

Ms Abigail Boyd MLC
Chair
Public Works and Accountability Committee
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Public Works and Accountability Committee's inquiry into the NSW Government's use and management of consulting services

Dear Ms Boyd

I refer to the Public Works and Accountability Committee's inquiry into the NSW Government's use and management of consulting services and to the hearing conducted on 16 August 2023.

Please find enclosed NSW Health answers to the Committee's questions taken on notice during the hearing.

For more information, please contact Jane Hall, Director, Executive and Ministerial Services, NSW Ministry of Health

Yours sincerely

Susan Pearce AM
Secretary, NSW Health

NSW Government's use and management of consulting services

Hearing – 16/08/2023

Questions on Notice

QUESTION 1 – Page 3

The CHAIR: In terms of Health's response, you have reiterated your requirements but is there anything being done to go further than that? Restating the requirements is not necessarily going to lead to the result that we are looking for here. Is there more that you can be doing on a proactive basis?

SUSAN PEARCE: We have a number of new board Chairs who have commenced at the start of this financial year. We always have an induction process with board Chairs, when they start in particular. I meet relatively regularly with the board Chairs. Certainly, at the next meeting of that group, noting that we have a number of new attendees now, we will be making that an item to discuss. Ultimately, the responsibility does sit with the district and the board to ensure that their minutes are accurate. We will certainly be happy to keep a watching brief over the board minutes that are published going forward, but we must rely on—and we'll be reiterating this—districts and their boards to record accurate minutes and to publish them.

The CHAIR: Although they hold the responsibility for the accuracy of those minutes, they are appointed by the ministry to those positions—

SUSAN PEARCE: By the Minister.

The CHAIR: So there is a level of accountability back to the Minister, you would think. Is there anything that the Minister can do to ensure that there are actual consequences for when these requirements aren't met?

SUSAN PEARCE: I would be happy to talk to the Minister about that.

ANSWER

The importance of maintaining accurate Board meeting minutes was again reiterated to Board Chairs in August 2023 by the Secretary, NSW Health.

QUESTION 2 – Page 3

The CHAIR: In that hearing, regarding Ms Stubbins, Mr Still stated, "She did not work on the PwC work. She did not stand down so that she could work on that." That is despite the minutes recording that she had stepped down in order to pursue that work. He also said:

She was part of a different part of PwC. The only thing that she undertook to the board was that she would make sure that the best people in PwC were put on the job.

Further to that, it was then asserted by Mr Still that Ms Stubbins was acting as an adviser to the CFO, and when we asked Ms Stubbins about her role at the time, she said:

I was not an adviser. Just to be clear, I mentored the CFO and I had a couple of meetings with her after I stood down from the board. I wasn't an adviser.

But, in response to our questions on notice, we have now received yet another document that looks to confirm that Ms Stubbins was, indeed, deeply involved in the finance and performance committee work long after it had apparently been agreed that she would step down and, despite her saying that she did not attend those meetings as an adviser—I'll hand you these minutes,

which I believe you've just looked at. I have a number of copies for the Committee as well. I will also hand to you the board referral notes that Mr Still gave us at that hearing, which he said were taken to the board in August 2015. It says, "Ms Stubbins, with the consent of the board, stepped down from the board", in May 2015. It then says that she's personally currently involved in mentoring the CFO and "no payment will be made to Ms Stubbins or to PwC for this assistance".

In the minutes of meeting from the finance and performance committee from 29 June 2015—so a full month after she was apparently stepping down—she is listed as a "board member (adviser)" in those minutes. It is a bit unclear as to whether she is still a board member or just an adviser. I'll take you to page 3 when you've got that document in front of you. This is in the context of Ms Stubbins apparently not doing any work for the local health district. At the bottom on page 3 it says, "Ms Stubbins agreed to undertake a review of all value improvement strategies for the 2015-16 financial year." Remembering that Mr Still told us all of this was an error in the minutes—not only is she still listed as a board member in June 2015 and as an adviser, curiously, but she is also agreeing, in those same minutes, to undertake work for the local health district. Those value improvement strategies are the same value improvement strategies that PwC had been working on for the board, as we discussed in that previous hearing. This looks incredibly bad for the local health district and their management of conflict of interest. What will you be doing to investigate what happened here?

