing IT Services Contracts*. The submission includes comments and feedback as well as a table which outlines our progress in implementing the report's recommendations.

Several papers are attached to the submission:

- Attachment A** – NSW Government ICT Services Scheme: Guidelines for Customers
- Attachment B** – NSW Government Procurement Discussion Paper
- Attachment C** – NSW Procurement Reform Strategic Directions Statement.

Should you have any further enquiries, please contact Mr Paul Doherty, Executive Director, NSW

Thank you for the opportunity to report on our progress.

Yours sincerely



Michael Coutts-Irrotter
Director-General

**LEGISLATIVE ASSEMBLY
PUBLIC ACCOUNTS COMMITTEE**

SUBMISSION

Auditor-General's Report on: Managing IT Services Contracts

Department of Finance and Services

8 May 2013

INTRODUCTION

Since the release of the Auditor-General's report on *Managing IT Services Contracts*, the NSW Government has implemented significant government procurement reforms. These include the move to a devolved procurement model and the delegation of responsibility for ICT procurement to the ICT Board. Underpinning the reforms are amendments to the *Public Sector Employment and Management Act 2002* which commenced on 1 July 2012.

Devolved Procurement Model

Under the reforms, agencies are now responsible for their own procurement activity, and responsibility for contract management lies with the agency that is Principal to the contract.

Section 149 of the *Public Sector Employment and Management Act 2002* sets out an agency's obligations when procuring goods and services:

- (1) *A government agency is to exercise its functions in relation to the procurement of goods and services in accordance with:*
 - (a) *any policies and directions of the Board that apply to the agency, and*
 - (b) *the terms of its accreditation (if any) by the Board, and*
 - (c) *the principles of probity and fairness.*
- (2) *A government agency is also to ensure it obtains value for money in the exercise of its functions in relation to the procurement of goods and services.*
- (3) *A government agency is, at the request of the Board, to provide information to the Board about its activities in relation to the procurement of goods and services.*

ICT Board

In December 2012, the NSW Procurement Board delegated its ICT procurement functions to the ICT Board. The ICT Board is now responsible for overseeing ICT procurement by NSW Government agencies.

ICT Services Scheme

The Auditor-General's recommendations refer to *State Contract 2020 ICT Services*. Contract 2020 has now lapsed and been replaced with the ICT Services Scheme, which commenced on 1 March 2013.

The Scheme is a key part of the overall procurement reform objectives. It reduces red tape and makes it easier for industry to do business with government.

The Scheme is managed by the Department of Finance and Services (DFS) and is overseen by the ICT Board. It includes a number of features that create competition in the market and allow agencies to achieve value for money. For example, *eQuote* is an online system which allows agencies to view prequalified suppliers and standing panel arrangements.

Agencies also have access to guidance through the *NSW Government ICT Services Scheme: Guidelines for Customers (Attachment A)*.

Background on the Agency Accreditation Scheme for Goods and Services Procurement

Under the accreditation scheme, agencies are accredited to undertake different levels of goods and services procurement based on assessed procurement capability.

The accreditation scheme assesses an agency's end-to-end procurement capability including procurement activities occurring after the awarding of a contract, such as contract implementation, contract management, supplier relationship management and benefits realisation.

Procurement delegations

Best practice often requires agencies to have procurement delegations that are separate to financial delegations. For example, agencies may wish to centralise their procurement activities within a specialised strategic procurement function. Some business areas may have a lower procurement delegation than financial delegation, while specialised procurement units may have a higher procurement delegation than financial delegation.

For these reasons, while DFS broadly agrees with recommendation 3.1, under NSW Government procurement policy, it is not intended that guidance on contract management will include advice that contract management delegations should be consistent with general financial delegations.

Benchmarking prices of ICT Services

Benchmarking ICT services prices is complex because all engagements under the ICT Services Scheme will be specific to agency size and business requirements. As noted above, DFS is now using the eQuote system to capture data on the cost of engagements under the Scheme. Whilst this information will be reported back to agencies, it is not intended that the reporting will be against benchmarks.

Feedback on the audit process

The potential benefits of the audit process were limited because of the review of the NSW Government procurement system that was occurring at the same time. It is noted that the NSW Government Procurement Discussion Paper (**Attachment B**) was released in January 2012, shortly before the Auditor-General reported to Parliament.

For this reason, a number of the Auditor-General's recommendations were delayed and/or superseded by actions arising from the procurement reform process. For example, the implementation of recommendations one and three were put on hold pending the outcome of the review of government procurement.

The Strategic Directions Statement was subsequently issued in November 2012, setting out how the Government planned to implement the reforms (**Attachment C**). The Statement included an action for the Procurement Board to issue a single Procurement Policy Framework.

The development of the Framework superseded the implementation of recommendations 3.1 and 3.2 in relation to guidance on contract management. It should be noted that the next stage of the Framework is to include supplier performance management guidance, which will also address recommendations 3.1 and 3.2.

Further, the Auditor-General's recommendations were based on making changes to the former procurement model. For example, the Auditor-General's recommendations sought to broaden the functions of the former State Contracts Control Board (SCCB) and DFS. However, the reforms now seek to devolve procurement responsibility to agencies, with oversight from the NSW Government Procurement Board. The SCCB, which was also the subject of recommendations one, two and three was abolished effective 1 July 2012.

Therefore, DFS is of the view that the effectiveness of performance audits is reduced where the matter is also the subject of another significant review.

PERFORMANCE AUDIT – Managing IT Services Contracts

IMPLEMENTATION OF RECOMMENDATIONS

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
1 By June 2012, the SCCB and DFS develop and implement options that would ensure that agencies reasonably seek enough quotations from suppliers to demonstrate they have created adequate levels of competition and achieved value for money for purchases over \$250,000 through the IT services State contract.	Accepted	<p>Ensure agencies have access to a range of suppliers to reasonably seek enough quotations through the ICT Services Scheme.</p> <p>Issue guidance to agencies purchasing under the ICT Services Scheme on the recommended minimum number of quotations.</p> <p>Develop and implement the eQuote system for agencies to seek quotes online from suppliers on the ICT Services Scheme.</p>	<p>Due date was revised to April 2013 due to NSW Government procurement reforms.</p>	<p>Completed</p> <p>There are currently 468 suppliers listed on the ICT Services Scheme.</p> <p>Completed.</p> <p>The <i>ICT Services Scheme: Guidelines for Customers</i> recommends that agencies seek a minimum of three quotations for high risk or high value (over \$150,000) projects. The Guidelines include a risk assessment guideline to assist agencies in determining whether a project is high risk.</p> <p>Completed</p> <p>eQuote system developed and implemented. Agencies are able to seek quotes and award contracts under the ICT Services Scheme in the eQuote system.</p>	<p>NSW Procurement, DFS, manages the ICT Services Scheme and the eQuote system.</p> <p>The ICT Services Scheme is overseen by the ICT Board.</p> <p>It should be noted that under the devolved procurement model, agencies are ultimately responsible for determining the sufficient number of suitable suppliers to invite to ensure probity, fairness and value.</p>

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
2 By June 2012, the SCCB and DFS enhance the revised Agency Accreditation Scheme for Goods and Services procurement (the Scheme) by requiring accredited agencies to demonstrate that:	Accepted		Recommendation 2 was implemented by June 2012.		NSW Procurement, DFS, manages the Agency Accreditation Scheme for Goods and Services Procurement. The Agency Accreditation Scheme is overseen by the Procurement Board.
2.1 They conduct audits of individual contracts for compliance with their policies and Procedures.		Amend the accreditation assessment process to include assessment of the agency's processes for auditing individual contracts for compliance with their policies and procedures.		Completed. As part of accreditation assessment, agencies must demonstrate that audits of existing contracts are regularly undertaken to review compliance to policies and procedures (including contract management procedures such as managing contract expiries)	

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
2.2 They prepare risk based contract management plans for all services contracts.		Amend the accreditation assessment process to include assessment of the agency's IT services contract management plans.		<p>Completed</p> <p>As part of accreditation assessment, agencies must demonstrate that risk based Contract Management Plans are in place for a minimum of 50% of all IT services contracts valued over \$250,000 including purchases through State Contracts.</p> <p>In order to achieve a higher level of accreditation, agencies must demonstrate that risk based Contract Management Plans are in place for 100% of all IT services contracts valued over \$250,000 including purchases through State Contracts.</p>	
2.3 They have structures in place to effectively manage all services contracts, including purchases through State Contracts.	Accepted	Amend the accreditation assessment process to include assessment of the agency's structures for managing IT services contracts.		<p>Completed</p> <p>As part of accreditation assessment, agencies must demonstrate that dedicated resources and structures exist for managing all IT services contracts valued over \$250,000 including purchases through State Contracts.</p>	

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
3	By December 2012, the SCCB and DFS:		Due date was revised to December 2013 due to NSW Government procurement reforms		
3.1	Develop guidance to agencies on managing IT services contracts post award, including advice that their contract management delegations should be consistent with their general financial delegations.	Accepted with the exception of including advice that contract management delegations should be consistent with general financial delegations	General guidance on post-award contract management is being developed as part of the Procurement Policy Framework (applying to all goods and services spend including ICT).	On track Procurement Board to consider issue of revised Procurement Policy Framework during second half of 2013.	DFS is responsible for managing NSW Government procurement policy.

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
		<p>Mandate use of Procure IT contractual framework by agencies when procuring ICT. This contractual framework provides a basis for supplier performance management. General guidance on post-award contract management is being developed as part of the Procurement Policy Framework (applying to all goods and services spend including ICT).</p>		<p>Completed</p> <p>The Procurement Board has issued Direction 2012-05 which requires agencies to use the Procure IT contractual framework when procuring ICT</p>	<p>Overseen by the NSW Procurement Board and the ICT Board.</p>
3.2 Consider extending contract management guidance to cover other services contracts.	Accepted	<p>General guidance on post-award contract management is being developed as part of the Procurement Policy Framework (applying to all goods and services spend including ICT).</p>		<p>On track</p> <p>Procurement Board to consider issue of revised Procurement Policy Framework during second half of 2013.</p>	

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DUE DATE	STATUS (completed, on track, delayed) and COMMENT	RESPONSIBILITY (Section of agency responsible for implementation)
<p>3.3 Develop a benchmarking and methodology and regularly benchmark the prices charged by suppliers on the IT services State contracts, and provide this data to agencies.</p>	<p>Accepted with the exception of benchmarking prices.</p>	<p>Develop the eQuote system for agencies to use when engaging suppliers from the ICT Services Scheme. Use the eQuote system to capture data relating to project costs.</p>		<p>Complete. The eQuote system has been developed and is now available for agency use when engaging suppliers under the ICT Services Scheme. Data relating to project cost is currently being captured through the eQuote system.</p>	<p>DFS manages the eQuote system and the ICT Services Scheme. Overseen by the NSW Procurement Board and the ICT Board.</p>
		<p>Report back to agencies on the cost of projects under the ICT Services Scheme for which agencies have used the eQuote system.</p>		<p>On track. Reporting capability will be developed in the eQuote system in order to allow DFS to report back to agencies on the value of engagements under the ICT Services Scheme. The reliability of this information is dependent on agencies' effective use of the eQuote system. No mandate currently exists for agencies to use the eQuote system.</p>	<p>DFS manages the eQuote system and the ICT Services Scheme. Overseen by the NSW Procurement Board and the ICT Board.</p>

NSW GOVERNMENT ICT SERVICES SCHEME

V1.1
April 2013

Guidelines for Customers

This document provides guidelines to assist Eligible Customers purchase from the *NSW Government ICT Services Scheme*.

SCHEDULE OF DOCUMENT AMENDMENTS

Revision number	Date	Revision description
1.0	29/1/2013	First published version
1.1	10/4/2013	Insert Appendix 1: Risk Assessment Guide Revise Cl. 11.2 to clarify Customer Order requirements

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NSW Government ICT Services Scheme

GUIDELINES FOR CUSTOMERS

1. INTRODUCTION

The Department of Finance and Services (the Department) has established the NSW Government ICT Services Scheme (“ICT Services Scheme”) as part of the NSW Government’s recent procurement reforms that aim to simplify contracts and tenders and improve opportunities for small-to-medium enterprises to do business with NSW Government

The scope of services provided under the ICT Services Scheme have been developed to align with the objectives of the *NSW Government’s ICT Strategy 2012* by providing a procurement channel for service providers to consult, specify, develop, build, implement, test, manage or maintain discreet components or end-to-end ICT solutions. The ICT Services Scheme includes flexibility to modify the scope of services during its term to facilitate continual alignment to NSW Government’s requirements for ICT services.

The Department administers the ICT Services Scheme on behalf of the Contract Authority.

The ICT Services Scheme is available for use by NSW Government agencies and other eligible customers.

2. BACKGROUND

The NSW Government is overhauling its system for purchasing goods and services. The objective of the reform program is to ensure that the NSW Government has a world class

procurement system which delivers value for money, is aligned with business needs, leads to service delivery improvement and supports a competitive and innovative NSW economy.

In November 2012, the NSW Procurement Board issued the NSW Government's Strategic Directions Statement to outline its reform program over the next 12 to 18 months. The three overarching procurement reform objectives in the Strategic Directions Statement are value for money, delivering quality government services and alignment with business needs.

Value for Money – Savings Targets

The Procurement Strategic Directions Statement recognises that an effective procurement system will deliver value for money for Government. Procurement activity needs to look at the total value derived by Government over the life of a contract/strategy.

In the Financial Year 2012/13 NSW State Budget, the NSW Government committed to identifying sustainable procurement savings of over \$1 billion over a four year period. In addition to broader procurement reform, respondents are encouraged to demonstrate how they will support Government in achieving this commitment through price reductions, increased discounts, improved efficiencies and other measures.

Removal of Management Fee from State Contracts

The NSW Government's Strategic Directions Statement, Strategic Direction 2, is Simplification and Red Tape Reduction. A key way to deliver value for both suppliers and agencies is to simplify procurement practice and process and remove unnecessary red tape.

One of the measures already implemented to reduce red tape and simplify the process for industry is that Management Fee under whole of government contracts (commonly 2.5%) has been abolished relieving onerous reporting, remittance, and auditing procedures.

It is expected that industry will respond to this RFT with competitive offers that fully reflect the removal of Management Fee through a decrease in unit cost of no less than 2.5%.

3. DOCUMENT SCOPE

2.1 The *ICT Services Scheme Purchasing Guidelines for Customers* is a guide that has been developed specifically to assist Customers use the NSW Government ICT Services Scheme. This document should be read in conjunction with existing agency-specific and NSW Government procurement policies and procedures.

2.3 The *ICT Services Scheme Guidelines for Customers* does not cover procurement planning, funding approval, needs analysis, specification writing, preparation of tender / quotation documents, opening or closing invitations to quote, evaluation of proposals, post implementation review and ongoing contract management, which are available at www.procurepoint.nsw.gov.au

4. SUPPLIER LISTINGS

4.1 The ICT Services Scheme offers two (2) supplier listings according to contract value and risk:

4.1.1 **Registered Supplier List:** These Suppliers have registered to supply low risk contracts valued up to \$150,000 each. Suppliers included on the Registered Supplier List have provided the following information:

- a) Organisational details
- b) Details of company capacity and capability for each nominated category including:
 - (i) details of recent relevant experience
 - (ii) details of certification, where applicable
 - (iii) qualifications and experience of key personnel
- c) Insurance certificates of currency
 - (i) Professional Indemnity \$1M (Mandatory)

- (ii) Public Liability \$5M (Mandatory)
- (iii) Product Liability \$5M (Mandatory if deliverables include products such as software or hardware)
- (iv) Workers' compensation as required by law
- d) Confirmation of Supplier Declaration stating that the Supplier is not subject to
 - (i) insolvency; or
 - (ii) an ICAC inquiry or legal proceedings
- e) Agreement to the Scheme Rules, which includes the requirement that all Customer Contracts will comply with the Short-form ICT General Terms and Conditions. (Refer to section 6 *Prescribed Terms and Conditions for Customer Contracts*).

4.1.2 **Advanced Registered Supplier List:** Suppliers on this list are approved to supply high risk contracts or contracts valued over \$150,000 each. To be included on the Advanced Registered Supplier List, Suppliers have provided:

- a) Organisational details
- b) Confirmation of company capacity and capability for each nominated category including
 - (i) details of recent relevant experience
 - (ii) two (2) referee reports for each nominated high-level category
 - (iii) details of certification, where applicable
 - (iv) qualifications and experience of key personnel
- c) Confirmation of solvency evidenced by a recent independent credit report
- d) Insurance certificates of currency
 - (i) Professional Indemnity \$1M (Mandatory)
 - (ii) Public Liability \$10M (Mandatory)
 - (iii) Product Liability \$10M (Mandatory if deliverables include products such as software or hardware)
 - (iv) Workers' Compensation as required by law
- e) Confirmation of Supplier Declaration stating that the Supplier is not subject to

- (i) insolvency; or
 - (ii) an ICAC inquiry or legal proceedings
- f) Agreement to the Scheme Rules, which includes the requirement that all Customer Contracts will comply with the Procure IT Framework (version 3) Customer Contract Terms and Conditions. (Refer to section 6 *Prescribed Terms and Conditions for Customer Contracts*)

5. SCHEME ACCEPTANCE CRITERIA

5.1 Supplier admission to the Scheme is subject to meeting the Acceptance Criteria outlined below. Customers should also conduct their own investigations into value for money, including company capacity and capability, for each engagement.

5.2 *Registered Supplier List*

Supplier acceptance is subject to:

- a) provision of all required information;
- b) agreement to Scheme Rules; and
- c) confirmation of Supplier Declaration.

5.3 *Advanced Registered Supplier List*

Supplier acceptance is subject to:

- a) provision of all required information;
- b) satisfactory referee reports;
- c) satisfactory independent credit report;
- d) agreement to Scheme Rules; and
- e) confirmation of Supplier Declaration

6. PRESCRIBED TERMS AND CONDITIONS FOR CUSTOMER CONTRACTS

6.1 Different terms and conditions apply for each Supplier List.

Supplier List	Terms and Conditions for Supplier Lists
<p>Registered Supplier Listing</p> <p>For low risk contracts valued up to \$150,000 each.</p>	<p>Short-form ICT General Contract: Terms and Conditions. View or download at www.procurepoint.nsw.gov.au</p>
<p>Advanced Registered Supplier Listing</p> <p>For contracts valued over \$150,000 each or high risk contracts</p>	<p>Procure IT Framework (version 3) terms and conditions consisting of Part 2: Customer Contract, Schedules including General Order Form, and Modules where applicable.</p> <p>The Procure IT framework may be downloaded at https://www.procurepoint.nsw.gov.au/before-you-buy/standard-contract-templates</p>

6.1.1 Registered Supplier List: *Short-form ICT General Contract Terms and Conditions*

Suppliers on the Registered Supplier List have agreed that all low risk contracts valued up to \$150,000 will comply with the Short-form ICT General Contract Terms and Conditions. These conditions reflect the lower risk and value profile of the scope of works and have significantly less details and lower insurance requirements than the Procure IT Framework.

Note: The Short-form ICT General Contract Terms and Conditions are only applicable to low risk contracts valued up to \$150,000 each and cannot be amended without the prior written approval of the Procurement Board or its Delegate.

6.1.2 Advanced Registered Supplier List: *Procure IT (version 3) Framework*

The Procure IT (version 3) Framework is a comprehensive set of terms and conditions that are applicable to high value (ie over \$150,000) or high risk ICT contracts. Suppliers on the Advanced Registered Supplier List have agreed that all Customer Contracts will comply with the Procure IT (version 3) framework Part 2: Customer Contract terms and conditions, and any applicable modules, which may be downloaded at <https://www.procurepoint.nsw.gov.au/before-you-buy/standard-contract-templates>

7. CONTRACT VALUE

7.1 Contract value refers to the total price of the whole-of-life requirement and cannot be split into lower-price components.

7.2 Contract value must be the estimated total price over the proposed term of the contract including any optional extension periods and not a price per annum.

7.3 For the purposes of determining the most appropriate supplier listing to use, Customers should consider the following scenarios when estimating the contract value:

7.3.1 A contract with a Supplier may result in the need for related “flow-on” contracts with the same supplier or an alternative supplier. The cumulative price of the first contract and any potential flow-on related contracts may exceed \$150,000.

7.3.2 The agreed scope of works may change during the term of the customer contract, resulting in an increase in contract price to greater than \$150,000.

7.4 Customers should anticipate the potential for these scenarios prior to selecting the most appropriate Supplier listing and seeking initial proposals. Where there is a potential for the total contract value to exceed \$150,000, customers should source Suppliers from the *Advanced Registered Supplier List*.

7.5 Contract value or price is inclusive of GST.

8. CONDUCTING THE RFQ PROCESS

8.1 Customers may use eQuote to conduct Requests for Quotes (RFQs) under the ICT Services Scheme. Refer to <https://www.procurepoint.nsw.gov.au/buying/nswbuy-buyers/equote> for more information on eQuote.

9. SUPPLIER LISTING SELECTION

9.1 ***Total estimated value is up to \$150,000***

9.1.1 Assess risk – Refer to *Appendix 1: ICT Services Scheme Risk Assessment Guide*

9.1.2 Where the risk is determined as Low, use the Registered Supplier List

9.1.3 Where the risk is determined as High, use the Advanced Registered Supplier List.

9.2 ***Total estimated value is greater than \$150,000***

9.2.1 Use the Advanced Registered Supplier List

Note: The *ICT Services Risk Assessment Guide* at Appendix 1 is a guide only. It has been developed specifically to assist Customers select the most appropriate supplier listing with consideration to value and risk profile of individual ICT service contracts. It does not replace existing agency-specific or NSW Government policies, procedures or guidelines relating to identification, mitigation or management of project risks.

10. SELECTION OF SUPPLIERS TO INVITE PROPOSALS

10.1 Refer to *Appendix 2: Summary Guide* for the recommended minimum number of suppliers to invite to provide quotations. Agencies are responsible for selecting a sufficient number of suitable Suppliers to ensure probity, fairness and value in keeping with section 149 of the *Public Sector Employment and Management Act 2002*.

10.2 Customers may use their own discretion when selecting Suppliers to invite proposals and are not obliged to seek quotations from every Supplier within a category or sub-category.

10.3 To assist in identifying suitable Suppliers to invite proposals, try any of the following preliminary investigations:

- Check company website
- Review Supplier information on eQuote
- Contact referees for supporting information about Supplier performance
- Contact the Supplier for an informal discussion about your requirement
- Conduct an informal preliminary Expression of Interest (EOI) or Request for Information (RFI) by emailing a brief description of your requirement to Suppliers within the applicable sub-category/ies and ask if they have the willingness, capacity and capability to perform the works. Suitable Suppliers that respond can then be invited to submit formal proposals.

11. PREPARATION OF CUSTOMER CONTRACT

11.1 *Contracts with Registered Supplier List*

11.1.1 Complete and execute the Order Form provided with the Short-form ICT Contract General Terms and Conditions.

11.2 *Contracts with Advanced Registered Supplier List*

11.2.1 The Procure IT v3 Framework and User Guide are available at <https://www.procurepoint.nsw.gov.au/before-you-buy/standard-contract-templates>

11.2.2 The Procure IT Framework's User Guide contains useful information about how to prepare and execute a customer contract under the Procure IT Framework. Refer to pages 40 – 44 of the User Guide.

11.2.3 Part 1: Head Agreement of the Procure IT v3 Framework is not applicable to the ICT Services Scheme and therefore not required for Customer Contracts ("Orders") placed with Suppliers on the Advanced Registered List.

11.2.4 Customer Contracts with Suppliers on the Advanced Supplier List should comprise the following parts of the Procure IT v3 Framework:

- (i) *Part 2 Customer Contract* executed by Customer and Contractor. (Mandatory – one (1) executed copy is required per contracted Supplier.)
- (ii) *Schedules including General Order Form* executed by Customer and Contractor. (Mandatory – must be executed for each and every Order.)
- (iii) *Applicable Module Order Form/s*. (Recommended for Orders that are complex or high value or high risk.)

11.2.5 For multiple Orders with the same Supplier, the Part 2 Customer Contract only needs to be executed once, however it is important that for each and every subsequent Order, both parties execute a separate General Order Form including applicable Schedules and Modules, regardless of whether it is with the same Supplier.

Hint: It is good practice to begin preparing the Procure IT v3 General Order Form during the project planning stage. Refer to the Procure IT v3 Framework's User Guide page 40 "Pre Tender Actions"

12. DEFINITIONS

Contract Authority means the NSW Government Department of Finance and Services on behalf of NSW Government Agencies.

Customer means any Eligible Customer listed available on the Department's Procurement ProcurePoint website at

https://www.procurepoint.nsw.gov.au/sites/default/files/documents/nsw_eligible_customers_nov_2012.pdf

eQuote means the online dynamic sourcing facility accessed via the NSW Government eTendering website for Customers to issue RFQs under a selection of NSW Government arrangements for goods and services. Customers may access eQuote by contacting their own eTendering administrator. Where Customers do not have an eTendering administrator, they may contact the Department's Client Support Centre on 1800nswbuy.

ICT Services Scheme means the NSW Government ICT Services Scheme administered by the Department.

NSW Government eTendering website means www.tenders.nsw.gov.au

Scheme Rules refers to the NSW Government ICT Services Scheme Rules for Suppliers to which all Suppliers on the ICT Services Scheme have agreed and may be viewed or downloaded at www.procurepoint.nsw.gov.au

Scheme Termination Notice means a notice published on the NSW Government eTendering website issued by the Department on behalf of the Contract Authority advising of the intent to terminate the Scheme.

Short-form General ICT Contract Terms and Conditions means the set of contractual terms and conditions that have been developed specifically for low risk contracts valued up to \$150,000. These contractual conditions reflect the lower value and risk profile of the scope of works and have significantly less detail than the Procure IT Framework and reduced insurance levels.

Supplier means an Applicant that has been granted admission to the ICT Services Scheme

Supplier List means either the *Registered Supplier List* (for low risk contracts valued up to \$150,000 each) or the *Advanced Registered Supplier List* (for high risk contracts or contracts valued over \$150,000 each).

Supplier Declaration means the declaration that suppliers are required to confirm on the online Scheme Portal when making an Application to the ICT Services Scheme, which states that the applicant is authorised to submit the application for and on behalf of the applicant organisation and in doing so warrants that the applicant organisation is financially solvent, not subject to any legal proceedings or ICAC inquiry/ies, and the information provided in the application is true and correct.

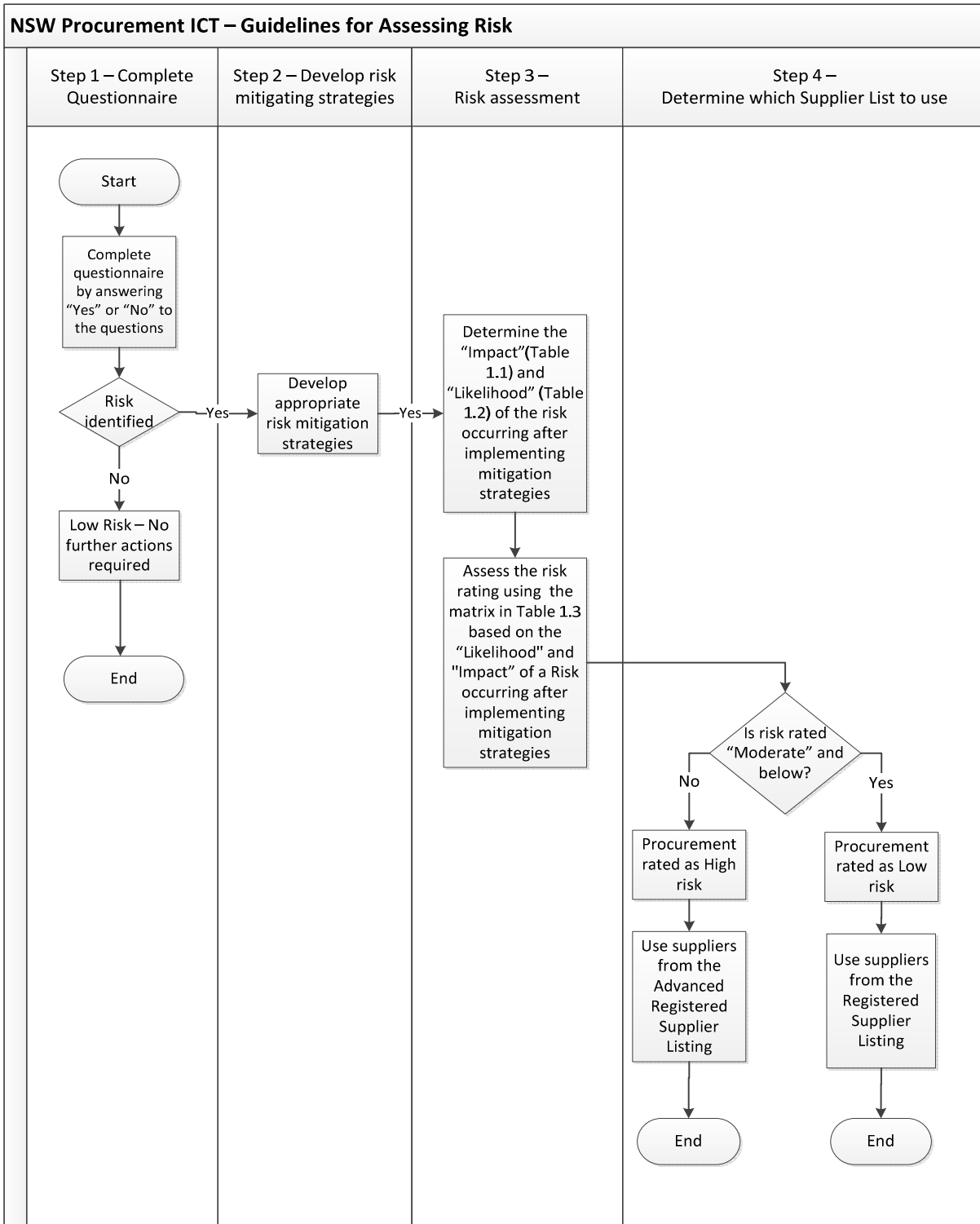
The Department means the Department of Finance and Services

APPENDIX 1: RISK ASSESSMENT GUIDELINE

1. GUIDANCE

The NSW Government has replaced the Contract 2020 (provision of ICT Services) with the NSW Government “ICT Services Scheme”. This ‘Assessment Guide’ has been developed for NSW Government Agencies to assess the level of risk associated with the procurement of ICT services in order to determine whether to use either of the following:

- ***Advanced Registered Supplier List:*** Suppliers that are approved to supply ‘HIGH’ risk contracts or contracts valued over \$150,000; or
- ***Registered Supplier List:*** Suppliers that are registered to supply ‘LOW’ risk contracts valued up to \$150,000.
- This ‘Assessment Guide’ is not designed to replace a comprehensive risk assessment and does not override Agency policies on risk management or procurement (contracting) requirements.



2. QUESTIONNAIRE

PROCUREMENT OF ICT SERVICES		
Q.	Contract Value	Yes/No*
1	Is there a risk that the costs of the intended procured services (contract value) do not include all the whole-of-life requirements e.g. maintenance and other costs etc?	
2	Is it likely the procured services will exceed \$150,000, given the size of the budget, extended delivery timeframe or historical issues with the delivery of similar services?	
3	Would the procurement lead to additional “flow-on” contracts, with either the same or a different supplier that would exceed \$150,000?	
Nature of Services		
4	Do the services relate to major system or software implementation projects, Outsourced IT operations or the implementation of complex Networking and Telecommunication devices that could exceed \$150,000 or increase the risk to the delivery of the procured services?	
5	Are the procured services expected to be complex thereby increasing the risks to delivery within Agency specifications?	
6	Is there a risk that key requirements of the procured services have not been clearly identified or documented so they can be formally communicated to the service provider?	
7	Is there any ambiguity or concern over the objectives and deliverables required of the procured services that may result in delays insufficient deliverables and/or budget overruns?	
8	Do the procured services relate to the customisation of software, which increases the risk to the timely and successful delivery of the services?	
9	Does the procurement involve multiple specialists from different providers, increasing risks around coordination and the delivery of the services within the budget?	
Governance		
10	Is there a risk that existing governance mechanisms are not sufficient to minimise unplanned or unapproved scope changes, thereby increasing the cost of the services over \$150,000?	

PROCUREMENT OF ICT SERVICES	
11	Are any restructures or potential staff changes planned or in the process of being implemented by the specific Agencies business team requiring the procured services?
Sensitivity	
12	Will the failure or inability to adequately complete the procured services have an adverse impact on/or delay the implementation of major government policy(s) or legislation?
13	Are the outcomes of the procured services intended to integrate into other projects, Agency(s), systems or processes that may require additional work effort or Ministerial clearances?
14	Could the nature of the procured services attract negative media attention and therefore result in increased probity or political scrutiny?
Service Provider	
15	Is there a concern over the financial viability of a preferred provider of the services and therefore its capability and capacity to deliver the procurement?
16	Are there any indications that the service provider's team does not have the required experience in delivering the services for this type of procurement based on referee reports?
17	Does the service provider need to outsource or use sub-contractors for the provision of services that may result in quality issues or the risk of non-delivery to agreed specifications?
Other Risks (Agency Specific)	
A	
B	

***Note:** Where the response to a question is “No” then no further action is required. If the response is “Yes” please complete the *‘Mitigating Strategies and Risk Assessment’* Table on Page 3 of this document.

(Example)

The table below has been provided as an example of mitigating strategies to reduce the risk below 'HIGH'.

No.	Question (refer Questionnaire)	Yes/No
5	Are the procured services expected to be complex thereby increasing the risks to delivery within Agency specifications?	Yes

Mitigating Strategies and Risk Assessment (Example)

No.	Mitigating Strategy	Likelihood (Refer to Table 1.1) After Mitigation Strategy	Impact (Refer to Table 1.2) After Mitigation Strategy	Risk Rating (Refer to Table 1.3) After Mitigation Strategy
5(a)	Project plan is finalised, all tasks have been allocated a budget, deadline, and deliverables and assigned an owner.	Unlikely	Moderate	Moderate (LOW RISK) Refer to the table below
5(b)	Assign an experienced Project Manager and Project Team.	Unlikely	Moderate	Moderate (LOW RISK)

4. RISK ASSESSMENT RESULT

Based on the above assessment the procurement is rated _____ Risk. (HIGH / LOW)

The Risk rating table below is based on the assessment of the mitigation strategies in table “3. MITIGATION STRATEGIES AND RISK ASSESSMENT” (above). In the example a Moderate rate risk results in a LOW RISK.

Overall Rating	Procurement Risk Rating	Supplier List (Contract Type)
Very High	HIGH RISK	High Risk but <\$150K or High Risk & >\$150K – <i>Refer to Advanced Registered Supplier List</i> (Suppliers that are approved to supply high risk contracts or contracts valued over \$150,000)
High		
Moderate	LOW RISK	Low Risk & <\$150K – <i>Refer to Registered Supplier List</i> (Suppliers that are registered to supply low risk contracts valued up to \$150,000)
Minor		
Negligible		

Rating Tables

1.1 Likelihood Table definitions

Likelihood	Description
Almost Certain	High likelihood of risk events occurring during the project (in most circumstances).
Probable	A risk event is likely to occur during the project (to be expected).
Possible	Would not be surprised if risk event occurred during the life of the project (foreseeable/capable of happening at least once).
Unlikely	The risk event could occur at some time but is unlikely (not to be expected).
Rare	Within the realms of possibility but extremely unlikely to occur (exceptional circumstances only).

***Note:** This table is provided as a guide only.

1.2 Impact Table definitions

Impact	Description
Very High	The consequences would create severe problems both financially and politically to the procurement organisation and its client/s.
High	The consequences would create major problems both financially and politically to the procurement organisation and its client/s.
Moderate	The consequences would create moderate problems to the procurement organisation and its client/s. This would mean that the administration of the procurement project could be subject to significant review or changed ways of operating.
Minor	The consequences would threaten the efficiency or effectiveness of some aspects of the program but would be dealt with internally. A budget overrun of monthly/project budget would be of low consequence.
Negligible	The consequences are dealt with by routine operations. A budget overrun of monthly/project budget would be of negligible consequence.

***Note:** This table is provided as a guide only.

1.3 Risk Rating Table*

Likelihood score	Likelihood							Risk Rating
5	Almost Certain	Minor (5)	Moderate (15)	High (25)	Extreme (35)	Extreme (45)	(26-45)	Very High
4	Probable	Minor (4)	Moderate (12)	High (20)	Extreme (28)	Extreme (36)	(18-25)	High
3	Possible	Minor (3)	Moderate (9)	Moderate (15)	High (21)	Extreme (27)	(7-15)	Moderate
2	Unlikely	Minor (2)	Minor (6)	Moderate (10)	Moderate (14)	High (18)	(2-6)	Minor
1	Rare	Negligible (1)	Minor (3)	Minor (5)	Moderate (7)	Moderate (9)	(1)	Negligible
		Negligible	Minor	Moderate	High	Very High		
	Impact Score	1	3	5	7	9		
		Impact						

*Note: This matrix is provided as a guide only.

APPENDIX 2: SUMMARY GUIDE

Estimated total contract value	Contract Risk	Recommended minimum number of quotations	Supplier List	Terms and Conditions
Up to \$150,000	Low	1	Registered Supplier List	Short-form
Up to \$150,000	High	1	Advanced Registered Supplier List	Procure IT Framework (version 3)
Over \$150,000	Low	3	Advanced Registered Supplier List	Procure IT Framework (version 3)
Over \$150,000	High	3	Advanced Registered Supplier List	Procure IT Framework (version 3)

Price and non-price factors including company capacity and capability should be assessed for each engagement. Agencies shall ensure probity and value in keeping with Section 149 of the *Public Sector Employment and Management Act 2002*.



**Finance
& Services**

NSW Government Procurement Discussion Paper

- New government procurement framework
- Sourcing government goods and services
- Government contracts
- Small and medium enterprises
- Innovation and procurement

January 2012

procurementconsult@services.nsw.gov.au



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Purpose of the discussion paper

The NSW Government is overhauling its system for purchasing goods and services. The current system is old and much modified over the decades to meet new purchasing requirements as they arose. Government procurement structures have become overly complex. Mounting red tape is discouraging business from seeking government procurement opportunities.

This discussion paper starts the reform process by setting out proposals to rework four of the critical building blocks which underpin the procurement system. It proposes a new government procurement framework that:

- allows for contemporary means of sourcing government goods and services
- brings the form and content of government contracts in line with modern practice
- expands the ways that small and medium enterprises can effectively gain opportunities to supply goods and services to the government, and
- introduces greater innovation into government procurement to stimulate a more vibrant New South Wales economy.

The NSW Government wishes to hear your perspectives on one, some or all of these matters. This discussion paper provides you with a framework for providing your comments by providing a brief discussion of each area. To further guide your response, the paper sets out some key questions from the perspective of the Department of Finance and Services (DFS). You can use these questions to frame your response or set out your issues as you see them.

If you have questions about this discussion paper, please email procurementconsult@services.nsw.gov.au.

Submitting your comments

DFS invites written comments on the proposals and issues set out in this discussion paper in one of three ways:

- by posting your comments on www.nsw.gov.au/haveyoursay
- for longer and or more detailed submissions, by writing to:
Review of NSW Government Procurement
Government Services Division
Department of Finance and Services
McKell Building
2 – 24 Rawson Place
SYDNEY NSW 2000
- or by sending an email to procurementconsult@services.nsw.gov.au.



To be considered, these comments must include the author's name, telephone number and address. If you do not want your personal details or submission released, please indicate this clearly on your submission. However, all submissions will be made publicly available as required by law.

Comments should be received by Wednesday 29 February 2012.

Following consultation and the Government's decision, proposed amendments to the *Public Sector Employment and Management Act 2002* will be brought to the Parliament in 2012 to bring into effect the new NSW Government procurement governance structure. Subject to the Act's amendment, the Public Sector Employment and Management (Goods and Services) Regulation 2010 will be amended to bring about the reforms.