SUSAN PEARCE: Given that I'm looking at this now, Ms Boyd, I will certainly take that on notice and be happy to provide further advice to the Committee in respect to any action we may take in regard to them.

ANSWER

South Eastern Sydney Local Health District have advised that they actively manage conflicts of interest by having Board members complete declarations where necessary. This is in accordance with NSW Health policy and is expected of all NSW local health districts. A declaration register is available for review and update as needed and there are processes in place to ensure information is recorded accurately. The Ministry will consider whether further action needs to be taken on this matter.

As advised in response to question 1, the importance of maintaining accurate meeting minutes was reiterated to Board Chairs in August 2023 by the Secretary, NSW Health and will continue to be highlighted to Board Chairs as part of the core governance obligations of Boards.

QUESTION 3 – Page 5

The CHAIR: Figures from those local health districts showed that around 25 per cent of all of their consulting spend was going to PwC. Is that something the department is concerned about in terms of concentration? I'm trying to understand—who monitors that? Who looks and says, "Well, actually there's a reliance forming on one particular consulting firm"? Is that something within the remit of NSW Health?

ALFA D'AMATO: We do tend to monitor the spread, if you want, across the different firms, but I also admit that you can see there are different trends across the different entities that, in my opinion—and I probably need to take further questions on notice—also reflect the services that each individual firm is more, if you want, experienced in.

The CHAIR: Does it not then create an inter-reliance? We've heard from academics about the idea that you end up with certain groups within particular consulting firms that are then reliant for their existence on a certain stream of work coming out of government, and also that government then becomes quite reliant on a particular consulting firm in order to provide the services. Is that inter-reliance seen as a problem from NSW Health's perspective? Or, from a Procurement Board perspective, is there any greater oversight on those trends or is that something at a policy level?

ALFA D'AMATO: I probably need to take that on notice, but the chief procurement officer normally monitors compliance of the policy and compliance on trends, and the data that we submit to Treasury as well.

ANSWER

Data provided to the Committee in response to the hearing of 15 June 2023 demonstrates that on average, 15% of professional services spend by each local health district was allocated to PwC since 2011. 'Professional services' spend includes, but is not limited to, consulting spend.

Further data provided to the Committee in response to the 15 June 2023 hearing provides that, per Annual Report data for local health districts, 0.08% of the total local health district expense budget was spent on consultants overall.

From 1 July, all NSW Health agencies must seek approval of the Chief Procurement Officer for any professional services engagements valued at or over \$30,000 or any extensions or variations to professional services engagements. These requests are registered, and data matched to purchase orders raised to ensure the correct process is followed.

QUESTION 4 – Page 5-6

The Hon. Dr SARAH KAINE: Mr D'Amato, I think you referred to the information you provided us across the different entities. I was just reviewing that recently. Quite a lot of the information provided shows direct engagement of consultancies. I understand that there's a \$250,000 cap for direct engagement. Aside from the COVID cases, which we've spoken about before and you've provided information about in your answers, there are a lot of examples of direct engagement above \$250,000. I know you now have a new policy in place, but I wonder if you could explain a bit how that might have occurred. Also there does seem to be quite a number of examples of \$249,999 contracts, which have then extended into the hundreds of thousands of dollars. I wonder if there's been any reflection or, indeed, follow-up or, indeed, discipline around the breaches of that policy?

ALFA D'AMATO: There are a couple of things. One is in respect of direct engagement. If a supplier is pre-qualified—and, therefore, part of other, or whole-of-government or whole-of-Health procurement listing— then we can directly engage. Then the threshold kicks in in determining whether we need to seek one quote or multiple quotes. In regard to the \$249,000 that you refer to, it is probably something more around the delegation that we have in place. That is something probably to have a look into in regard to the extent of the problem. We do tend to monitor that exactly. Also, with the extra steps we have put in place now, we are seeking the chief procurement officer also to monitor the extension of contracts. So in the case of \$249,000, the value of the contract needs to be evaluated in regard to the total amount—so \$249,000 plus any extensions.

The Hon. Dr SARAH KAINE: So that's a future thing. You're not going back and looking at cases that are just under. There's no suggestion that you might go back and see why that occurred.

ALFA D'AMATO: I think there is always good learning from the past. I will take that on notice and I will have a good look at it.

ANSWER

Of the data provided by local health districts for all consultant engagements since 2011 (provided to the Committee in response to Questions on Notice from the 15 June 2023 hearing), only nine engagements have been reported that had an initial value between \$240-250,000 (initial value is the value on which the decision of the procurement method is made). Two of the nine engagements were COVID related emergency procurements. Of the nine engagements, the highest percentage increase from the initial value was 15%. The total value of two engagements decreased in value by 50% and another decreased by 3%.

From 1 July 2023, any professional services engagement valued at or over \$30,000 must be approved by the Chief Procurement Officer. Additionally, an extension or variation to a professional services engagement must also be approved by the Chief Procurement Officer.

Attachment:

- Q4 TAB A – Emergency Procurement Guidelines – info.buy.nsw

QUESTION 5 – Page 6

The Hon. Dr SARAH KAINE: Could I ask you to take this on notice? I think, from memory—and I don't want to go through the spreadsheet now—there were a couple of examples of non-pre-qualified that were a direct engagement, if you could check on that. I think, from memory, there were, and I would like that information.

ANSWER

Since the establishment of the Performance and Management Services Scheme, supplier membership has not been consistent. The [SCM0005 – Performance and Management Services](#) is administered by NSW Treasury. NSW Treasury removes suppliers from the list should the supplier lose their prequalification status or request to be removed from the scheme. As such, only current suppliers are visible at any point in time. Therefore, NSW Health's analysis of non-prequalified suppliers has been restricted to the 2022-23 financial year. For those direct engagements with suppliers not on the Scheme, we note that there are ten that exceed the NSW Health Procurement Policy direct negotiation/one minimum quote threshold of \$30,000 across all the local health districts. Seven of these procurements were engaged under the [Small and Medium Enterprise and Regional Procurement Policy](#), which allows direct negotiation up to \$150,000.

QUESTION 6 – Page 6

The Hon. Dr SARAH KAINE: Could I ask a follow-up question about the supplementary answers? I have a couple of things. My colleague the Hon. Peter Primrose asked some fairly direct questions and asked for templates and forms and the form of questions that were used during the process. We were not supplied with that. We were supplied with a summary paragraph about the nature of the types of process. I wondered could we actually get the forms and templates that are used, as requested?

The other question I want to ask relates a little bit, Ms Pearce, to your answer earlier about moving forward. Some of the things that we are looking at are in the past and we can learn from them, but we are moving forward. I wondered then, when we asked about managing conflict of interest with consultants, why one of those supplementary answers was that NSW Health says that there's conflict of interest processes managed by the consultants. That was your answer. That is where the onus is. It is on the consultancies to manage their conflicts of interest and that NSW Health understands that there is a process. I just wondered, in light of this inquiry and the Federal inquiry, if that is actually a good enough answer to provide to us about how conflicts of interest are managed? We say it is okay because the consultancies are on it; they have their own processes. I thought that it was an interesting answer for you to give us on that one.

SUSAN PEARCE: I don't think we're saying it's okay and it's all on them. I think what we are responding to is about the arrangements that have been in place up until now, which we have complied with. We have an expectation that anyone we engage, whether it's a law firm or whether it's a consulting group, manages their conflicts. I know that the ICAC guidance has been discussed in this Committee. There are conflicts all over the place. There are requirements upon professional individuals to manage their conflicts. In respect of going forward, we are happy to elaborate on that.

The very robust process that we now have in place from 1 July will be absolutely taking those issues and I guess hardening our stance, if you like, in regards to potential conflicts. I do not know that I can sit here, though, and tell you that, as the secretary of Health, I can guarantee to you there will never be a conflict of interest issue again. What we try to do is—even if there is a conflict, it does not mean that necessarily, automatically knocks someone out. There is also, per the ICAC guidance, how you manage and mitigate conflicts of interest. So I think it is not as simple as you're conflicted and you're automatically out. In some cases, absolutely, there would be no question of that.

The Hon. Dr SARAH KAINE: Given that the answers were given on 2 August, so it was a full month into your new policy—perhaps we could get a copy of what the new policy is which you say is much more robust? I would be interested to have a look at that.

SUSAN PEARCE: Yes, by all means.