1 A new governance structure and operating framework for NSW Government procurement

1.1 Current procurement arrangements

The New South Wales Government's current procurement arrangements are complex. They combine a principally centralised procurement system working alongside several decentralised procurement systems:

- The State Contracts Control Board is legally responsible for the purchase and disposal of all goods and services necessary for the operation of the public sector.
- Agencies buy goods and services from suppliers who are party to State Contracts Control Board whole-of-government (State) contracts and agency-specific State contracts.
- Depending on the level of the State Contracts Control Board accreditation or delegation given to them, agencies may purchase goods and services up to a certain amount that are not provided for by State contracts without going to the State Contracts Control Board for approval (including using purchase cards).
- Certain agencies have their own legislative power to undertake procurement activities to meet their statutory functions and are able to procure without reference to the State Contracts Control Board.
- Some government procurement activities (particularly services) are managed as grants and others managed as construction and heavy engineering projects, which are also procured without reference to the State Contracts Control Board.

Based on 2010–11 data, the NSW Government spends an estimated \$12.7 billion on goods and services each year. The State Contracts Control Board's State contracts account for \$3.8 billion of that expenditure.

All NSW Government procurement is subject to the NSW Government Procurement Policy and the policy is supported by a number of Premier's Memoranda, Treasury circulars and procurement guidelines. Construction is managed through separate arrangements.

The State Contracts Control Board is established by the *Public Sector Employment and Management Act 2002*. Its powers are mainly set out in the Public Sector Employment and Management (Goods and Services) Regulation 2010. The Board is responsible for the supply and disposal of goods and services on behalf of the public sector service. It is also the escalation mechanism for complaints relating to public sector procurement, and it provides procurement advice to the Minister for Finance and Services.

NSW Procurement, a business unit within the Department of Finance and Services, is the State Contracts Control Board's operating arm. The main functions of NSW Procurement are to tender and manage State contracts and a number of client contracts (contracts managed by NSW Procurement on behalf of particular agencies)



and to provide procurement advice and support to agencies. DFS also provides policy support to the Minister and the State Contracts Control Board's secretariat.

Individual agency procurement arrangements vary greatly and are being rapidly transformed as many agencies reorganise their procurement functions. Large agencies have centralised procurement teams that are led by Chief Procurement Officers. In other agencies, procurement functions are more decentralised with a significant number of non-procurement officers involved in procurement activities. Contract management is often decentralised in agencies, and many also have large numbers of staff responsible for purchasing goods and services under State Contracts Control Board contracts and other contracts.

1.2 The need for change – and the challenges

Government procurement has changed rapidly and continues to do so today. Procurement was seen (and often is still seen) as an administrative function, frequently overlooked as supporting rather than leading other parts of an agency's business and often seen as the cause of many business problems. In the 1980s, most such procurement was non-aggregated and transactional purchasing was completed at department or business unit level. The 1990s saw greater consolidation of sourcing activities and aggregation of agencies' requirements. More recently, concepts such as eCommerce are influencing procurement practice.

Today, the procurement life cycle spans sourcing strategy, supplier selection, contract management, supplier relationship management, and purchasing and supplier integration. Procurement is now seen as one of the top value creators in any business or government agency, and fundamental to government service delivery.

NSW Government agencies have embraced these shifts in procurement practice and many advances have been made by them. Nonetheless, the NSW Government faces major challenges to achieve the best possible outcomes from its procurement activities:

- The system managed under the Public Sector Employment and Management (Goods and Services) Regulation 2010 is highly centralised but accounts for only a third of the NSW Government's procurement of goods and services. The remaining two-thirds of procurement, although operating under the NSW Government Procurement Policy, is undertaken by agencies outside the requirements of the Regulation.
- The NSW Government lacks a single point of leadership for government procurement. Responding to this point, the Independent Commission Against Corruption¹ recommends that the NSW Government establishes a single entity that is given explicit leadership responsibility for:
 - formulating and maintaining the state procurement policy framework, including standards of conduct or practice

¹ Independent Commission Against Corruption, *Corruption risks in NSW Government Procurement*, June 2011.

- building the procurement capacity of the sector: promoting the procurement policy and compliance with its provisions, and
- monitoring and reporting on compliance and performance standards.
- The Government's procurement policy and regulatory frameworks are complex; it is difficult for agencies and suppliers to understand and comply with the requirements.
- Some agencies have identified a disconnect between the centralised procurement activities (State Contracts Control Board and the Department of Finance and Services) and agencies' procurement needs and activities.
- The importance of procurement to high quality government service delivery is often underestimated. An increased focus on quality, service delivery and the need to drive savings requires more sophisticated sourcing strategies and better contract management.
- The lack of procurement capability across the sector – including in category strategy, risk assessment and contract management – is often the most-noted factor in limiting procurement outcomes.
- Whole-of-government and agency procurement is greatly hampered by the lack of a formalised and consistent procurement data collection and analysis framework.

1.3 Concerns about government procurement

In its report, *Corruption risks in NSW Government Procurement*, the Independent Commission Against Corruption identified concerns about government procurement:

- The NSW public sector procurement system (including local government) is complex and difficult to apply to varying procurement scenarios.
- Accessing practical information to support practitioners in their procurement activities and decision-making is difficult.
- Central agencies fail to provide leadership and support to individual organisations, procurement practitioners and suppliers.
- The public sector is characterised by varying levels of procurement expertise, and
- A lack of compliance with procurement policy and procedures is widespread and there is an absence of effective sanctions within the system.

1.4 What does the Government want to achieve from its procurement system?

The NSW Government's goals for its revised approach to procurement are:

- achieving better value for money and budgetary outcomes from Government procurement
- achieving a Government-wide strategic approach to procurement: fostering procurement as a business enabler through planning and oversight
- reducing administrative costs and duplication of the procurement function across Government



- reducing red tape, improving competition and simplifying access to Government business for the supply community, especially small and medium enterprises and regional businesses
- simplifying the regulatory and governance frameworks for government procurement, with an increased focus on compliance, probity and equity, and
- building procurement competence and professional development across Government.

1.5 Recent initiatives

Some positive steps have been taken to address these matters:

- The NSW Government has developed an agency accreditation scheme for goods and services procurement, which aims at providing more autonomy to accredited agencies. The accreditation scheme provides a robust framework to assess agencies' procurement according to maturity, capability, capacity and practice. The scheme is designed to lift agency procurement capability, and means that an accredited agency can procure goods and services that are not provided for under State contracts without approval of the State Contracts Control Board (up to a certain threshold; at the highest level of accreditation this threshold is 150% of the value of the highest agency-specific contract).
- The NSW Government has organised the public sector into nine Principal Departments and their cluster agencies, which is resulting in rapid restructuring and alignment of their procurement functions.
- The Department of Finance and Services has developed and maintained a variety of procurement technology solutions which are available to all government agencies. These include:
 - eTendering: an online tool which supports and manages the tendering process for NSW Government agencies that use the eTendering website (<https://tenders.nsw.gov.au/>), from public advertisement of tender opportunities to public disclosure of contracts awarded
 - eCommerce: an online marketplace where agencies can procure goods and services available through State contracts. eCommerce can be integrated with agencies' financial systems to provide catalogue management, electronic workflow design, financial delegations and purchasing through to invoice receipt and procurement reporting.
 - Contract Lifecycle Management System: the eProcurement platform for providing contract management workflow, supplier management, procurement benefits realisation measurement, and other features such as open bidding and reverse auctions.
- The Department of Finance and Services has moved to a 'category management' approach, which entails end-to-end visibility and management of a whole procurement category. Within their respective categories, category managers lead procurement strategy development throughout the contracting life cycle and manage their category (including suppliers and buyer agencies) to ensure that all benefits

from the resulting contracts are realised and continuously improved. Category managers analyse expenditure, develop supplier relationships, mitigate risks and add value. For example, the Department of Finance and Services has established procurement categories in:

- energy and environment
 - information and communications technology, and
 - support services.
- Agencies are rapidly expanding their discussion of shared procurement issues and solutions through mechanisms such as the Chief Procurement Officers Forum.

1.6 Comparison with procurement arrangements in other jurisdictions

The NSW Government has undertaken a study of procurement systems in the Australian, Victorian, Queensland, Western Australian and the United Kingdom governments to identify approaches the NSW Government may wish to implement.

The NSW Government appears to be the most centrally concentrated system, with the largest central procurement group in terms of size and services offered. It has the largest expenditure under whole-of-government contracts (in terms of volume and percentage of expenditure under centralised contracts).

1.7 Proposed procurement model for the NSW Government

The NSW Government is proposing a new overarching governance structure and operating framework for its procurement system (see Figure 1).

The proposed new procurement system is intended to address the issues and achieve the objectives outlined above.

The NSW Government has reviewed its existing procurement operating model in consultation with agencies and other key stakeholders, having regard to contemporary practice in other jurisdictions, both in the public and private sectors.

At the outset, four principal premises for building the model were established:

- Sourcing and procurement is more efficient and effective if it is devolved to agencies that have specialist knowledge of the category supply chain and supply sector and that have proximity to both business requirements and the end-point of the supply chain.
- Sourcing strategies for procuring goods and services are more effective if developed by those with direct interests in the service delivery and financial outcomes. Sourcing strategy should therefore be led by the largest-spend agency with the necessary specialist expertise in particular procurement categories, rather than by the central procurement agency. Where required, lead agencies will operate on behalf of all government agencies in delivering the procurement activity.
- The profile of procurement should continue to be raised within the NSW Government to contribute further to achieving the Government's goals for service delivery and value for money, and



- Procurement capability development should be treated as a priority, with emphasis on procurement policy and strategy.

Based on these premises, seven major design elements were identified for the new model:

- Procurement practice should be delivered, where possible, by agencies within a sector-wide governance framework.
- Central procurement functions and agencies need to further increase their engagement and collaboration.
- Defining the Government's procurement categories should be undertaken jointly by agencies and any new central procurement functions.
- Where possible, procurement category management should be assigned to the agency with largest expenditure.
- The role of the Chief Procurement Officer in agencies should be enhanced.
- Procurement data collection and analysis across the sector should be a priority central function, and
- NSW Government procurement systems and processes should be simplified.

In developing these design elements, many of the barriers to innovation (set out in Part 4 of this discussion paper) are also recognised.

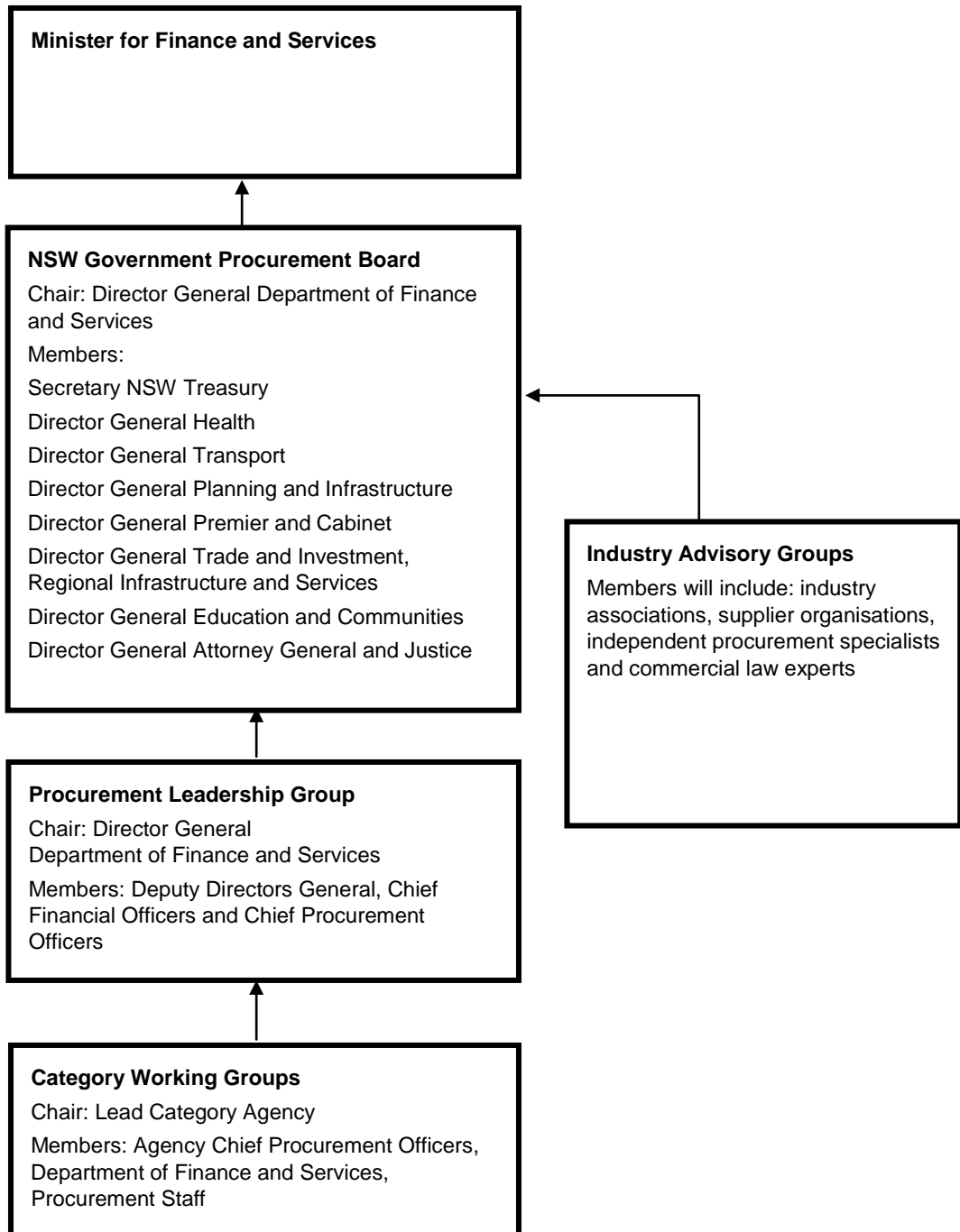
Under this new framework, the centralised procurement function should be a strategic coordination point that provides enabling functions to the agencies, including:

- policy development and compliance
- agency accreditation and sector-wide capability development
- procurement category management and support
- procurement data collection and analysis
- performance reporting
- tendering and contract management and support
- vendor management for particular categories
- complaint and investigation mechanisms
- procurement systems development and implementation, and
- client relationship services.

Most whole-of-government contracts will be managed by agencies, in consultation and collaboration with the Department of Finance and Services, and with other agencies.

A small group of whole-of-government contracts will continue to be managed centrally by the Department of Finance and Services.

Figure 1: Proposed governance structure and operating framework for NSW Government procurement





NSW Government Procurement Board

The State Contracts Control Board will be abolished and replaced by the NSW Government Procurement Board, with its membership to be drawn from the Directors General of the NSW Government's Principal Departments. The statutory-based Procurement Board will have responsibility for overseeing the Government's procurement system, setting policy and ensuring compliance.

It will have statutory power to issue directions to agencies, and make decisions and monitor the progress of agency compliance. It will accredit agencies to undertake their own procurement of goods and services.

Unlike the State Contracts Control Board, the Procurement Board will not be a contracting body primarily (but will have reserve power to arrange contracts, if required). Its key role will be to make decisions on what categories of goods and services should be procured centrally, and it will charge specific agencies (including DFS) with leading that central procurement role.

Procurement Leadership Group

The Procurement Leadership Group, reporting to the Procurement Board, will comprise senior executives drawn from across the public sector. The Group will support and make recommendations to the Board on matters determined by the Group or referred to it by the Board. A primary purpose of the Group will be to achieve and maintain consistent approaches to procurement across agencies and senior procurement leadership within agencies. It will also make recommendations to the Board on goods and services which should be subject to centralised procurement, and possible sourcing strategies.

Support functions

The activities of the Procurement Board, the Department of Finance and Services, and lead category and individual agencies will be complemented by two support functions:

Category Working Groups

The Procurement Board will establish Category Working Groups around particular procurement categories. Generally they would be the responsibility of the designated lead category agency but the Department of Finance and Services may fulfil the function for some categories. These groups would generally comprise Chief Procurement Officers and other government procurement specialists along with senior executives with service delivery and financial responsibilities in an agency.

Private sector consultative group/industry advisory group

The Procurement Board will establish private sector industry advisory or consultative groups, either on a standing or ad hoc basis.

The Minister for Finance and Services has established the first such committee: the Industry Reference Group for the Review of NSW Government Procurement.

Agencies

Principal Departments and certain cluster agencies will be responsible for sourcing and contract management after being accredited by the Procurement Board. The agency's role will have two aspects:

Leaders in whole-of-government procurement categories

In the case where an agency is the largest spender in a particular procurement category and holds the necessary specialist expertise, the Procurement Board may assign it as the whole-of-government lead agency for that category. That is, those agencies will operate on behalf of the whole-of-government, and this would entail defining category and sourcing strategies, and leading supplier selection and contracting. The agency will fulfil these functions in conjunction with other stakeholder agencies and the Department of Finance and Services. Depending on the category, the Procurement Board may require the lead agency to establish a Category Strategy Working Group to help it fulfil the role.

The Procurement Board will assign lead category roles to specific agencies when it accredits the agency.

Agency-specific procurement

Agencies will be responsible for managing their own procurement of goods and services to meet their own specific requirements, where a whole of government contract or opportunity for a contract does not exist.

Agencies with their own legislative powers to procure goods and services will retain them. However, these procurement activities will now be subject to the overarching supervision of the Procurement Board.

Agencies will need Procurement Board accreditation in order to assume responsibility for their procurement activity over a certain financial level. For some agencies, particularly smaller agencies with fewer contracts, the Procurement Board and Department of Finance and Services may need to assist the agency to develop its procurement capacity to achieve accreditation.

Department of Finance and Services

The Department of Finance and Services will be the category manager for those categories that will remain best managed by a central function, usual highly commoditised goods (examples include but are not limited to energy, motor vehicles, certain information and communications technology [ICT] purchases, and travel).

A range of government procurement functions will continue to be performed centrally by the Department of Finance and Services under the auspices of the Procurement Board:

- policy development, compliance and probity: the Department of Finance and Services will develop procurement policy and guidelines for the Procurement Board to define compliance mechanisms, verify compliance, and define strategy for capability development



- procurement capability development and accreditation management on behalf of the Procurement Board: implement the accreditation scheme and the capability development program
- procurement life cycle management for nominated whole-of-government categories where there is a clear benefit to leading them centrally
- investment, performance and procurement data collection and analysis
- category strategy management and support, and working group coordination, based on the circumstances and needs of each category
- vendor management for particular categories
- sourcing and contract management support
- procurement systems development, implementation and management, including e-Tenders, eCommerce, Contract Lifecycle Management System and business intelligence solutions
- complaint and investigation management
- liaison between the Department of Finance and Services (as the central procurement agency) and other agencies.

Chief Procurement Officers

The NSW Government is considering requiring Principal Departments and agencies with large procurement functions to have a designated Chief Procurement Officer with recognised qualifications or equivalent.

Your comments

- 1 What are your views on the proposed new governance structure and operating framework for NSW Government procurement?
- 2 Are there aspects of the current procurement arrangements that need to be addressed by revising the procurement framework?
- 3 How can the new framework improve government procurement practices, and in turn provide better government services?
- 4 What are your views on Principal Departments and agencies with large procurement functions having appropriately qualified and designated Chief Procurement Officers?

2 Mechanisms for sourcing government goods and services

2.1 Panel or standing offer arrangements

The Department of Finance and Services is seeking comments and suggestions about how suppliers interact with the NSW Government in relation to supplying goods and services, including matters that are dealt with by means of government contracts.

The NSW Government procures a broad range of goods and services. Under the current procurement system, it is mandatory for government agencies to use State Contracts Control Board whole-of-government contracts to buy these goods and services.

These contracts are established as 'panel', or 'standing offer' arrangements set up for a fixed term (typically three to five years), under which one or more suppliers of similar goods and services are appointed as suppliers to government agencies. The agencies then decide on the details of the goods or services they need to purchase (e.g. the quantity and other arrangements, such as delivery details) and enter into separate customer contracts with the supplier, which may include negotiated prices below the head contract's ceiling prices.

The contracts include the terms and conditions of the panel or standing offer agreement and also additional terms which are outlined in the separate customer contracts.