ALFA D'AMATO: If I may add, Dr Kaine. I just want to reiterate what the secretary has mentioned. In regards to the new process, we have an extra step where we actually ask everyone to save all these documents, including confidentiality and conflict of interest undertakings, into our repository to be able to demonstrate that these steps are being complied with and we have evidence of record keeping. I think one of the steps we put in place from 1 July, acknowledging some of the recommendations from the Auditor-General, is an enhanced way of record keeping that can be governed centrally so that we don't have to all the time ask districts to report back.

The Hon. Dr SARAH KAINE: I would appreciate that to be added to the supplements because they were not answered perhaps as fulsomely as they could have been.

ALFA D'AMATO: Sure. If I may, can I double-check? In regards to your question around forms and templates, what we normally issue is a guidance paper or what we have issued in the past was a guidance paper to provide some examples to users in determining what is a consultant and what is a contractor. I can provide that to you. We do not have a formal form of template as such.

The Hon. Dr SARAH KAINE: That would be useful. Thank you.

ANSWER

Request for Tender, Tender Evaluation Plan and Performance Report templates

In response to Questions on Notice for the 30 June 2023 hearing, links to templates, forms and other resources used to procure and manage consultants were provided in the answer to Question 1. These were not provided again in the answer to Question 3.

Health Infrastructure uses whole of government pre-qualification schemes and procurement lists for procuring consultants, including SCM0005 Performance and Management Services Scheme, SCM1191 Consultants in Construction up to \$9 million Scheme and SCM10611 Consultants in Construction above \$9 million Procurement List.

The whole of government schemes are managed by NSW Procurement (SCM0005 and SCM10611) and NSW Public Works (SCM1191).

Information about the schemes and procurement lists, including template documents and how to buy using the scheme are available on the [NSW Government procurement site](#).

Copies of the templates for the Request for Tender and Tender Evaluation Plans are attached (**Q6 TAB A and B**). These documents have been redacted to remove information which is Commercial in Confidence.

As noted by Ms Wark at the hearing on 30 June 2023, individual projects may have different criteria depending on the nature of the project and the engagement.

Assessment criteria for Performance Reports include time management, management and suitability of personnel, standard or service, quality outcomes, cost, communications, information technology, cooperative relationships, recommendation for future work.

The NSW Government's Performance Report Template is the basis for Health Infrastructure's Performance Reports, and it can be accessed on the [Scheme SCM0005 webpage on the NSW Government procurement site](#). A copy is attached (**Q6 TAB C**).

Health Infrastructure conducts quarterly Performance Reports throughout the contract period. For engagements under SCM0005, this exceeds the NSW Government requirement for a Performance Review to be conducted at the end of an engagement.

Guidance advice and Policy Documents

The NSW Health Chief Procurement Officer placed new requirements for procurements of professional services from 1 July 2023 (**Q6 Tab D**). These new requirements, reflected in the amended policy (**Q6 Tab E**) include:

- A requirement to seek approval of the Chief Procurement Officer for any professional services engagements valued over \$30,000 or extensions and variations to professional services engagements
- Mandating the use of prequalification schemes for professional services
- Requiring NSW Health agencies to ensure that professional services suppliers sign a Code of Conduct and Conflict of Interest Undertaking prior to commencing the engagement (**Tab F**), and
- All documents related to the engagement must be saved on PROcure or the NSW Health Professional Services VMS, including post-engagement evaluations
- From 14 July, a requirement to seek approval of the Secretary for all engagements with PwC or Scyne Advisory of any value.

The amended policy is further supported by procurement procedures and more specifically a Guidance Note (**Tab G**) and other information available on Buy.NSW (**Tab H**).

Attachments:

- Q6 TAB A - Request for Tender template – Redacted
- Q6 TAB B - Tender Evaluation Plan template – Redacted

- Q6 TAB C - Performance Report template
- Q6 TAB D - NSW Health (Goods and Services) Policy (August 2022 revision)
- Q6 TAB E - CPO Memorandum – Professional Services Engagements
- Q6 TAB F - Code of Conduct and Confidentiality
- Q6 TAB G - Guidance Note – Consultants and Professional Services
- Q6 Tab H - Buy.NSW Definition of a Consultant

QUESTION 7 – Page 7

The CHAIR: I guess looking at those answers in other respects as well and in relation to that conflict of interest we did ask in relation to conflict of interest on the local health district boards. Your response came back saying:

A preliminary review of information held by the Ministry has identified two instances of a matter being referred to the Ministry where it has involved a Board member. One matter was referred in 2019, the other in 2021 and in both of these instances, the issue raised was not substantiated.