2.2 Supplier interactions with government sourcing and tendering processes

Currently, the majority of centralised government procurements are undertaken by means of open tendering processes with a view to establishing whole-of-government, long-term panel contracts. The long-standing principle underlying this approach (held by many governments) is to ensure that the process of appointing suppliers realises value-for-money competitive arrangements, while achieving the necessary standards of probity in the procurement process, including transparency and fairness.

This 'one-size fits all' approach is required by the Public Sector Employment and Management (Goods and Services) Regulation 2010, unless the State Contracts Control Board grants an exemption from using this model.

In recent times there have been calls for more flexible mechanisms for sourcing goods and services. Tendering processes and their supporting regulatory and policy frameworks are cited as possibly inhibiting procurement outcomes that fit agencies' needs at better prices.



Specific comments often made of the panel contract system include:

- Panel contracts over long periods limit the government's ability to achieve value for money over the long term and take advantage of changes in the market, both in terms of price and changes to delivery models.
- As a guarantee of supply is not provided to suppliers under the contract, government will often not get best the best price when the panel is established. Suppliers generally won't commit to their best price until the volume is known, which is normally when individual agencies run a request for quote (RFQ) under the panel contract. Large agencies are able to get better prices if they have a large volume requirement, while small agencies can be left to buy at the panel contract price which is often higher than the price which can be obtained if they approached a supplier directly.
- Processes for establishing the panels are complex and lengthy, discouraging many suppliers from bidding at all, and
- The long-term nature of these contracts locks out unsuccessful suppliers for extended periods.

There are many instances where it makes sense for government agencies to purchase goods and services using panel contracts established through a whole-of-government open public tender process. Equally, however, the NSW Government recognises there is a need to adopt more strategic sourcing approaches for particular categories of goods and services.

Potential for risk

Commenting on the risks to such approaches, the European Commission notes:

The possible advantages of more flexibility and potential simplification (of procurement procedures) must be weighed against the increased risk of favouritism and, more generally, of overly subjective decisions arising from the greater discretion enjoyed by contracting authorities in the negotiated procedure ... Moreover, giving more leeway to contracting authorities will deliver useful results only if they have the necessary technical expertise, knowledge of the market and skills to negotiate with the suppliers.²

Your comments

- 5 What procurement models (including calls for tenders) would be appropriate for the NSW Government to use to buy goods and services?
- 6 What procurement models would make it easier for suppliers to tender?
- 7 What advantages and risks do such models present?

² European Commission, *Green paper on the modernisation of EU procurement policy: towards a more efficient European procurement market*, Brussels, 2011, p 15.

- 8 Are open tender processes clear and easy for potential tenderers? Are suppliers discouraged from tendering because of complex processes?
- 9 Do open public tenders to establish panel contracts have an impact on tendered prices?
- 10 Are there particular goods or services which should be subject to whole-of-government panel contracts established through open public tenders? If so, what principles should the NSW Government apply when it makes a decision to pursue panel contracts?
- 11 If there are open public tenders, should the current arrangements be changed, and if so, how? (For example, how would you change the documentation?)

2.3 Contract issues

Currently, the NSW Government's (non ICT) panel or standing offer arrangements are based on a suite of standard template documents which are then built into a draft contract for the purposes of approaching the market and engaging suppliers. The current standard contracts can be viewed at www.nswprocurement.com.au/Tenders/Goods---Services-Standard-Form-Documents.aspx.

These templates contain numerous detailed provisions dealing with legal and commercial matters and government policy matters. The objective for using standardised contract templates is to reduce the time and cost of tendering for both suppliers and government because the government approaches the market with a consistent risk allocation framework which is known to all parties.

The documents are voluminous when considered in total. The detailed provisions have arisen in response to the government's needs and are aimed at managing the government's risk in procuring goods and services.

In sourcing goods and services for the government, it is necessary to weigh up the commercial considerations for the suppliers against the need for the government to achieve value for public money and fairness between suppliers. Indeed many suppliers argue that the contractual terms and conditions on which the government approaches the market are too complex, 'uncommercial', unnecessarily risk adverse and discourage suppliers from bidding at all (particularly small to medium enterprises).

Further, the documents also result in extensive negotiations of contractual terms before tenders are awarded, resulting in significant cost for suppliers and government, and delaying the finalisation of tender processes. This is demonstrated by the Department of Finance and Services experience in managing procurement.

It is argued that this has a significant impact on government's ability to achieve value for money because of an over-conservative allocation of risk to the private sector and reduced competition.

The NSW Government has recently released a new set of templates for ICT procurement (www.nswprocurement.com.au/Tenders/Goods---Services-Standard-Form-Documents.aspx). These templates were developed following extensive



consultation with the Australian Industry Information Association and are intended to establish a more realistic commercial framework for government to interact with the ICT industry. By standardising terms and conditions on a commercially realistic basis, it is intended that tendering time and cost will be reduced for suppliers and government, while encouraging competition as a result of more suppliers being willing to participate.

Your comments

- 12 What are your views on how government contracts for non-ICT goods and services (excluding construction) could be improved?
- 13 Would improvements to the contract documents lead to better procurement outcomes and more appropriate risk allocation between suppliers and government agency customers?

2.4 Structure of contract documents and the formation of contracts

When establishing panel contracts, the State Contracts Control Board enters into a single deed with suppliers which sets the terms and conditions of both the panel arrangement with the State Contracts Control Board (the relationship over the life of the three to five-year panel), and the terms of supply to individual customers (that is, government agencies) when purchases are made. These are combined in a single document which may be confusing for suppliers and agencies.

In addition, the same templates are used regardless of the value of the purchases off the contract, or the complexity of the goods and services being procured.

Your comments

- 14 Should the panel contract be separated from the customer contract?
- 15 Are the contract structures too complex, and if so, how can they be streamlined?
- 16 Is there a different way to set out the terms and conditions on which a supplier supplies goods and services as part of a panel arrangement?
- 17 Should there be separate template contracts which vary according to the value and/or complexity of the contract? If so, how should these distinctions be made?

2.5 Contract terms and conditions

Specific concerns and issues are often raised in relation to the contract terms and conditions used by the State Contracts Control Board. These concerns are raised either on an ad hoc basis with government or when negotiations proceed to finalise contracts. For ICT contracts, the NSW Government addressed many of these issues through the release in 2010 of *Procure IT (Version 3)*. They remain current for non-ICT goods and services contracts.

While some issues are about technical provisions of the contract which relate to the specific goods and services being procured, many of these concerns generally relate to the allocation of risk between government agencies and suppliers, or the imposition of requirements (such as government policy). Following are some of the most frequently raised concerns relating to the key commercial issues:

Financial undertakings and performance guarantees

In relation to certain goods and services or certain suppliers, government retains the right to ask for financial undertakings from potential suppliers and/or to request performance guarantees from parent companies, where appropriate. While these are often necessary in order to protect the legal and financial interests of the State and its taxpayers, suppliers complain that the circumstances where these are requested are not appropriate and the requests made are onerous or costly.

Best price contract clauses

Many contracts include a 'best price' clause which requires suppliers to continually offer their best price to government agencies where 'similar circumstances' apply. However, what constitutes similar circumstances is often not clear and some suppliers have suggested it discourages discounting, particularly for large government agencies.

Unlimited liability

In the past, liability under government goods and services contracts has generally been uncapped for all forms of loss and damage suffered by government. While it is necessary to protect taxpayers appropriately from the failure of others (because suppliers can control the risk of loss better than the government can), many suppliers argue that these requirements, or the imposition of inappropriate caps, result in considerable risk for suppliers, often in excess of the contract value, and affect the price at which they are prepared to supply goods or services.

Insurance

Depending on the goods or services supplied, suppliers are required to maintain and provide insurance for public liability, product liability, professional indemnity and workers compensation, whether any order has been placed or not. Suppliers frequently argue that insurance requirements requested by government are too high, and often represent a barrier for small to medium enterprises. One solution would be to introduce a 'baseline' for insurance requirements which applies to all procurement, and then require higher levels of insurance if the risk involved in the procurement necessitates it.



Indemnities

The government's standard contract templates require suppliers to indemnify both the State Contracts Control Board and the customer agency against all loss or damage suffered by them in the event of any action of a supplier whether the result of negligence or deliberate acts or omissions. Suppliers have argued that the indemnities sought by government are unnecessarily broad, take no account of the risks involved in a transaction, discourage suppliers from bidding and also increase the price.

Intellectual property

The government's 'default' position is that intellectual property in goods and services produced under a contract vests in the government. This does not apply to intellectual property which the supplier brings to the contract. This is especially inappropriate for 'off-the-shelf' goods. While appropriate in some cases, it has been suggested government often does little to develop or commercialise the IP it requires, locking up the IP and possibly stifling further innovation.

Termination for convenience

As a general rule, the government requires the right to terminate at its convenience and without breach of contract. While this is often necessary as a result of significant potential policy changes by government, it creates uncertainty for suppliers, potentially adversely affecting bidders and price.

Dispute resolution procedures

The government's template-based contracts provide for alternative dispute resolution (specifically expert determination) before a dispute can be litigated. It is government policy to internally escalate disputes to senior managers to seek to resolve them, and then use expert determination, and litigate only as a last resort.

As a policy position, the government's general preference is for disputes to be managed through alternative dispute resolution mechanisms rather than litigation.

Provision of information

The government needs to have information provided to it and shared between agencies for the purposes of monitoring expenditure, contract use and contractor performance. However, such requirements may impose a red tape burden on suppliers and also cause them concern about the nature of the information that is being shared.

Compliance with NSW Government policy

Currently government contracts require suppliers to comply with a series of policy requirements and provisions about conflict of interest. These requirements are imposed through procurement contracts as a genuine attempt to achieve government's social and economic objectives. However, suppliers often argue that these requirements are not transparent, too onerous and difficult to identify and comply with. Consideration could be given to alternative compliance strategies which reduce red-tape costs.

Other issues

Government supply contracts also cover other matters that impact on suppliers, including:

- price variations which have to be approved during the life of the contract (based on CPI, wage or exchange rates)
- product variations which have to be approved during the life of a contract including where goods tendered for are discontinued or superseded
- transition-in and transition-out arrangements potentially requiring cooperation between competing suppliers
- efficiency of the mechanism for placing orders
- remedies that the government has for non-performance
- term of panel arrangements
- reporting by suppliers, and
- establishing a panel contract with no guarantee of orders.

Your comments

- 18 As a supplier dealing with government agencies, what is your experience of the contract-related matters discussed above? What improvements could be made as a result of your experience?
- 19 Does the government's positions on these matters adversely affect price, or discourage suppliers from bidding?
- 20 What structures could be put in place to ensure that government agencies can get the best value for money that suppliers can offer?
- 21 What is a suitable term for a panel contract arrangement?
- 22 What price variation mechanisms could be used that would balance supplier needs against government's requirement to achieve value for money in long-term contracts?
- 23 How should government deal with the matters discussed above?
- 24 What are your views on whether the NSW Government should introduce a 'baseline' for insurance requirements for non-ICT goods and services contracts, especially for low-value contracts?
- 25 Are there any other issues with government contracts that need to be considered?



3 Government procurement opportunities for small and medium enterprises

3.1 Government support for small and medium-sized businesses

Small businesses are key drivers for the NSW economy, employing more than 1.8 million people in metropolitan and regional areas. Currently, there are around 580 small and medium-sized enterprises engaged in State Contracts Control Board whole-of-government (State) contracts. Supporting small business growth is a key commitment of the NSW Government.

The NSW Government's Procurement Policy recognises that value for money is about broader economic benefit and not just the lowest price. Providing opportunities for small to medium enterprises to access government procurement and compete on a value-for-money basis is an important government objective.

The NSW Government's Local Jobs First Plan seeks to enhance opportunities for Australian and New Zealand small and medium enterprises to supply goods and services to government. The plan uses procurement to achieve industry development objectives by giving weighted preferences to small and medium enterprises involved in supply chains for NSW Government contracts. The Government is reviewing the plan to assess its effectiveness and to consider whether other proposals and ideas may provide better outcomes for small and medium enterprises.

While the review of the Local Jobs First Plan is underway, the NSW Government has taken other important steps to help small to medium enterprises build their businesses. It has implemented a 30-day payment policy requiring government agencies to pay small businesses within 30 days or else automatically pay interest on the outstanding amount. Through its ten-year plan *NSW 2021* the Government has established industry-led taskforces to develop Industry Action Plans that will position key industry sectors, for example, manufacturing, to increase productivity and boost the NSW economy over the next decade.

The government's small business programs, available on the Department of Trade and Investment 'Small Business NSW' website, provide accessible information for people starting, running or growing a small business. The government assists businesses through advisory services, grants and funding, and online resources including a toolkit. This support includes programs for specific target audiences, e.g. Aboriginal Business Programs and Women in Business.

A major step in helping small to medium enterprises to access government business is seeking to simplify sourcing mechanisms (including tendering) and contract terms and conditions. Matters included in this process include suppliers' issues (for example insurances, liabilities, onerous schedule structures), as well as an overall consideration of contracts' architecture and commercial 'fitness for purpose'. These matters are set out in more detail earlier in this discussion paper.

3.2 Developing further opportunities for small and medium-sized businesses

As part of its Review of NSW Government Procurement, the government is also considering possible initiatives to provide greater opportunities for small and medium enterprises to engage with government business.

The Department of Finance and Services is working closely with the Department of Trade and Investment and the Department of Premier and Cabinet on defining these proposed initiatives. Options identified for consideration include the following:

Price preference schemes provide a price preference margin in tenders, giving preference to local content over imported content. The preference is applied by the government agency at the tender evaluation stage. The Local Jobs First Plan is one such scheme.

Industry participation plans are prepared by tenderers to show how their tender will support local industry. This may include jobs, skills and capability development. Such plans are considered by government agencies at the tender evaluation stage and if successful become part of the contract.

Set-aside contracts allow government agencies to reserve certain government contracts exclusively for targeted areas, for example for small and medium enterprises where a competitive process applies.

Contract sizing considers the size of contracts and opportunities for small and medium enterprises to be subcontractors where they are not in a position to be a prime contractor.

Supplier panels provide lists of suppliers pre-qualified by the government for specific categories or work areas.

Exemptions can be given to government agencies, for example in rural areas, where they are exempted from the current requirements to purchase from state contracts for small purchases. The proviso is that the rural suppliers' rates for the goods or services are reasonable and consistent with normal market rates.

Better communication to publicise government procurement opportunities is often cited by small to medium enterprises as being potentially useful. A one-stop shop government procurement website with clear guidance material for suppliers has also been identified as priority. The guidance material would need to be underpinned by streamlined and up-to-date government procurement policies.

Industry Capability Network (ICN) is a national network of not-for-profit organisations managed by industry and funded by the NSW Government. ICN promotes Australian industry by providing a technical service to buyers. It nominates competitive manufacturers of locally made goods and services across all industry sectors and major projects. The NSW Government may seek to form a greater alliance with ICN to assist and promote government procurement opportunities for small to medium enterprises.



Your comments

- 26 What are the opportunities for helping small to medium enterprises to increase their participation in government procurement?
- 27 How effective is the Local Jobs First Plan in meeting its objectives? What do you consider are the advantages and disadvantages of this Plan?
- 28 What other mechanisms would meet the objectives of assisting small to medium enterprises?
- 29 What impediments are there to small to medium enterprises interacting with government procurement?
- 30 What opportunities should the NSW Government pursue to address these impediments?

4 Innovation and procurement

4.1 Procurement's role in promoting innovation

As noted earlier in this discussion paper, the NSW Government spends about \$12.7 billion on goods and services each year. Accordingly, government procurement impacts on the State's economy. As one of the largest purchasers, the public sector can influence markets through its purchasing power, including promoting creativity and innovation.

The NSW Government wishes to be a leader in promoting innovation. Using the NSW Government's procurement system to promote innovation is an important policy objective. This includes seeking new products, processes or services, or delivering services in new ways. These results can also be achieved by procuring goods and services in new ways that promote innovation and creativity.

By being open to innovation in its procurement processes, the NSW Government gives the market the opportunity to offer solutions that may be more productive, a better fit for the need and, in some cases, more cost and resource efficient. Potential benefits derived from innovation within public procurement include:

- **Meeting unmet needs:** obtaining solutions to unmet public sector needs and in turn offering better public services
- **Achieving productivity gains and value for money:** with growing pressure on public services to meet increasingly complex needs while also reducing public spending, innovation provides opportunities for new or existing ideas to achieve needs in a more efficient and effective manner
- **Creating globally competitive goods and services:** by encouraging the market to offer innovative goods and services, government has the ability to stimulate local and international competitiveness, and
- **Creating a diverse business environment:** by becoming an intelligent customer with robust outcome-based strategies and by implementing tools such as e-procurement, government has the potential to engage with a diverse range of businesses it may not otherwise reach, which, in turn, is more likely to result in the best possible solutions.

4.2 Barriers to innovation: international research findings

The Department of Trade and Investment has conducted international research into the barriers experienced by industry and suppliers to delivering innovative solutions to government:

Communication

Suppliers are often not informed of unmet government needs. They are often not engaged in the development of solutions that will meet a government's goods and service needs. Suppliers are often able to assist agency buyers in specifying what



the solution could be, and therefore able to recommend the best possible product or service while delivering value for money.

Policy/regulation

Governments often set highly specific tender requirements, which minimise opportunities for the market to suggest alternative and potentially better fitting solutions. Existing policies and regulations promote the use of established suppliers through panel contracts. Standardisation of tender processes may improve efficiency but can limit consideration of innovative proposals.

Supplier perceptions

Suppliers perceive that government contracts are awarded based on unit price, rather than the whole-of-life cost or other important factors such as productivity or fit with the need. As a result, suppliers may not enter into the tendering process due to perceived lack of consideration.

Risk aversion

Public sector staff can fear the risks and uncertainties associated with innovation, and may lack knowledge about the correct process for procuring innovative products or services. Furthermore, the public sector also fears the uncertainties and potential for perceived corruption in looking beyond large, previously approved and successful firms.

Reward

There is often a lack of incentive and reward for government agencies to seek and undertake potential risks in the procurement of innovative solutions. Agencies' key performance indicators often do not adequately reflect the need to purchase outside standard procurement processes as the means to seek the best possible solution.

Knowledge and skills

Procurement specialists often need knowledge spanning across diverse fields of government procurement, and may lack knowledge and skills in specific procurement areas or projects.

Timeliness

Government procurement staff are not usually given enough time and resources to engage in market consultation about issues and solutions. They also need to plan future needs and communicate them to the market to allow time for finding solutions. Current tendering processes can be time-consuming.

Contract management

The constraints of contract management often lead to inflexibility in the expectations of productivity. Suppliers are expected to uphold the same standards as applied at the allocation of a contract, rather than being expected to continue to improve productivity over time and reflect changes and improvements within the general market.

Evaluation scope

The scope of evaluation models are often too narrow, not including broader demands on the public service, such as social, environmental and economic needs. Evaluation models can also often be too broad and standardised across many technical and diverse areas, inhibiting conditions when evaluating unique contracts.

Reluctance to trial new processes

Government procurement staff are often unclear about correct procedures and uncertain about the reaction of procurement bodies and senior management when seeking to procure outside the accepted scope of procurement practices.

4.3 Identifying barriers to innovation in the NSW procurement system

Some or all of the above factors may relate to NSW Government procurement. The current Review of NSW Government Procurement provides an opportunity to overcome some or all of these barriers, although the scope of this discussion paper is limited to the extent to which the current procurement system stifles innovation (as opposed to the extent to which government can promote innovation through grants and other similar measures). Reform in this area requires a careful balancing of the costs (from the reduction in standardised processes) with the benefits, and careful consideration of risks (such as probity and fairness).

As is noted earlier in this paper, the legislation establishing the State Contracts Control Board creates a strong presumption in favour of long-term whole-of-government panel contracts established through open public tender.

Recent research by ICAC has highlighted the complexity of rules and processes applying to procurement, and clearly this can have an impact on suppliers wishing to engage with government. As noted earlier in this paper, future stages of the Minister's Review of Procurement will focus on reviewing the codes of practice and regulations that apply to procurement in NSW.

At the Ministerial Forum on ICT, held in June 2011, it was noted that in ICT procurement there is a tendency for government to approach the market with detailed tender specifications, rather than detailing the outcomes it is seeking to achieve. It was also noted that there are greater opportunities for collaborating with industry to assist in identifying innovative solutions.

Your comments

- 31 What are your views on the capacity of the NSW Government's procurement system to provide innovative solutions to delivering its services?
- 32 Do the above procurement-related barriers to innovation exist in the NSW Government?
- 33 Are there other barriers which need to be considered further during the Review of NSW Government Procurement?
- 34 How can these barriers be overcome?



4.4 Options for improving innovation through procurement

The following strategies and opportunities are available to the NSW Government to allow it to use its procurement system to take greater advantage of innovation. These approaches are based on research undertaken by the Department of Trade and Investment, and draw on research undertaken in the United Kingdom and the European Union.

Consultation with market prior to tendering

Consultation and/or collaboration with the private sector before government agencies call for tenders would allow agencies to identify what is currently being offered in the market; to access current research; and to see what the private sector may be capable of designing or offering. As noted earlier in Part 2 of this discussion paper, strategies and mechanisms would need to be developed to ensure fairness and transparency in such processes. The Independent Commission Against Corruption notes that both suppliers and agencies most frequently ranked direct negotiations and non-tendered quotations as particularly vulnerable to corruption³. Experience in the United Kingdom indicates that such approaches can be undertaken successfully.

Reforming procurement guidelines and processes

As a means to encouraging new ideas and solutions, and encouraging businesses to submit an application for tender, procurement (including tendering) guidelines and processes could be reformed to make it clear to suppliers that innovative solutions are welcome and will be considered. The extent to which such increased flexibility can be adopted needs to be carefully considered, taking into regard cost effectiveness and risk.

Redefining value for money

The NSW Government uses value-for-money as a primary objective for procurement. It may be useful to expand the definition of this concept so it includes the whole-of-life costs of goods and services.

Outcome-based procurement

By allowing the market to devise (often creative and innovative) solutions in response to specified needs (outcomes) rather than specified means, outcome-based procurement allows the market to offer solutions beyond the constraints of highly specific tendering requirements. There may be an opportunity to give greater guidance to government agencies and prospective suppliers to achieve such an approach. It may be useful to remove the impediments to such outcome-based procurement, within an appropriate probity framework.

³ Independent Commission Against Corruption, *Corruption risks in NSW Government Procurement: Suppliers' Perceptions of Corruption*, June 2011

Transparency in regard to future needs

To sound out the market and to generate new solutions, suppliers need time to develop their proposals. This requires a high level of forward planning by government agencies and making information available so that industry has time to research, develop ideas and respond. To stimulate innovative solutions, agencies need to provide a clear understanding of their requirements and to emphasise that innovative solutions are encouraged.

Underpinning all of the above strategies and opportunities is the need to develop the public sector's capability to manage alternative procurement strategies.

Your comments

35 Would the options set out above be of assistance in promoting innovation?

36 What other strategies might be available?



5 Reviewing NSW Government Procurement

5.1 Next stages for review

This paper set out the first steps to reforming the NSW Government's procurement system. The next four areas of major reform have been defined:

- **Procurement capability:** as noted throughout this discussion paper, successful transformation to a new system depends on agencies having the necessary level of procurement capability. An important question will be, how will the government provide agencies with the necessary procurement knowledge and skills?
- **Procurement data:** what is required to provide the Procurement Board, the Department of Finance and Services and other government agencies with the right data and analysis to inform their procurement decisions?
- **Review of the regulations:** the Public Sector Employment and Management (Goods and Services) Regulation 2010 is the principal statutory mechanism for delivering procurement. It requires extensive revision to allow for implementation of the proposals in this discussion paper.
- **Review of the NSW Government Procurement Policy,** including the *Code of Practice for Procurement* and other related documents.

Your comments

This discussions paper deals with four areas of the NSW Government's procurement reform. Other matters will be addressed in coming months.

37 What are your concerns and issues with the NSW Government's procurement system that should be addressed during the next stages of this review?



NSW Department of **Finance & Services**

www.services.nsw.gov.au



Procurement
Board

NSW Procurement Reform

Strategic Directions Statement

November 2012

Message from the Minister



Procurement is a critical component of Government. Good purchasing enables Government to provide services to citizens efficiently while saving taxpayers money. Effective procurement can foster significant agency efficiencies, drive cost savings and importantly foster industry competition and stimulate and diversify economic growth.

The objective of the NSW Government is clear. We are committed to reforming the government procurement system to make doing business with the NSW Government simpler, easier and more attractive.

We see the underlying benefits of procuring goods and services well. We understand the direct relationship between procurement and services delivered to citizens.

That is why we have elevated procurement to the top levels of Government. We have abolished the State Contracts Control Board and installed a new NSW Procurement Board made up of the Directors General of the nine cluster agencies. We have created a Procurement Leadership Group consisting of Government Chief Procurement Officers and other business leaders that reports to the Board. We have also established an Industry Advisory Group that also reports to the Board ensuring the Government is abreast of emerging procurement trends.

We have already implemented a range of reforms including removing unrealistic indemnity and insurance requirements, removing the requirement to have done prior work with the NSW Government, and removing the preference to procurement panels – all of which effectively locked out smaller and medium businesses and hindered innovation.

Further to this, we have simplified contract terms and conditions, established new prequalification procurement schemes, developed a new online early registration system, and launched an online Services Catalogue, NSWBuy.

This is just the beginning. The reforms, as detailed in this document, are the next step. We know they are absolutely vital to ensuring the Government is getting the best possible outcomes from its purchases and driving innovation and competition across the economy.

The Hon Greg Pearce MLC
Minister for Finance and Services
Minister for the Illawarra

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1 Procurement Reform – Executive Summary

1.1 Introduction

The NSW Government is overhauling its system for purchasing goods and services.

The objective of the reform program is to ensure that the NSW Government has a world class procurement system which delivers value for money, is aligned with business needs, leads to service delivery improvement and supports a competitive and innovative NSW economy.

To achieve these objectives, a new governance framework has been established and a new operating model is being developed. The design elements were set out in the NSW Government Procurement Discussion Paper (the “Discussion Paper”) released in January 2012. Key amongst them is the principle that responsibility for procurement should be devolved to agencies within an agreed framework.

The key body in the new governance framework is the NSW Procurement Board, comprising Directors-General of principal departments. The Board is the entity established to oversee procurement across the sector. In carrying out its functions, the Board is supported by the following bodies:

- Procurement Leadership Group, comprising senior procurement, financial and business expertise from within agencies, who’s role is to advise the Board on its functions, particularly in relation to overseeing the development of category management plans
- Working Groups, including groups to oversee the establishment of Category Management Plans, will undertake the detailed strategy development work
- An Industry Advisory Group, comprising leading procurement experts from the private sector to make external expertise available to Government.

1.2 The purpose of the Strategic Directions Statement

At its initial meeting, the NSW Procurement Board agreed to develop a Strategic Directions Statement to outline its reform program over the next 12 to 18 months. The key purpose of this Statement is to set out the actions that will be taken to ensure the new operating model is effective. This Statement has been developed by the Department of Finance and Services (DFS) in consultation with the Procurement Leadership Group, and a special working group comprising representatives of agencies was established to work through the issues.

The Statement also provides feedback on the outcomes of consultation on the Discussion Paper to date, highlighting key issues that were identified in submissions.

The key issues are set out in each chapter. The importance of these issues was also identified by the industry-led taskforces established to develop Industry Action Plans for the digital economy, manufacturing and profession services industries. These Plans outline a range of improvements to the way that the NSW Government procures goods and services (including streamlined procurement processes to enhance competition), greater information and certainty on future government procurement, a move to outcome-based procurement and a focus on whole-of-life value for money.

1.3 Procurement reform objectives

If NSW is going to have a world-leading procurement system, three overarching objectives need to be met – value for money, deliver quality government services and alignment with business needs.

These overarching objectives for the procurement reform program align with a number of State Plan objectives including:

- rebuild State finances
- return quality services
- increase the competitiveness of doing business in NSW
- drive economic growth in regional NSW.

The purpose of each objective of the Procurement Strategic Directions Statement is as follows:

Drive value for money

An effective procurement system will deliver value for money for Government. Procurement activity needs to move from a focus on short term savings, to looking at the total value derived by Government over the life of a contract/strategy. Critical to delivering sustained value for money is ensuring that competition, both in the long and short term, is maximised wherever possible.

Deliver quality government services

Better value for money will free up agency resources to improve the quality and efficiency of service delivery. Further, an effective procurement system will enable Government to identify innovative solutions to service delivery problems and harness innovative solutions available in the market.

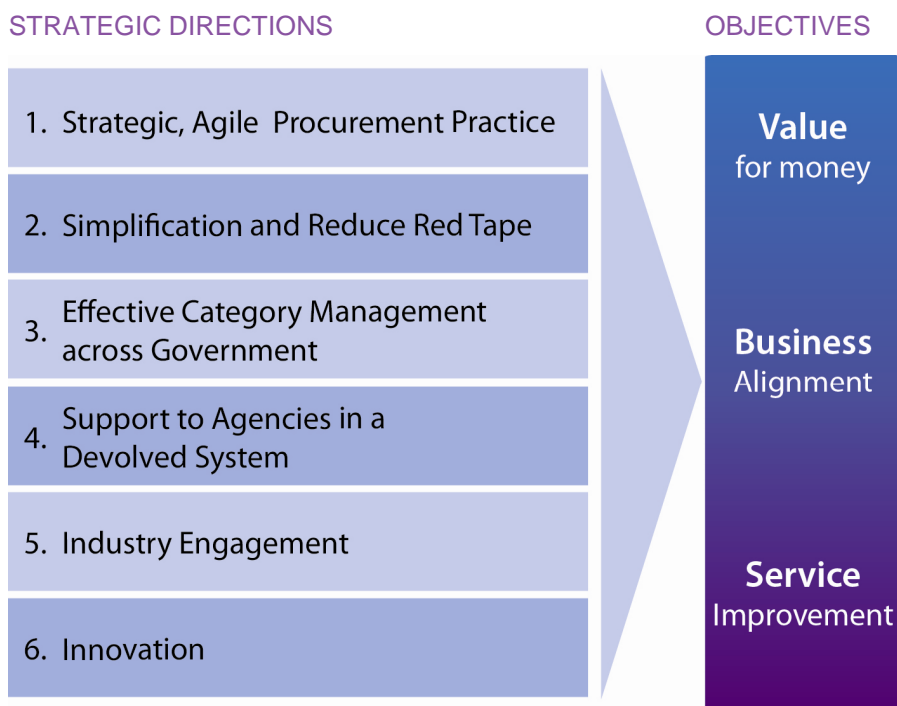
Align with business needs

To be effective, the procurement system will be aligned with the business needs of agencies, so that real value can be derived from procurement strategies. The procurement system will also align with contemporary market and business practice so that it does not create unnecessary barriers and stifle innovation and enhances competitive business environments.

1.4 Strategic directions

To deliver on the objectives of procurement reform, six strategic directions have been identified. Each is supported by a detailed work-plan of actions, as set out in the following chapters.

Each strategic direction will contribute to the delivery of the three objectives. Some strategic directions will contribute more to particular objectives than others. Some actions are already contributing to each direction (e.g. accreditation, simpler contracts, chief procurement officer forums, etc).



Provide for strategic and agile procurement practice

Government procurement practice needs to shift from a focus on process to a focus on outcomes, while looking at the overall value-add gained through the procurement method. By moving away from the 'one-size fits all' default position of open tender and fixed term panel contracts, the new system will avoid locking out suppliers for long periods and will be more responsive to fast changing markets, particularly in Information Communications Technology (ICT).

The Procurement Board is developing an outcomes-focused procurement policy framework. It will remove unnecessary policy requirements and restrictions on using the most appropriate procurement method for a particular category or contract. Wherever possible, the Board will seek to maximise competition to deliver best value for money.

Reduce red tape

The new policy and regulatory framework will be simple, outcomes focused, less prescriptive, ensure fairness and transparency and allows informed engagement by all parties. Agencies need to be empowered by the process.

This will ensure that NSW Government procurement does not create unnecessary costs for doing business, has less red tape, and does not require repeat information to be provided to multiple departments. Too much red tape impedes competition because it discourages companies (particularly small companies). Red tape reduction reduces complexity for agencies and removes the risk identified by the Independent Commission Against Corruption (ICAC), which has noted that complexity generates poor compliance and creates a corruption risk.

Establish procurement category management across government

Industry best practice is to move to procurement category management, which looks to define the optimal means to purchase like goods and services, rather than older strategies that looked only at individual contracts. Effective category management is an end-to-end process that focuses on the identification of needs, analysis of internal and external environments, planning, research, through to contract management (including vendor management).

By adopting the category management approach, the new system will ensure alignment between characteristics of goods and services provided under whole-of-government contracts and the actual requirements of agencies. Contract prices will be more competitive which will assist agencies in meeting their savings targets.

Support agencies' procurement functions

Procurement is more efficient and effective if undertaken by agencies with intimate knowledge of their particular needs and the relevant supply chains. This will lead to improved outcomes in processes and service delivery given agencies intimate knowledge of their needs. Sourcing strategies are more effective if developed by those with a hard financial interest in the savings outcomes. Agencies will be supported through the process of devolution so that it occurs in a coordinated manner.

Engage with industry

The Government is already engaging with industry with regard to procurement. Ministers have held, and will continue to hold, consultation forums. The Government's new package of initiatives to assist small and medium sized enterprises to gain government procurement

opportunities is the next step. The Procurement Board's Industry Advisory Group will be a key source of advice on future industry engagement.

The level of engagement with industry will be further improved, while ensuring probity and fairness.

Innovate

Responses to the Government's recent public consultation on procurement reform strongly supported the need for both innovative procurement approaches and for procurement to provide the means for innovative service delivery solutions. DFS and the Department of Trade and Investment will be working to develop these areas.

2 Strategic Direction 1: Strategic, Agile Procurement

2.1 Introduction

Government recognises that it needs to move away from a “one size fits all” approach to procurement and adopt a more responsive procurement model. A wider range of procurement strategies will be available to support procurement activity so that it is aligned with business needs. Agencies will use outcome focussed procurement approaches, as discussed later in this statement.

This will enable agencies to move away from the “default” position of the past – that is, that value for money is best achieved through maintenance of standing offer panel contracts over a fixed term. While suitable in some cases, these are not always the best means of delivering value for money, may not meet the requirements of all agencies and often results in suppliers being locked out. The new system will have a broader range of options available to agencies so they can use the right approach for a particular strategy.

2.2 Consultation

Submissions to the Discussion Paper highlighted a range of issues:

- the current panel arrangements are inconsistent, inflexible and in some cases unworkable
- there needs to be a greater focus on goal alignment with NSW Government aims, objectives and policies
- government needs to move from “purchasing” to strategic procurement, including building relationships and supply partnerships to improve quality and lower costs
- government needs to move from a focus on lowest price and establish a more sophisticated method for determining value for money based on whole-of-life benefits.

2.3 Steps already implemented

The Government’s procurement legislation has removed the ‘bias’ towards standing offer panel contracts. Under the panel system, standing offer panel contracts were required to be established through open public tender unless an exemption was specifically granted. This limited the capacity of the State Contract Control Board (SCCB) and agencies to use alternative procurement methods. The requirement to use this approach has been removed from the legislation.

2.4 Recommended priority actions

2.4.1 Flexible procurement approaches

Many policy documents still indicate that open tenders must be used. These policies will be reviewed to ensure that a broader range of flexible procurement processes can be used, within a framework of probity and fairness. This review will make a wider range of procurement approaches available to agencies, without the need for agencies to seek exemptions or meet onerous compliance requirements.

For a large number of procurement actions, innovative procurement approaches are not needed and agencies are happy to proceed using the existing framework of single quotation below a threshold (\$30,000), multiple quotes at the next level (up to \$250,000) and open tender over a maximum threshold (over \$250,000). The Board will issue a new set of simple, straightforward rules for those agencies that want to use a simple procurement approach.

Where agencies want to use one of the alternative procurement approaches, consistent with the devolved model of procurement, they should have the capacity to make the decision to proceed with that approach. The Board will issue policy guidance around the use of more sophisticated approaches to procurement. These will address key issues such as:

- the factors to be considered in selecting an alternative approach
- criteria to be met before an alternative approach is selected
- the level at which such approval should be given
- ongoing involvement of specialist expertise (e.g. procurement expertise/probity advice).

Not all procurement methods can or should be able to be used widely by agencies – for example, direct negotiations will continue to be subject to extensive governance and policy requirements. The Board will case-study particular procurement methodologies, such as “competitive dialogue”, and will issue policies on the use of these approaches so that the process can be replicated by other agencies.

Proposed Action	Timeframe
Procurement Board to issue Guidelines that: <ul style="list-style-type: none"> ▪ permit a wider range of less complex procurement strategies with minimal governance ▪ permit agencies to use more complex procurement methodologies, with appropriate governance and controls 	Q1 2013
Procurement Board to review the monetary and risk thresholds that apply for single quotation, multiple quotation and open tender	Q1 2013
Procurement Board to case-study innovative procurement approaches (such as competitive dialogue) and issue guidance to agencies	Q4 2013

2.4.2 Alignment of procurement with business needs

To ensure that procurement delivers on the business needs of agencies, better internal engagement will occur, both with and within agencies. The new governance framework embeds this approach through the establishment of the Procurement Board, comprising Directors-General and the Leadership Group which comprises both procurement experts and business leaders. DFS will ensure there is effective agency engagement when developing whole-of-government category strategies to ensure that these align with the needs of the business. Agencies will do the same when they undertake their own procurements.

The Board will ensure that in establishing Category Management Working Groups (CMWGs), that they consist of a mix of skills and expertise, and that the working groups engage effectively with internal stakeholders. Similar approaches should be used within agencies. For major projects, procurement expertise will be involved from early in the procurement process.

Proposed Action	Timeframe
Procurement Policy Framework to address the issue of effective internal engagement through CMWGs and by agencies.	Q1 2013

2.4.3 Value for money

A key issue raised in submissions has been around Government's approach to value for money. There is a perception, particularly among suppliers, that agencies are focussed on obtaining the lowest cost, with a short-term focus and without proper attention to the whole-of-life costs of a procurement strategy. As was noted by the Manufacturing Taskforce which was charged with developing the Industry Action Plan: "Value for money looks beyond 'least cost' and brings to bear a broader cost-benefit approach that considers multiplier benefits and whole-of-life costs, including in relation to maintenance, servicing, quality and ongoing supplier relationships"

Other jurisdictions have released policy statements on 'value for money' which make it clear the focus of value for money is broader than lowest price. These statements generally require value for money to be demonstrated by adhering to a number of principles, including:

- encouraging competition and not discriminating against particular classes of suppliers
- using resources in an efficient and effective manner
- transparency and accountability
- proper risk management
- proportionality – that is ensuring the process is consistent with the scale and scope of the procurement activity.

Such statements often also indicate that price is not the sole determining factor in assessing value for money, and require full consideration to be given to both financial and non-financial costs and benefits.

In contrast, the current NSW Procurement Policy Statement does not define value for money other than to say:

Value for money, being the benefits achieved compared to whole of life costs

The Procurement Board will issue a formal statement of ‘value for money’ to provide guidance to agencies and to assist in the management of risk. While, in practice, many procurements take a broad approach to defining value for money and rarely (if ever) simply rely on price, this statement will provide clarity to agencies.

Proposed Action	Timeframe
Procurement Board develop in consultation with agencies and industry a revised statement on value for money	Q1 2013
Procurement Leadership Group to define government wide definitions for savings, cost avoidance and process improvement for approval by the Procurement Board	Q2 2013

2.4.4 Promoting competition – policy statement

It is widely recognised that a key criterion for achieving value for money is ensuring that there is an adequate level of competition when a procurement strategy is executed, which is commensurate with the value of goods and services being purchased. Ensuring that competition underpins any procurement activity facilitates as wide a range of suppliers as possible having the opportunity to compete for work, including Small and Medium Enterprises (SMEs).

It is also important, when developing procurement strategies, to consider the long term impacts on competition. While in some cases single source supply arrangements promote value, long term they can impact competitive markets.