Did either of those involve a consultant—basically working for a consultant at the same time as being on the board?

SUSAN PEARCE: I would have to take that on notice, Ms Boyd.

ANSWER

Neither of the two matters referred to in the original response involved consultants.

QUESTION 8 – Page 7

The CHAIR: One of the questions we asked that was taken on notice was not answered. Question 14 refers to the part of the transcript where a question is asked about which consultants were involved in advising on those NSW Health reforms in 2011. There was no response given to that. Is that something you can answer now?

SUSAN PEARCE: I was working in an area health service in 2011. So, no, I can't.

The Hon. SCOTT FARLOW: Not off the top of your head.

SUSAN PEARCE: Sorry, I will have to take it on notice, I'm afraid.

ANSWER

Consulting firms engaged for the 2011 governance reform work were PwC and KPMG.

QUESTION 9 – Page 8

The CHAIR: Okay. Question 15 of the supplementary questions was also not answered. The question was how many engagements have been granted to consultants or contractors who previously were engaged to do a business case. Is there a reason why that was not answered and, if not, could you maybe take it on notice again?

SUSAN PEARCE: Sure.

ALFA D'AMATO: Yes.

ANSWER

The SCM0005 – Performance and Management Services Scheme allows for additional or ‘flow-on’ engagements. Where a supplier meets the requirements of full prequalification, a supplier who has undertaken an initial engagement may be invited to submit a proposal for further work, provided they have provided satisfactory performance and demonstrated knowledge and expertise developed during the first engagement, and value for money for additional related engagements.

The total value of the first and related flow-on engagements for fully prequalified suppliers is not to exceed the lesser of:

- Three times the value of the first engagement, or
- \$500,000.

Where the flow-on engagement may exceed the above limit, a minimum of three suppliers from the scheme should be invited to provide written quotations unless exceptional circumstances can be demonstrated.

The [Enforceable Procurement Provisions Direction \(PBD-2019-05\)](#) allow a supplier that has been previously engaged to develop specifications for a particular procurement to participate in a procurement related to the provision of that service. The Direction requires that the Government agency must ensure that the incumbent supplier will not have an unfair advantage over other suppliers.

The NSW Health Procurement Procedures recommend a probity advisor be engaged where the integrity of the process may be called into question and to avoid a perception of bias and favouritism. Further, should there be a perceived conflict of interest, this should be managed in line with the recommendations of the [NSW Health Conflicts of Interest and Gifts and Benefits Policy \(PD2015 045\)](#) which may include the staff member removing themselves from the decision-making process of the tender evaluation committee.

The new process commenced on 1 July 2023 that requires Chief Procurement Officer approval of all professional services engagements valued over \$30,000 includes the implementation of a robust governance and record keeping process. The database developed as a result of this will assist in identifying where professional services suppliers engaged to develop a business case are engaged for further work on that project.

Attachments:

- Q9 Tab A – PMS Scheme Agency Guide

QUESTION 10 – Page 8

The CHAIR: In relation to the Qudos contract with the Western Sydney Local Health District, with so many other entities involved—and that was really good information, to see exactly who else was involved and what they were doing—why was PwC paid so much? They were paid \$7 million and it seems that they—it is very unclear what they were doing, exactly, in that process. Do you have more—

SUSAN PEARCE: You would have to refer that question to the district, Ms Boyd. Look, the period of time when that was being established was intense because we were dealing with the first Delta outbreak of the pandemic. When Qudos was being established it was established very quickly, and I will say the pressure applied by me to the district at the time to get that stadium up and running was pretty significant.

The CHAIR: And I completely understand that.

SUSAN PEARCE: Nothing to do with engaging consultants, I might say, but we—

The CHAIR: But it put you in a weak negotiating position, didn't it?

SUSAN PEARCE: We had to get that place up and running because we needed to contain the outbreak at the time—which we did, I might say. The nature of those payments and what they were for, we would have to refer that question and take it on notice to the district.