A number of actions can inadvertently limit competition. For example:

- Certain requirements, such as requirements to supply “state wide” or requirements that firms will be engaged only if they meet unnecessarily strict requirements (e.g. experience with a particular agency) can prevent smaller suppliers from tendering.
- Term of contracts can lock up the market for an extended period, reducing long term competition. At worst, they can result in Government paying too high a price. This can be particularly problematic in dynamic markets, where competition is putting downward pressure on prices.
- Contract structuring (such as the aggregation into large lots) that exclude SMEs.

Agencies may use these strategies in some cases because they are the best means of delivering value. However, if used inappropriately, they can have significant impacts on long term competition.

The Board will issue guidelines so that, when developing category management plans, Working Groups will be required to give specific consideration to issues such as how the size of a category or contract could impact on competition, and whether or not this is justified having regard to the impact on value for money. Both the short and long term impact on competition will be considered. These Guidelines will be developed in consultation with the Small Business Commissioner.

Proposed Action	Timeframe
Procurement Board to issue a statement on the promotion of competition supported by guidelines to minimise adverse impacts on competition	Q1 2013
Procurement Board to review the current maximum five year contract term, with a view to providing more structured guidance on determining contract term	Q1 2013

2.4.5 Promoting competition - prequalification schemes

The Government has already taken decisions to convert a number of closed panel contracts to prequalification schemes. Prequalification schemes have the advantage of not “locking-up” a market as new entrants can register at any time. The Procurement Board will oversee a review to identify other opportunities to convert closed panels to prequalification schemes (both in relation to current contracts and agency-specific panels), and to add existing prequalification schemes to the DFS prequalification scheme platform.

The use of prequalification schemes is not appropriate in all cases. Some categories of procurement expenditure are commoditised and standard with high volume transactions, while others require closer contract management or partnering in order to reduce risk or maintain commercial leverage.

One of the challenges of prequalification schemes is that although many suppliers may be registered, many find that they do not receive Government work. There is limited performance information available about suppliers to agencies, and it is frequently common to rely on past experience and select firms known or previously used by agencies.

A new simplified performance rating system will be developed by the Board to encourage use a wider range of suppliers by agencies. Agencies will benefit from having a simple performance based measure and suppliers will be able to outline their capability. DFS is developing systems that will allow for simplified and quick quoting under these panels.

Proposed Action	Timeframe
Procurement Board to complete a review of existing SCCB panel contracts which can be converted to prequalification schemes with plans in place to implement conversions.	Q2 2013
Complete an audit of agency service-based panels or agreements, with a view to identifying those which can be added to the DFS prequalification platform for all agencies to use.	Q2 2013
NSW Procurement Board develop in consultation with industry a simple, performance based rating scheme for prequalification schemes utilising the NSWBuy platform	Q3 2013

2.4.6 Review of financial policy requirements

DFS has on occasion been unable to take advantage of strategic procurement approaches because financial policy requirements prevent such actions from being taken. A specific issue is emerging around the use of managed service providers because some financial policies deem those to be financial leases, which are prohibited by Treasury guidelines. These approaches are increasingly common, and there is a potential to provide significant value to taxpayers. Similarly, opportunities exist to remove agency red tape (e.g. consideration of whether three-way matching is necessary for some purchases, if other controls achieve the same level of probity), and other changes to widen the use of efficient tools such as purchasing cards (P-cards).

Many of these policies have a proper basis, however it is important to understand the impacts they have on the ability to take advantage of strategic procurement options. DFS and Treasury will jointly lead a review of these policies and advise the Board on possible improvements.

Proposed Action	Timeframe
DFS/Treasury to jointly lead a review in consultation with agencies to consider the impact of financial policies on procurement strategies, and to make recommendations to the Procurement Board	Q2 2013

3 Strategic Direction 2: Simplification and Red Tape Reduction

3.1 Introduction

A key way to deliver value for both suppliers and agencies is to simplify procurement practice and process and remove unnecessary red tape. Red tape in procurement costs suppliers and government money and it delays processes, which negatively impacts on suppliers and government alike.

Prior to recent reforms, the procurement system and legislative and policy interpretation was challenging for agencies, specifically due to the antiquated regulatory framework and the quantity, quality, and sometimes internal inconsistency of available documentation. Recent reforms including the new legislative framework have improved the position, however work remains to be done to streamline and simplify the requirements.

The Better Regulation Principles issued by the Better Regulation Office assist agencies in determining whether regulatory burden (red tape) is appropriate. These principles include, most relevantly, that the need for government action should be established, action should be effective and proportional and consultation with business and the community should inform regulatory development. The better regulation principles are being taken into account in reducing red tape across the procurement system.

3.2 Consultation

The following major points were highlighted in submissions to the Discussion Paper:

- Industry and suppliers raised the need for consistency across government, particularly in a devolved framework. For example, suppliers want to register their information once so that information can be used by all agencies for upcoming procurement opportunities.
- A predictable, accessible and transparent operating framework is required to give suppliers confidence when dealing with government.
- Tender and contract templates need to be streamlined further, reducing the need to engage expensive legal advice. Particular focus needs to be given to reducing the amount of unnecessary information sought in significant tenders, with consideration being given to staged tender approaches.

3.3 Steps already implemented

Significant measures have already been implemented to reduce red tape and simplify the process for industry.

- Management fees under contracts are being abolished, relieving onerous reporting, remittance, and auditing procedures.
- The Government has introduced 30 day payment terms for small business suppliers. This reduces red tape by assisting suppliers with their collection processes.
- Procure IT has been revised so that it contains standard and commercially acceptable approaches. It has reformed a number of previously highly negotiated terms and conditions including terms dealing with intellectual property. The Procurement Board has issued a direction requiring all government agencies to use Procure IT.
- Standard contracts for non-ICT procurement have also been developed for use by DFS. The new contracts are written in plain English and feature commercially acceptable terms which will reduce negotiation with suppliers.
- The process for suppliers to be pre-qualified to be placed on the Government's existing Performance and Management Services prequalification scheme has been simplified and shortened. A simple online "Easy Access Registration List" has been adopted for simple procurements.

3.4 Recommended priority actions

3.4.1 Overarching policy framework

Industry has told the Government in response to the Discussion Paper that the issue of compliance with policy in a devolved framework is critical. Agencies need to be able to clearly identify policy requirements so that they can be consistently applied.

The current policy framework was described by ICAC in its discussion paper as "a thicket". It is highly complex, multi-layered and unnecessarily prescriptive. Further, policies have been promulgated from the centre without regard for business needs.

The Procurement Board will issue a new Procurement Policy Framework. This will contain all relevant policies where possible and will be accessible from a single portal (noting that procurement of property, large-scale infrastructure and construction are managed separately). This will reduce the complexity of the current policy framework which is set out in a range of instruments Ministerial Memoranda, Treasury Circulars, DFS guidance material and Procurement Board directions.

The Procurement Policy Framework will provide a “one stop shop” for agencies in identifying the requirements and guidance that applies to their procurement activities. The Framework will link to other significant requirements, such as ICAC requirements. Existing policies and guidelines that are to be retained will be built into the policy or otherwise clearly referenced.

Compliance with policy is critical. Greater compliance will be achieved through better policy development processes, including engagement with all affected agencies. It will be performance based and focussed on outcomes where appropriate, without taking an unnecessarily prescriptive approach.

Information about policy requirements will be communicated to those who are undertaking procurement activity, including through formal training and web based information.

Proposed Action	Timeframe
Procurement Board immediately recommends the repeal of obsolete and duplicative policies	Q4 2012
Procurement Board to issue a single procurement policy for goods and services on NSW ProcurePoint consolidating all current requirements, with the immediate updating of priority policies	Q4 2012
Procurement Board establish a working group to complete the review of remaining policies contained in Premier’s Memoranda, Treasurer’s directions and other instruments	Q4 2012 - Q2 2013
Procurement Board to issue a requirement that agencies on a regular basis test compliance with the Procurement Policy Framework through internal audit	Q1 2013

3.4.2 Common IT platforms

The NSW Government has developed NSWBuy which is an electronic purchasing solution designed to maximise efficiencies and deliver savings from the procurement cycle. NSWBuy hosts a number of supplier and buying platforms which house supplier catalogues, purchasing hubs and other information. The use of a single platform will reduce red tape as it allows agencies to search, buy and receive orders more efficiently and reduces transaction costs. NSWBuy can be accessed through the ProcurePoint website.

For industry, a single platform allows them to access purchasing opportunities from a single portal. Further, it allows them to register their information once so that it can be used many times. If it is supported by standardised terms and conditions, it reduces the need for multiple negotiations on terms and conditions. The system is being designed so that information is kept up to date.

DFS will work with agencies to ensure that the system supports their business needs.

Agencies need to make an assessment on whether the platform meets their needs, and it is noted that some components (such as the purchasing hub) present opportunities for greater leverage, and will have a bigger impact in minimising red tape.

A regular report will be prepared outlining the uptake of NSWBuy (either as a whole or specific functions) across the sector.

Proposed Action	Timeframe
DFS to launch the NSWBuy platform	Q4 2012
Report every twelve months on the uptake of NSWBuy by agencies	Q4 2013
DFS will ensure that the NSWBuy platform allows suppliers to register common standard information which can be used across multiple tenders	Q1 2013

3.4.3 Standard form contracts

Standard form contracts for non-ICT goods and services have been developed for certain types of procurement, and a plain English version of a head agreement has been developed and issued to the market as part of a recent competitive process. The Procurement Board will issue these standard form contracts and recommend use by agencies.

The new standard form contracts have adopted consistent and commercially acceptable approaches to a number of issues including security and guarantees, termination and insurances. To date there has been positive feedback from the market on the new contract terms. This approach is similar to that taken with the Procure IT contract framework. Procure IT has been supported by suppliers as a means to reduce procurement delay and achieve better procurement outcomes.

The Standard Form contract for consultancies engaged outside the prequalification scheme will also be updated.

To the extent that standard terms and conditions are not used by agencies, it is important agencies take a commercially realistic approach on key commercial terms (such as insurance requirements, indemnities etc). The Procurement Board will issue guidance for agencies around key commercial terms.

Proposed Action	Timeframe
Procurement Board to issue templates for non-ICT goods and services contracts for recommended use by agencies	Q4 2012 – Q1 2013
Procurement Board to issue guidance on key commercial terms and conditions, such as minimum insurance levels, indemnities and termination	Q1 2013
Procurement Board to review Guidelines on use and engagement of consultants to align terms and conditions with the prequalification scheme	Q1 2013

3.4.4 Prequalification schemes – Mutual recognition

While there is a whole-of-government Performance and Management Services prequalification scheme, many agencies have their own panels/prequalification schemes. For suppliers, if they have demonstrated capability for one agency they should be able to register on the whole-of-government scheme with minimal red tape. The Procurement Board will ensure that this can occur. A similar process was recently established for suppliers on prequalification schemes/panels in other jurisdictions.

Proposed Action	Timeframe
DFS to establish streamlined registration under the Performance and Prequalification scheme for suppliers registered under an agency specific scheme	Q1 2013

3.4.5 Sourcing strategy/alternative approaches to procurement

DFS is reviewing the policy framework to enable a broader range of procurement approaches to be utilised, in addition to open tenders. DFS will develop for consideration by the Board market engagement guidelines to enable a wider range of procurement approaches to be used.

Comments from suppliers indicate that the cost and time involved in responding to tenders is often prohibitive, especially for small and medium enterprises (SMEs). Request-for-tender processes typically seek voluminous information from potential suppliers, including those who do not make it past initial stages. DFS will develop documentation to support a simple tender process to minimise red tape for straightforward procurements.

Suppliers also indicate a preference for staged tender processes, and other “less onerous” competitive processes. Government agencies need to balance supplier interests and less red tape, with the need to ensure suppliers have the necessary capability and capacity to supply to government and also to ensure the procurement process meets probity requirements and deliver value for money.

There is currently an exemption in place that enables agencies in regional areas to buy local, even if a State contract is in place, for purchases up to \$3,000. This threshold has recently been increased for purchases by local schools up to \$5,000 for certain State contracts where they can get better value through a local supplier. The Procurement Board will increase the exemption for agencies in non-metropolitan areas to \$5,000. Measures need to be put in place to minimise order splitting.

The online Easy Access Registration List allows suppliers to register with minimal information for low value low risk procurements. It has already been introduced under the Performance and Management Services scheme for consultants’ engagements up to \$50,000. Minimal information is required to register and individual supplies are done under standard terms and

conditions. The Leadership Group will examine if it can be used for other State contracts for goods and services. It is noted that the threshold level will vary depending on category risk.

Proposed Action	Timeframe
Market engagement guidelines to specifically address requests for information from industry	Q2 2013
DFS to develop and release standard templates for simple tender processes	Q1 2013
Market engagement guidelines to specifically address the use of contemporary processes as a means of minimising red tape	Q2 2013
Procurement Board to increase the exemption that allows agencies in non-metropolitan areas to buy locally from outside State contracts to be increased to \$5,000, with appropriate controls to minimise order splitting.	Q1 2013
Leadership Group to develop a forward program for expanding the use of the online Easy Access Registration List to other categories of goods and services	Q2 2013

4 Strategic Direction 3: Effective Category Management Across Government

4.1 Introduction

Effectively managing the State's significant goods and services expenditure of more than \$13 billion per annum across Government represents the single largest opportunity to deliver value for the State and its agencies. The procurement category management model proposed for adoption by Government takes into account the requirements, opportunities and risks of both the supply side and buy side. It involves moving away from a contract focussed approach, to one focussed on the category of goods and services as a whole.

A whole-of-government category approach ensures coordination across government and that broader policy considerations can also be taken into account. Collaborative agency engagement is required in developing these categories, so that agencies will have ownership of the outcome. It is impractical to maintain a single government contract for a good or service, if agencies believe they can buy off-contract for a better price. Similarly, it is essential that procurement approaches are used that do not inappropriately impede competition, or restrict access. Collaboration becomes a prerequisite for success.

Under the revised procurement operating model, commodity classification of goods and services will be developed jointly by agencies and DFS through the Governance framework. Category Management Working Groups (CMWGs) will be established to deliver cross-government coordination and to develop category management plans that are aligned with business needs, and take advantage of contemporary practice. The Procurement Board will sign off on the overarching strategies developed by each CMWG.

4.2 Consultation

The proposed category management model was outlined in the Discussion Paper.

Submissions raised the following key issues:

- Ensuring that decisions made using a category management approach are informed by high quality information.
- Ensuring that genuine category management approaches are applied, and not simply whole-of-government commodity management. Specifically, more detail about the way in which procurement categories will be identified and selected is necessary; as is a methodology for pursuing a category management approach.

- The need for effective governance and resourcing, including the effective utilisation of agency subject matter expertise.

4.3 Steps already implemented

The following actions have already been implemented to support a category management approach across government:

- Establishment of the new governance framework built on principles of transparency and engagement. The Procurement Board and Leadership Group have already met and will be establishing CMWGs.
- The ICT Procurement and Standards Working Group has been established to develop a whole-of-government category strategy for ICT procurement.

4.4 Recommended priority actions

4.4.1 Category structure and priorities

A consistent approach to category management across Government needs to be underpinned by a common understanding of category structure and definition. A draft Category Taxonomy and Schema is being considered by the Leadership Group and will be finalised by the Board.

A key task of the Procurement Board and the Leadership Group over the next six to 24 months is to identify the priority categories that represent the most significant opportunities to deliver value to Government. These decisions need to be guided by the following criteria:

- level of expenditure
- opportunities to drive savings based on data and expert knowledge of the market, including changes in service delivery models
- the pipeline of contract renewals
- alignment to service delivery priorities and NSW 2021 Goals
- market intelligence around contemporary practice, and opportunities, including changed service delivery models
- complexity and ease of implementation, including compliance issues
- available resources
- risk.

Initial priority categories (or subcategories) identified by the Leadership Group over the next six months are as follows:

- ICT (including telecommunications and ICT services)
- contingent workforce
- energy
- fleet
- office supplies
- professional services
- travel.

Work is also underway in developing a legal category management plan through the Department of Attorney General and Justice.

A CMWG will be established for each category, comprising of a mix of procurement expertise, subject matter expertise and those understanding the business need from across government and those representing agency business needs. These groups will operate at a strategic level, but will receive technical support from specialist procurement groups and other user groups which will test strategies. A category management plan will be developed for each category by the second quarter of 2013 for consideration by the Leadership Group and approval by the Procurement Board.

Effective category management is an end-to-end process that focuses on the identification of needs, analysis of internal and external environments, planning, research, through to contract management (including vendor management). Category strategies need to be developed using a standardised methodology, that is consistently applied, but which is also adaptable to take account of business needs and whole-of-government policy considerations. Effective engagement across agencies and with industry is critical. In some cases, the strategies will recommend aggregation of demand across government. In others, agencies may be left to put in place their own arrangements. What is critical is that the right strategy is developed for each category – procurement will no longer be driven by a “one size fits all approach”.

Draft category management planning guidelines are currently being considered by the Leadership Group. These will be approved by the Procurement Board. The key principles for procurement category management design are:

- cutting red tape
- preserving the Government’s position of leverage from a commercial perspective
- enhancing agencies’ reputation as a client of choice
- where possible, increasing access to government business for regional businesses and SMEs
- encouraging innovation in procurement

- mitigating risk
- ensuring supply.

The category management planning guidelines will require CMWGs to address how compliance with category strategies can be achieved, without imposing unnecessary burdens on agencies. They also will require CMWGs to consider and develop vendor management strategies and specifically address opportunities and issues for small to medium enterprises. Consultation with the Small Business Commissioner will also be required for categories most relevant to SMEs. These guidelines will be assessed and refined through development of Category Management Plans for the seven priority categories.

The issues canvassed in the guidelines will be considered by the CMWGs when developing a Category Management Plan.

Category plans would range from a high degree of coordinated central activity to allowing agencies to undertake their own activity with limited central coordination. Sensitivities associated with particular categories would be considered in determining this.

The Board will develop and publish its category management priorities over the next twelve to 24 months once the initial tranche of category management plans are developed. This will involve an initial assessment of whether it is appropriate to have a category management approach, and if appropriate, a timeframe for developing a category management plan. The aim is to have, by the end of 2013, category management plans in place for 50 percent of categories assessed to be appropriate for category management, with the balance to be completed by the end of 2014.

Proposed Action	Timeframe
Procurement Board to recommend for adoption by agencies a whole-of-government category management taxonomy for application across Government	Q1 2013
Develop Category Management approach for the seven priority categories for consideration by the Board in two tranches:	Tranche 1 – Q1 2013 Tranche 2 – Q2 2013
Promulgate Category Management Planning Guidelines, following an initial trial during development of the initial tranche	Q1 2013
Procurement Board to publish a prioritised forward program for the development of whole-of-government category management plans across appropriate categories or subcategories	Q2 2013
Whole-of-government category plans developed across remaining appropriate categories: <ul style="list-style-type: none"> ▪ For medium priority categories ▪ For remaining categories 	Q4 2013 Q4 2014

4.4.2 Data, analytics and reporting

Critical to the success of category management is the type and quality of data and the use which is made of that data. The CMWGs will need access to high quality data from across Government. While much data is available, and there has been recent work undertaken by DFS to improve the availability and quality of data, there are further opportunities to improve its quality. Unnecessary red tape on agencies or industry needs to be minimised. In the medium to long term, there is a real need, but also an opportunity, to increase the quality and consistency of data.

Accessing and drawing insight from the data is critical and quite often requires a high level of capability, therefore appropriate reporting tools that make accessing this data easier will require investment and development. There is also a need to consider whether better data can be obtained about segments of the market, particularly the level of engagement with small to medium enterprises.

Proposed Action	Timeframe
Procurement Board establish a working group to develop a Data Quality Improvement Plan.	Q4 2012 (Working Group) Q2 2013 (Improvement Plan)

4.4.3 Benefits realisation framework

Contemporary procurement practice is to establish a benefits realisation framework. Benefits from procurement activities can be broken up into five distinct areas:

1. quality improvements in service delivery
2. direct cost savings
3. cost avoidance – generally where an anticipated cost increase has been reduced or a non-recurring expenditure has been reduced
4. process improvements – improvements made to key result areas such as service level agreements
5. other benefits – improved position of government as a customer, and end user satisfaction.

As noted elsewhere in this Statement, there is a need to focus on the broader concept of ‘value for money’ rather than just budget reductions. There is significant risk from not focussing on government’s performance or achievement in meeting targets with respect to cost avoidance (such as minimising the impact of commodity price increases) and process improvement.

As well as having access to data to inform decision making, a rigorous approach to benefit realisation will be adopted so that it can be determined whether Category Management Plans

are delivering the anticipated benefits. A benefits realisation framework will be developed by the Data Working Group which focuses on measuring benefits that are clear, consistent and (where possible) measurable. Each CMWG will need to report to the Procurement Board on the realisation of benefits in accordance with the framework through the recommended strategy. Before the category structure and priorities are bedded down, benefits should be defined and the strategy for measuring them needs to be developed.

Proposed Action	Timeframe
The Data Working Group to develop a Benefit Realisation Framework.	Q3 2013 (Benefits)

4.4.4 Approaches to whole-of-government procurement

Two of the key principles driving the procurement reform program are:

- procurement is more efficient and effective if it is devolved to agencies that have specialist knowledge of the category supply chain and supply sector; and
- strategies for procuring goods and services are more effective if they are developed involving those with direct interests in service delivery and financial outcomes.

Notwithstanding the move to devolution, it is recognised that whole-of-government procurement activity will still occur where appropriate, particularly to drive value, manage risk and deliver savings. This will be done through cooperation and coordination, rather than direction, to ensure that the strategies have the support of agencies. Devolution will also occur, but this needs to occur in a staged way to ensure that it aligns with agency capability and resources.

A broader range of whole-of-government procurement approaches, based on cooperation among agencies, will be used. In the past, whole-of-government procurement has essentially involved fixed term panel contracts being set up centrally, from which agencies are mandated to purchase. In the future a wider range of sourcing strategies will be available. For example:

- two or more clusters or agencies could approach the market jointly for a purchase
- aggregated one-off procurements across Government for a supply (e.g. software)
- establishment of sector wide prequalification schemes
- fixed term panel contracts, where appropriate
- utilisation of expansion pricing, so that agencies can leverage other agencies demand
- improved “operationalisation” of whole-of-government purchasing to maximise value for Government and the supply market.

While there is likely to be less reliance on a mandated approach, this may still be necessary in some cases to preserve the Government's position of leverage and gain best value for money. What is critical is that consideration of whole-of-government procurement activity occurs using an effective engagement process involving agencies, and that transparent decisions are made that properly consider the costs, benefits and change management requirements. The onus will be on those seeking to mandate a whole-of-government approach. Existing whole-of-government contracts will be reviewed to determine if they should continue to be mandatory as part of the category planning process.

Proposed Action	Timeframe
Procurement Board to issue Assessment Guidelines that set out the criteria which will be taken into account before mandating whole-of-government contracts	Q1 2013

4.4.5 Coordination and cooperation among agencies

Many agencies are developing and implementing effective procurement strategies for particular goods and services within their portfolio. Other agencies may be able to leverage off these opportunities to procure goods and services, without needing to undertake their own procurement. The Procurement Board will issue a direction authorising agencies to buy from another agency's panel arrangement, where the host agency agrees.

In some cases, suppliers may not be prepared to supply goods to all agencies as they may have priced on the basis that only a single agency will be accessing a particular contract. Equally however, some suppliers may be willing to take the opportunity to supply to additional agencies if given the opportunity.

To facilitate this, a central register will be established so that agencies can identify what other contracts are already available. The register will be populated following a review of agency panel contracts and prequalification schemes. This register will be part of the NSWBuy Service Catalogue. The Board will also issue standard "piggy back" clauses for inclusion in future agency contracts.

DFS will trial an approach to deliver better value for money for government through coordinated aggregation of commodity products under panel contracts. This will enable Government to make strategic aggregated buys from prequalification panels of goods which will deliver value for multiple agencies. Utilisation of this approach will be determined in accordance category management plans.

Proposed Action	Timeframe
Procurement Board to issue a direction immediately authorising agencies to buy from prequalification schemes, standing offer and panel contracts established by other agencies, where agreed by the agency	Q4 2012
Leadership Group to conduct a review to identify all prequalification schemes, standing offer and panel contracts across Government	Q2 2013
Following the audit, establish and maintain a central register of prequalification, standing offer and panel contracts across Government, with the capacity to access those contracts through the service catalogue	Q3 2013
Procurement Board to issue guidelines on the inclusion and form of standard 'piggy back' clauses in prequalification, standing offer and panel contracts	Q1 2013
DFS to trial scheduled aggregated whole-of-government purchasing, with opportunities to be identified through the development of the initial tranche of category management plans.	Q2 to Q4 2013
A continuous forward schedule for whole-of-government aggregated purchases to be established by DFS and communicated across government.	Q4 2013

5 Strategic Direction 4: Supporting agencies in a devolved environment

5.1 Introduction

A key principle of the Government's procurement reforms is that, where appropriate, procurement should be undertaken by those closest to the "business" need, those with the best understanding of opportunities to make savings and by those where the incentives to drive value is strongest. Devolution will also help to drive innovation. Unless a whole-of-government approach is justified (usually for highly commoditised goods) agencies should be able to undertake procurement activity. Whole-of-government approaches will still be utilised, however, they are likely to be fewer and these will be pursued only after engagement with agencies and in circumstances where the benefits can clearly be demonstrated.

The approach gives recognition to the current system, where agencies are already responsible for two-thirds of procurement of goods and services (valued at \$8 billion per year), yet not properly supported by an overarching policy, regulatory and resourcing environment.

While in general, greater devolution will involve agencies undertaking their own procurement activity, implementation of category management at the whole-of-government level also presents opportunities to devolve further management to agencies. Transparent decision-making is required, however, particularly to address wider government resource impacts and procurement capability. Devolution of category leadership is a medium term objective of the procurement reform program.

A challenge in this proposed transformation will be the lower value placed on procurement activities by some agencies (generally those with limited or infrequent procurement needs) and gaps in procurement capability, including staff expertise, in many parts of government. Attracting and retaining qualified staff is an ongoing challenge.

5.2 Consultation

Key themes emerging from consultation to date include the following:

- clear policies will need to guide the extent and nature of this devolution
- ongoing compliance with relevant policies must be ensured (e.g. probity)
- capability needs to be addressed
- the profile of the Chief Procurement Officer needs to be recognised and enhanced

- consistency across Government is maintained to minimise red tape.

5.3 Steps already implemented

The Government has determined that clusters must obtain appropriate accreditation before 1 July 2013. Most agencies have submitted plans to achieve this. The Procurement Board has recently adopted an agency accreditation scheme to facilitate this. While not every agency will need to be accredited, it is anticipated that arrangements will be put in place across a cluster on which all agencies in the cluster can draw.

5.4 Recommended priority actions

5.4.1 Agency capability and capacity

The Discussion Paper proposed that for each department (or each significant agency) an officer or officers be appointed to exercise chief procurement officer functions within each of the nine principal departments and/or significant agencies in the cluster. Where a significant agency does not have a separate CPO function, the principal department will oversee procurement for that agency. This will be mandated by the Procurement Board as part of the Procurement Policy Framework. One position will be responsible for coordinating input into the new procurement governance framework.

The Procurement Board's agency accreditation scheme has a focus on the development of capability within clusters. Agencies (particularly smaller procuring agencies) have advised however that consideration needs to be given to ensuring that the accreditation process is flexible so that they do not need to build capacity within the agency and they can instead buy in expertise as and when it is needed. This will be incorporated into the accreditation process.

Agencies and industry have highlighted the low level of procurement capability. While there are skilled procurement practitioners within Government, it is generally recognised that there is a shortage of skilled staff both within agencies and the private sector. Greater focus needs to be given to developing strategic procurement capability. A working group will be established between the Public Service Commission, DFS and agencies to develop a capability development plan.

It is not only procurement specialists that need to demonstrate procurement capability. Other public sector staff need a level of expertise as they will from time-to-time be purchasers, but equally others need to understand strategic procurement to develop strategies around service delivery design and to address other policy problems. More generally, there is an urgent need to improve contract management capability. These issues will be dealt with as part of the capability development plan.

Proposed Action	Timeframe
Appointment of officers to exercise the functions of a chief procurement officer	Q1 2013
Each cluster to have accreditation in place	Q2 2013
Ensure the accreditation scheme enables agencies to take flexible approaches to developing capability	Q1 2013
Procurement Board to establish a joint Public Service Commission, DFS and agency working group to develop a capability development plan for both procurement practitioners and others across the public sector	Q2 2013
The Capability Working Group work with professional bodies and tertiary institutions to develop vocational and tertiary procurement capability programs	Q4 2013

5.4.2 Practitioner's network

DFS will establish a procurement practitioners' network to share information and experiences. This will enable best practice to be showcased, and targeted training opportunities will be made available through the network. Quarterly meetings will be held, and the network will be used to share information outside of these meetings.

Proposed Action	Timeframe
DFS to establish a Procurement Practitioners Network	Q1 2013

5.4.3 Devolving category management to agencies

As discussed above, a key principle of procurement reform is that, where appropriate, procurement should be devolved to agencies to ensure that procurement activity is undertaken by those closest to the "business" need.

Agencies may not immediately have the capability and/or resources to undertake whole-of-government category management. Accordingly, decisions in this regard will be staged and also guided by agreed management principles. Whether additional resources are required will be considered. In some cases, DFS will remain the category lead and manager. In others, a hybrid may be appropriate: procurement leadership may reside with a nominated agency and DFS provides support and enabling functions to manage the category (including individual procurements and contract management).

The Procurement Board will provide design principles for the future devolution of categories, and for determining where categories should remain centre led. These will consider issues such as the size of spend, capability, complexity and risks. A category may be considered for the centre-led approach where there is no identifiable dominant buying agency, the expenditure category has significant implications that cannot be met by one agency, and significant gaps in agency capability or expertise in an agency are to be met over time.

The objective of having genuine agency involvement in developing category strategies need not mean that the whole category needs to be devolved. For example, agencies will be represented on working groups. This approach will be pursued in relation to the initial CMWGs, where appropriate.

The Procurement Board will consider devolving responsibility for the management of whole-of-government contracts to agencies where one agency dominates expenditure, as this will ensure that the contract approaches are aligned with business needs. Any transfer of the administration of State contracts will be staged so that it aligns with the NSW accreditation process and there is assurance that there is adequate capability and resources.

Proposed Action	Timeframe
Procurement Board to issue principles to guide whole-of-government category and contract devolution	Q3 2013
Procurement Boards appoint agencies to chair appropriate CMWGs, with support provided by DFS	Q4 2012
Procurement Board consider the devolution of particular categories	Q1 2014
Procurement Board establish a forward program for the devolution of individual contracts where one agency has the dominant spend, consistent with accreditation	Q3 2013

5.4.4 Supporting agencies – platforms and systems

Many agencies already undertake a significant amount of procurement activity themselves and have extensive capability and systems to undertake this activity. Other agencies, however, have less well-defined capability and require greater support, at least until they develop sufficient procurement capability. DFS will continue to be available to support agencies in undertaking procurement.

As well as providing resources within DFS to assist agencies, a number of standard systems and processes are being developed to support agencies in undertaking their procurement. For example, market engagement guidelines are being developed as part of the Procurement Policy Framework which will provide simple guidance to agencies in designing and conducting sourcing activities.

The NSWBuy platform being developed by DFS will have a number of tools to support agencies in cataloguing, contract management, etenders and procure-to-pay. There is a risk of inefficient investment across government if agencies invest in multiple systems to support their procurement activity, particularly ICT. Some agencies, particularly larger agencies, have already made significant investments in ICT platforms, while others are using ad hoc approaches to investment.

NSWBuy aims to provide a single set of tools that can be used by agencies to manage their procurement activities. The system will be able to be used and 'customised' by agencies to

suit their own needs. As well as minimising costs to agencies, a common platform, particularly for e-tendering, catalogue management and easy access registration, has advantages for industry in terms of providing a single portal through which information and opportunities can be accessed. It is critical, however, that this work proceeds in close consultation with agencies to ensure that any systems align with business processes and agency needs. The Leadership Group will establish a working group to consider these issues.

Proposed Action	Timeframe
DFS maintain specialist resources to assist agencies to build capability to manage their own contracts	Q2 2013 – Q2 2015
Procurement Board to issue market engagement guidelines	Q2 2013
Leadership Group establish a systems and support working group to further develop the NSWBuy platform and associated applications	Q1 2013

5.4.5 Procurement planning

The Procurement Board's agency accreditation scheme requires agencies to adopt best practice procurement planning. Effective strategic planning by agencies ensures that procurement needs are properly mapped, prioritised and addressed. This should be aligned to agencies broader business and financial planning processes, and be consistent with the procurement policy framework and any whole-of-government category management plans.

The NSW Government, along with other jurisdictions, already has a requirement for agencies to prepare forward strategic procurement plans. This policy will be refreshed by the Procurement Board so that it aligns with the new cluster arrangements. Strategic procurement planning by agencies has other benefits, including that it can inform the development of coordinated whole-of-government approaches to procurement. The Board will also consider whether some of the information can be released publicly to enable industry to respond to projected procurement needs and plan and invest to meet future needs. This issue is discussed later in this Statement. Longer term, opportunities will be explored for a whole-of-government plan.

Proposed Action	Timeframe
Guidelines to be developed and agreed by the Procurement Board for department Strategic Procurement Plans	Q2 2013
Framework for rolling department 3 year procurement plans from September 2013	Q3 2013
Guidelines to include material to assist in linking procurement planning to business planning processes	Q2 2013

6 Strategic Direction 5: Industry Engagement

6.1 Introduction

Effective industry engagement is critical to the success of the new procurement model. Industry stakeholders have argued that agencies need to be outward looking and more open to working with suppliers. Decisions need to consider the impacts on supplier demand, and agencies need to improve communication with suppliers.

With effective engagement, sourcing strategies will be better aligned with market structure and dynamics. In addition, industry has sought greater visibility of agency plans in regards to significant procurement events planned for the future (e.g. large programs or transformations). This makes it easier for suppliers to respond to Government needs - both in terms of service attributes and service volumes - or for suppliers to forward plan their own investment.

Furthermore, there is a need for Government to open up lines of communication with industry and non government organisations to develop more effective approaches to government procurement requirements and guidelines.

6.2 Consultation

The following issues were raised in submissions to the NSW Government Procurement Discussion Paper:

- providing opportunities for suppliers and industry to engage with government and suggest new ideas is critical - the Industry Advisory Group will be important in this regard but there is a need to ensure that informed decisions are made when purchasing
- greater involvement of end users and potential suppliers throughout the procurement and project design phase increases certainty and opportunity for better quality and price
- there is benefit in preparing and releasing forward plans so that innovative solutions can be developed to address medium to long term needs - the longest possible forecast of demand assists in the planning and investment decisions of supplying industries and a long term procurement timetable of major projects would enable industry to more effectively manage demand and associated supply chain impacts
- suppliers and potential suppliers would benefit from education on how to do business with government, and this would be particularly useful for those who have not supplied to government previously, or after major changes to procurement policy

- the interpretation of probity is inconsistent in its application and this in turn makes innovation much more difficult to take forward meaningfully
- specific initiatives that should be included in the procurement strategy include identifying specific contracts or supply needs that could be reserved for small businesses and packaging selected contracts in a way that makes it easier for SMEs to compete
- ensure that non-incumbent suppliers are provided with all necessary information to enable them to prepare an informed tender - this will assist in levelling the playing field by ensuring that all tenderers can rely on the same information
- boost the role of the Industry Capability Network so it can better provide a feedback loop between the public sector procurement process and business capability objectives of the Government.

6.3 Steps already implemented

The Procurement Board is establishing an Industry Advisory Group. It will advise on a range of matters, including:

- trends and opportunities in procurement of goods and services
- options to respond to emerging procurement trends and issues
- sector-wide procurement matters, including industry standards, future directions and procurement strategy
- the impact of the Government's procurement management decisions on industry and the non government sector.

This builds on ongoing ministerial forums with key industry stakeholders.

A new policy to support SMEs through government procurement is also being developed. The draft policy builds on the options for future support for SMEs set out in the Discussion Paper. Responses to the Discussion Paper mainly concentrated on reducing barriers to entry to government procurement and improving opportunities for SMEs to participate in government procurement. Communication and engagement with industry are key requirements to implement an effective policy.

6.4 Recommended priority actions

6.4.1 Industry engagement strategy

Better communication with businesses and enhanced transparency of government procurement actions increases industry awareness and supports industry planning to capitalise on government business opportunities.

Effective engagement also provides government with knowledge about new and innovative approaches, which can lead to improved procurement outcomes, including better service delivery.

There is an opportunity to take a more strategic approach to communication, including identifying appropriate media/channels, leveraging existing lines of communication on other issues and building on industry networks. This includes communication forums including in regional areas, user friendly systems and tools, and engagement with industry. As well as highlighting upcoming procurement opportunities, there is a critical need for ensuring that suppliers understand how to interact with Government. DFS will trial suppliers forums across the State.

A key part of the Government's procurement reforms is the establishment of the Industry Advisory Group. One of its key roles will be to provide advice on industry perspectives of procurement, and a core part of its role should be on improving industry engagement. In this regard, the Procurement Board will develop an industry engagement plan with the Advisory Group. The Group will advise on the core elements of a detailed industry engagement strategy, including how best to engage with suppliers through existing networks and bodies, such as the Industry Capability Network.

While this broader strategy is developed, the following strategies should be seen as initial steps towards developing effective industry engagement.

Proposed Action	Timeframe
Trial a series of suppliers forums across the State over the next twelve months, particularly targeting SMEs	Q3 2013
Procurement Board, in consultation with the Industry Advisory Group, develop a detailed industry engagement strategy	Q3 2013

6.4.2 ProcurePoint

The Government's procurement website is being revised into a single procurement site with clear guidance material for suppliers, known as ProcurePoint. The ProcurePoint website is a one-stop shop which improves communication and access to government procurement information and opportunities for buyers and industry. The website includes a specific section aimed at SMEs which is written in a form that is simple to follow and includes links to enable SMEs to register using DFS's procurement platforms.

Government procurement opportunities are publicised on the Government eTendering website. The eTendering system automatically provides free notifications of tender opportunities to users. ProcurePoint will be the single point of entry through which all tools can be accessed, including eTendering, NSWBuy etc.

Proposed Action	Timeframe
Launch the ProcurePoint website, with information specifically targeted to suppliers	Q4 2012
Continually improve the ProcurePoint website based on supplier feedback	Ongoing

6.4.3 Probity and procurement

Suppliers, particularly in the ICT industry, have highlighted that probity is often cited as a reason for non or poor engagement with suppliers. While in many cases, engagement with industry needs to be constrained because of probity issues (particularly in relation to the supply of hospitality, gifts and benefits), equally effective industry engagement which is done in a transparent and open manner is a means of ensuring enhanced probity outcomes.

Whether probity is in fact being used as a reason for not engaging with industry is far from clear. That said, further consideration of this issue is needed both in a policy sense and through capability development. The review of the Procurement Policy Framework will develop guidance for agencies which recognises the importance of effective engagement, while maintaining appropriate probity arrangements.

Proposed Action	Timeframe
Ensure the revised Procurement Policy Framework contains effective guidance on engagement and probity issues	Q1 2013
DFS to provide training seminars to Government procurement staff on effective engagement	Q3 2013

6.4.4 Release of forward procurement plans

The Board's agency accreditation scheme adopts best practice procurement planning. Effective planning by agencies ensures that procurement needs are properly mapped, prioritised and addressed. As was noted above, the requirement for the development of three year plans will be reinforced for agencies. Adequate advance notice to industry of major purchases enables planning for participation in government procurement. Some of the information that is captured as part of the procurement planning process could be released to better inform industry and improve the quality of market responses. The Board will develop a policy on the release of information in procurement plans. Careful consideration would need to be given to potential negative impacts and adverse market influences (which could, for example, lead to inflated prices).

Industry engagement provides an opportunity to properly understand the current market, particularly with regard to current industry capability. In developing category management plans for the seven priority categories for the development of category management approaches, the Leadership Group will trial structured engagement with industry. This should

include, as appropriate, early industry engagement approaches, commitments to release draft tenders and other information campaigns. Trialling of various approaches will inform the development of industry engagement guidelines for category management which will be issued by the Board.

Proposed Action	Timeframe
Clusters to release forward 3 year procurement plans and industry engagement strategies	From Q3 2013
CMWGs to develop industry engagement plans for the priority categories	Q2 2013
Procurement Board to issue guidelines on industry engagement as part of the category management planning process (Leadership Group to trial structured engagement with industry)	Q2 2013

7 Strategic Direction 6: Innovation

7.1 Introduction

The importance of support and promotion of innovation within procurement has emerged as a key theme throughout the reform process. Innovation has the potential not only to deliver value through procurement of goods and services, but also to identify and bring into being transformational projects that can fundamentally change the way that government does business.

The Government has expressed its desire to be a leader in promoting innovation. Using its procurement system to promote innovation is an important policy objective. This includes seeking new products, processes or services, or delivering services in new ways.

Innovation has two aspects.

First, it is to allow for innovative procurement approaches.

Second, it is having procurement processes that are open to and encourage innovation, so that the Government gives the market the opportunity to offer solutions that may be more productive, a better fit for Government's needs and, in some cases, more cost and resource efficient.

As detailed in the Discussion Paper potential benefits derived from innovation within public procurement include:

- the meeting of unmet needs
- achieving productivity gains and value for money
- creating globally competitive goods and services
- creating a diverse business environment.

7.2 Consultation

Consultation highlighted a number of issues for further consideration:

- there is a need for less prescriptive requests-for-tender (RFTs)
- confidentiality around innovative solutions needs to be properly protected
- communication of forward plans is critical to delivering innovative solutions
- government should drive innovation through industry development policies

- strategies should be adopted in particular areas where the supply chain is engaged early
- sourcing strategy should be driven by the need to address a particular problem, rather than through specification of a solution
- there is a need to establish pilot projects to drive innovation.

7.3 Steps already implemented

DFS will establish a joint working group with Department of Trade and Investment, Regional Infrastructure and Services to align procurement reform with the procurement-related work of the NSW Innovation and Productivity Council.

Through NSW 2021, the Government has established industry-led taskforces to develop Industry Action Plans that will position key industry sectors to increase productivity and boost the NSW economy over the next decade. Improving Government procurement processes and communication aligns with industry feedback in developing the Government's Industry Action Plans.

In addition, the Government's Procure IT framework reverses the ownership of intellectual property so that by default it remains with the industry, subject to appropriate licensing. The Government's ICT Strategy commits to trialling early industry engagement. The ICT Strategy states that by engaging early and outlining the specific business outcomes the Government is seeking to achieve, industry will have greater opportunity to develop innovative and targeted solutions. Early industry engagement will also offer all SMEs a better opportunity to present solutions to Government. SMEs often have fewer resources to market their products and services, but are often well placed to develop innovative solutions.

A number of other measures in this Strategic Directions Statement will support innovation including:

- actions around early industry engagement
- release of information concerning forward procurement plans
- reform of the Procurement Policy Framework to allow innovative supplier approaches
- redefining value for money
- capability development.

7.4 Recommended priority actions

7.4.1 Early industry engagement and outcome based procurement

As noted above, the Government has committed to trialling structured early industry engagement as part of the ICT Strategy. These processes focus on consulting around a particular problem or opportunity, well before a detailed specification is released to the market. This approach can help better define the issue, which helps suppliers to innovate and design the optimal solutions for the identified need.

Traditionally smaller suppliers may have been unintentionally excluded from the procurement opportunity because they do not have sufficient forewarning of the agency's needs, capacity or finances to gear up for a particular procurement opportunity, or may lack technical capability to meet an agency's need by themselves. These early industry engagement processes can provide opportunities for collaborative arrangements to form between innovative potential suppliers that enable them to competitively tender for opportunities, as well as give larger, prime contractors the opportunity to engage local innovative suppliers in support of their tenders.

A positive by-product of early industry engagement and outcome-based procurement for larger and prime contractors is that it gives them an opportunity to identify a wider range of innovative local suppliers in what domestically is a very fragmented SME industry structure. The prime contractors and large suppliers can utilise the Government's early industry engagement processes to build relationships with those suppliers as a way to develop their local supply chains, which they can employ in pursuing opportunities elsewhere in Australian and internationally.

The Leadership Group will trial early industry engagement in the development of two of the priority category management working plans.

If appropriate, the trial could make use of the solutions-development approach that has been used in the NSW Trade & Investment Collaborative Solutions program. In traditional specification-driven procurement, industry is not involved in the development of the solutions. The benefit of involving industry in a conversation where the solution is not defined is that industry (particularly contemporary innovative SMEs that are not usually involved in government procurement) can bring a vastly different perspective to a problem - or opportunity - and the solutions. Such a model works best where the problem or opportunity is not well defined, and accordingly the solution is not tightly specified.

In support of these activities, and to better inform the market of NSW Government long-term needs, the category management plans that are to be developed will include a statement on medium to long term issues and challenges being faced by NSW Government purchasers. Such statements will provide a signal to the market on the future high level needs and

priorities for NSW Government procurement within each category. Providing such information, on a no-commitment basis, will help inform public and private sector research activities (where there are no existing solutions) and also provides a basis that agencies can assess unsolicited proposals against.

Despite Government initiatives to promote innovation through procurement, implementation factors can be an inhibitor to the development and take-up of innovative solutions. Sometimes procuring an innovative solution and delivering significantly improved outcomes can carry a level of risk – the price of the greater reward – that the public sector is not naturally comfortable with.

Public sector staff can fear the risks and uncertainties associated with innovation, and may lack knowledge about the correct process for procuring innovative products or services. Government procurement staff are often unclear about correct procedures and uncertain about the reaction of procurement bodies and senior management when seeking to procure outside the accepted scope of procurement practices.

Furthermore, the public sector also fears the uncertainties and potential for perceived corruption in looking beyond large, previously approved and successful firms. Compounding this fear, there is often a lack of incentive and reward for procurement staff and Government agencies to seek and undertake potential risks in the procurement of innovative solutions.

To help public sector staff balance the potential benefits with risks associated with new, innovative solutions, the Procurement Board will issue guidelines to facilitate “outcome-based” procurements and innovation during the life of the contract.

However, it is recognised that guidelines alone, no matter how well written, will not necessarily be enough to achieve a mind-shift amongst Government procurement staff and senior procurement managers that will lead to greater early engagement of industry, and from there to outcome-based procurement and the procurement of potentially-transformative solutions.

Access to practical information about how to implement these innovation approaches and greater awareness of examples where these have been successfully employed to achieve better outcomes (such as greater value for agencies, increased industry engagement and more innovative solutions) will be very important to Government procurement staff trying to move beyond a traditional, risk-averse purchasing approach. The Leadership Group will publish a case study on NSW Health’s Innovative Supplier Engagement system once it has operated for twelve months.

In addition to this case study, the Leadership Group will oversee the trial of four “outcome-based” procurements for specific goods or services, with the results of that trial to be published. It will also host a forum for procurement professionals from both Government and industry on the use of outcome-based procurements to share the learnings of agencies.

Further, as noted elsewhere in this Statement, training will be an important mechanism to help build procurement officers' strategic procurement capabilities. This will also be the case to embed and sustain more innovative procurement practices such as outcome-based procurement in agencies.

Accordingly, early industry engagement and outcome-based procurement will be included in the capability development plan for both procurement practitioners and others across the public sector to be developed by the Capability Working Group, and also in the vocational and tertiary procurement capability programs to be developed by the Capability Working Group with professional bodies and tertiary institutions.

Proposed Action	Timeframe
Leadership Group to trial early industry engagement in the development of two of the priority category management working plans	Q2 2013
Leadership Group to oversee the trial of four "outcome based" procurements for specific goods or services, with the results of that trial to be published	Q3 2013
Leadership Group to host a forum on the use of "outcome based" procurements to share the learnings of agencies	Q2 2013
Procurement Board to issue guidelines to facilitate outcome based procurements and innovation during the life of the contract	Q3 2013
Early industry engagement and outcome-based procurement to be included in: <ol style="list-style-type: none"> the capability development plan for both procurement practitioners and others across the public sector to be developed by the Capability Working Group, and the vocational and tertiary procurement capability programs to be developed by the Capability Working Group with professional bodies and tertiary institutions. 	Q2 2013
Category Management Plans that are to be developed will include a statement on the medium to long term issues and challenges being faced by NSW government purchasers in this category of goods or services.	Q2 2013 – Q4 2014

7.4.2 Innovative supplier engagement

NSW Health is pursuing a new system to support innovative supplier engagement. The intention of this system is to promote innovation and leverage supplier expertise, within a framework of transparency probity and compliance with Government policy. The system is intended to achieve better value, improved patient care and long term sustainable relationships. It is particularly important in the Health portfolio given the highly specialised needs, and high level of continuous innovation in service delivery. The lessons learned from this model could be used to inform the development of similar programs in other portfolios (eg education and transport).

In addition, NSW Trade & Investment launched its second round of the Collaborative Solutions program in May 2012. This round had a focus on "Mobile Government". As a complement to the NSW Health's innovative supplier engagement the outcomes of this program will also be

reviewed and assessed by the Leadership Group with a view to its performance and application in other clusters/portfolios.”

Proposed Action	Timeframe
Leadership Group to monitor the innovative supplier engagement strategy by NSW Health with a view to its performance and application in other clusters/portfolios, and publish a case study of the process once it has operated for 12 months	Q3 2013
Leadership Group to identify and evaluate agile procurement initiatives such as NSW Trade & Investment's Collaborative Solutions – Mobile Government round with a view to applying it in other clusters/portfolios.	Q3 2013

7.4.3 Unsolicited proposals for goods and services

Recent guidelines introduced by the Department of Premier and Cabinet for Government provide new arrangements for managing Unsolicited Proposals. These guidelines are principally directed at major infrastructure projects or the divestment of assets. Goods and services covered by the *Public Sector Employment and Management Act 2002* have been excluded from the guidelines.

It is noted that ICAC has issued guidelines on direct negotiations which are widely used across the sector.

Industry has raised concerns regarding the handling of unsolicited proposals, in particular the way in which the intellectual property of industry is sometimes “acquired” and used as part of that process. In light of the comments received from industry, there is an opportunity to review both sets of guidelines with a view to developing a single policy that enables direct negotiations and consideration of unsolicited proposals within a structured framework that ensures probity and fairness. This would allow industry concerns about intellectual property to be dealt with.

Proposed Action	Timeframe
Leadership Group to develop guidelines for unsolicited proposals and direct negotiations for goods and services for consideration by the Procurement Board.	Q2 2013

8 Next steps

The Procurement Board, Leadership Group, DFS and agencies will immediately start implementing the Strategic Directions Statement.

From June 30 2013, the Board will issue six monthly reports on implementation, which will be published on the ProcurePoint website. Feedback on progress will be sought from industry at regular Ministerial Forums.

The intention is that from early 2014, a new forward work program will be developed. Feedback will be sought from agencies and industries on progress to date and the key priorities for the next two to three years.

9 Document Control

9.1 Document version control

Version	Status	Date	Approved By	Comments
1.0	Approved	30/11/2012	Procurement Board	
1.1	Approved	18/1/2013	DFS	Published on ProcurePoint

9.2 Review date

This policy will be reviewed in quarter 4, 2013.

It may be reviewed earlier in response to post-implementation feedback from the NSW Procurement Board, agencies, or changes in Government policy or law.

Strategic Direction 1: Strategy, Agile Procurement		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Flexible procurement approaches	Procurement Board to issue Guidelines that: <ul style="list-style-type: none"> permit a wider range of less complex procurement strategies with minimal governance permit agencies to use more complex procurement methodologies, with appropriate governance and controls 												
	Procurement Board to review the monetary and risk thresholds that apply for single quotation, multiple quotation and open tender												
	Procurement Board to case study innovative procurement approaches (such as competitive dialogue) and issue guidance to agencies												
Alignment of procurement with business needs	Procurement Policy Framework to address the issue of effective internal engagement through CMWGs and by agencies												
Value for money	Procurement Board develop in consultation with agencies and industry a revised statement on value for money												
	Leadership Group to define government wide definitions for savings, cost avoidance and process improvement for approval by the Procurement Board												
Promoting Competition – policy statement	Procurement Board to issue a statement on the promotion of competition supported by guidelines to minimise adverse impacts on competition												
	Procurement Board to review the current maximum 5 year contract term, with a view to providing more structured guidance on determining contract term												

Strategic Direction 1: Strategy, Agile Procurement		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Promoting competition: prequalification schemes	Procurement Board to complete a review of existing SCCB panel contracts which can be converted to prequalification schemes with plans in place to implement conversions.												
	Complete an audit of agency service-based panels or agreements, with a view to identifying those which can be added to the DFS prequalification platform for all agencies to use.												
	Procurement Board develop in consultation with industry a simple, performance based rating scheme for prequalification schemes utilising the NSWBuy platform												
Review of financial policy requirements	DFS/Treasury to jointly lead a review in consultation with agencies to consider the impact of financial policies on procurement strategies, and to make recommendations to the Procurement Board												

Strategic Direction 2: Simplification and Red Tape Reduction		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Overarching policy framework	Procurement Board immediately recommends the repeal of obsolete and duplicative policies												
	Procurement Board to issue a single procurement policy for goods and services on ProcurePoint consolidating all current requirements, with the immediate updating of priority policies												
	Procurement Board establish a working group to complete the review of remaining policies contained in Premier's Memoranda, Treasurer's directions and other instruments												
	Procurement Board to issue a requirement that agencies on a regular basis test compliance with the Procurement Policy Framework through internal audit												
Common IT Platforms	DFS to launch the NSWBuy platform												
	Report every 12 months on the uptake of NSWBuy												
	DFS will ensure that the NSWBuy platform allows suppliers to register common standard information which can be used across multiple tenders												
Standard form contracts	Procurement Board to issue templates for non-ICT goods and services contracts for recommended use by agencies												
	Procurement Board to issue guidance on key commercial terms and conditions, such as minimum insurance levels, indemnities and termination												
	Procurement Board to review guidelines on use and engagement of consultants to align terms and conditions with the prequalification scheme												
Prequalification schemes – Mutual recognition	DFS to establish streamlined registration under the Performance and Prequalification scheme for suppliers registered under an agency specific scheme												

Strategic Direction 2: Simplification and Red Tape Reduction		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Sourcing strategy/alternative approaches to procurement	Market engagement guidelines to specifically address requests for information from industry												
	DFS to develop and release standard templates for simple tender processes												
	Market engagement guidelines to specifically address the use of contemporary processes as a means of minimising red tape												
	Procurement Board to increase the exemption that allows agencies in non-metropolitan areas to buy from outside State contracts to be increased to \$5,000, with appropriate controls to minimise order splitting												
	Leadership Group to develop a forward program for expanding the use of the Easy Access Registration List to other categories of goods and services												

Strategic Direction 3: Effective Category Management Across Government		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Category structure and priorities	Procurement Board to recommend for adoption by agencies a whole-of-government category management taxonomy for application across Government												
	Develop Category Management approach for the seven priority categories for consideration by the Board in two tranches					T1	T2						
	Promulgate Category Management Planning Guidelines, following an initial trial during development of the initial tranche												
	Procurement Board to publish a prioritised forward program for the development of whole-of-government category management plans across appropriate categories or subcategories												
	Whole-of-government category plans developed across remaining appropriate categories - For medium priority categories												
	Whole-of-government category plans developed across remaining appropriate categories -For remaining categories												
Benefits Realisation Framework	Procurement Board establish a working group to develop a Data Quality Improvement Plan and a Benefits Realisation Framework												
	Working group to develop Data Quality Improvement Plan												
	Working group to develop Benefits Realisation Framework												
Approaches to whole of government procurement	Procurement Board to issue Assessment Guidelines that set out the criteria which will be taken into account before mandating whole-of-government contracts												

Strategic Direction 3: Effective Category Management Across Government		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Coordination and cooperation among agencies	Procurement Board to issue a direction immediately authorising agencies to buy from prequalification schemes, standing offer and panel contracts established by other agencies, where agreed by the agency												
	Leadership Group to conduct a review to identify all prequalification schemes, standing offer and panel contracts across Government												
	Following the audit, establish and maintain a central register of prequalification, standing offer and panel contracts across Government, with the capacity to access those contracts through the service catalogue												
	Procurement Board to issue guidelines on the inclusion and form of standard 'piggy back' clauses in prequalification, standing offer and panel contracts												
	DFS to trial scheduled aggregated whole-of-government purchasing, with opportunities to be identified through the development of the initial tranche of category management plans												
	A continuous forward schedule for whole-of-government aggregated purchases to be established by DFS and communicated across government.												

Strategic Direction 4: Supporting agencies in a devolved environment		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Agency capability and capacity	Appointment of officers to exercise the functions of a Chief Procurement officer												
	Each cluster to have accreditation in place												
	Ensure the accreditation scheme to enable agencies to take flexible approaches to developing capability												
	Procurement Board to establish a joint Public Service Commission, DFS and agency working group to develop a capability development plan for both procurement practitioners and others across the public sector												
	The Capability Working Group work with professional bodies and tertiary institutions to develop vocational and tertiary procurement capability programs												
Practitioner's Network	DFS to establish a Procurement Practitioners Network												
Devolving category management to agencies	Procurement Board to issue principles to guide WOG category and contract devolution												
	Procurement Board appoints agencies to chair appropriate CMWGs, with support provided by DFS												
	Procurement Board considers the devolution of particular categories												
	NSW Procurement Board establish a forward program for the devolution of individual contracts where one agency has the dominant spend, consistent with accreditation												

Strategic Direction 4: Supporting agencies in a devolved environment		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Supporting agencies- platforms and systems	DFS maintain a specialist resource to assist agencies to build capability to manage their own contracts												
	Procurement Board to issue market engagement guidelines												
	Procurement Leadership Group establish a systems and support working group to further develop the NSWBuy platform and associated applications												
Procurement planning	Guidelines to be developed and agreed by the Procurement Board for Department Strategic Procurement Plans												
	Framework for rolling department 3 year procurement plans from September 2013												
	Guidelines to include material to assist in linking procurement planning to business planning processes												

Strategic Direction 5: Industry Engagement		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Industry Engagement Strategy	Trial a series of suppliers forums across the State over the next twelve months, particularly targeting SMEs												
	Procurement Board, in consultation with the Industry Advisory Group, develop a detailed industry engagement plan												
NSWBuy Platform	Launch the ProcurePoint website, with information specifically targeted to suppliers												
	Continually improve the ProcurePoint website based on supplier feedback												
Probity and procurement	Ensure the revised Procurement Policy Framework contains effective guidance on engagement and probity issues												
	DFS to provide training seminars to government procurement staff on effective engagement												
Release of forward procurement plans	Clusters to release forward 3 year procurement plans and industry engagement strategies												
	CMWGs to develop industry engagement plans for the priority categories												
	Procurement Board to issue guidelines on industry engagement as part of the category management planning process (Leadership Group to trial structured engagements with industry).												

Strategic Direction 6: Innovation		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Early industry engagement and outcome based procurement	Leadership Group to trial early industry engagement in the development of two of the priority category management working plans												
	Leadership Group to oversee the trial of four “outcome based” procurements for specific goods or services, with the results of that trial to be published												
	Leadership Group to host a forum on the use of “outcome based” procurements to share the learnings of agencies												
	Procurement Board to issue guidelines to facilitate outcome based procurements and innovation during the life of the contract												
	Early industry engagement and outcome-based procurement to be included in: c. the capability development plan for both procurement practitioners and others across the public sector to be developed by the Capability Working Group, and d. the vocational and tertiary procurement capability programs to be developed by the Capability Working Group with professional bodies and tertiary institutions.												
	Category Management Plans that are to be developed will include a statement on the medium to long term issues and challenges being faced by NSW government purchasers in this category of goods or services.												

Strategic Direction 6: Innovation		2012				2013				2014			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Innovative Supplier Engagement	Leadership Group to monitor the innovative supplier engagement strategy by NSW Health with a view to its performance and application in other clusters/portfolios, and publish a case study of the process once it has operated for 12 months												
	Leadership Group to identify and evaluate agile procurement initiatives such as NSW Trade & Investment's Collaborative Solutions – Mobile Government round with a view to applying it in other clusters/portfolios.												
Unsolicited proposals for goods and services	Leadership Group to develop guidelines for unsolicited proposals and direct negotiations for goods and services for consideration by the Procurement Board.												