Continued on Page 9

The CHAIR: Sorry, what I was saying is that at no point are we criticising Health's engagement of PwC. I don't think that has been evident in any of the questions we've asked so far. What I'm asking is what PwC were doing at that time. Obviously you were doing a stellar job. That's not being doubted here, and we are very grateful for your participation in this inquiry. What we're asking is, in that period of weakened negotiating position, whether or not these consulting firms were perhaps being paid more than they would be otherwise, and whether that was appropriate.

SUSAN PEARCE: Not to my knowledge, but we'll get more information from the district.

ANSWER

PwC provided resources to manage the logistics of Qudos Bank Arena Vaccination Centre which operated 7 days a week, with extended operating hours. The initial operational endeavour was to connect high school students across Sydney with an accessible vaccination option as well as the overall vaccination centre that was maintained for the general public.

The engagement included early recruitment and onboarding of staff, providing customer service by way of designing and maintaining a call centre, and designing the lay out of the centre for consumer accessibility and flow to maintain high volumes of people in an infection controlled environment.

PwC optimised the supply chain for vaccines and PPE for the Centre, including through management of data, to minimise wastage and ensure consistent supply. There was overall advice to management regarding efficient flow of consumers through the centre.

They also provided day to day operational staff to assist with these requirements.

The engagement assisted with operational changes in response to directives being provided at short notice as part of the state response to best meet the needs of the community. The engagement also included assisting with the transition out of the venue at completion of the project.

The District was operating at this time under the "Emergency Procurements" provisions that the NSW Health system had in place. The provisions supported the management of the pandemic response requirements. This NSW Government prequalification scheme for Business Advisory Service rates was used for the engagement with this provider.

QUESTION 11 – Page 10

The CHAIR: One of the things in the Western Sydney Local Health District answers that was really interesting—we were asking about the Auditor-General board governance report on the local health district boards and the recommendations that were made in that, and we asked those district representatives what they'd done in response to that. In their answers, they came back and said, effectively, that they had provided a response back to Health on 4 June 2019, which implies that there was a process where Health had written and said, "Here are these recommendations", and you got something back. What happened next in that process in terms of looking at those responses? Were there any changes made to processes or did anything else come out of that?

ALFA D'AMATO: Can I just double-check—you mentioned the 2019 Auditor-General report?

The CHAIR: It must have been, yes.

ALFA D'AMATO: That triggered the whole reform process. As a result of that, not only we developed a new policy but we put in place a reform program that is still ongoing, as I mentioned. That's where we pretty much started the journey and reported back to the Auditor-General probably two years ago now, before COVID.

The CHAIR: Are you able to give us a copy of that report so we can see which of those recommendations were adopted and where that's got to? That would be really useful.

ALFA D'AMATO: Yes, no problem. I believe we reported that to the other committee as well.

ANSWER

The Auditor-General's report *Governance of Local Health Districts* was tabled on 18 April 2019. The report presented three recommendations, all of which were accepted by the Ministry of Health. Actions proposed to meet the intent of the recommendations were included in the initial response from the Ministry, as published with the report at the time and available [on the Audit Office of NSW's website](#).

The implementation of recommendations made by the Auditor-General in their performance audit reports is monitored by the NSW Parliament's Public Accounts Committee. On 14 May 2020, the Committee invited the Ministry of Health to make a submission providing an update on the implementation of each of the recommendations. A copy of the submission made at the time is provided with this response (**Q11 TAB A**).

Subsequently, on 20 November 2020, the Committee hosted a public hearing to examine NSW Health's submission. A full report on the content and outcomes of the hearing, titled *Examination of the Auditor-General's Performance Audit Reports February – July 2019* is available [on the Committee's website](#).

In summary, the Committee concluded:

- *The Committee supports the efforts by NSW Health to address the issues identified by the performance audit, particularly during the challenges presented by the COVID-19 pandemic.*
- *The Committee is satisfied that the NSW Health has addressed the intent of the recommendations made in the Audit report.*

Attachment:

- Q11 TAB A – Implementation of Audit Recommendations – Governance of Local Health Districts

QUESTION 12 – Page 10

The CHAIR: In Mary Foley's answer to question two she suggests that that might be better answered by Health. That involves—when the 2011 reforms were brought in, I understand Carrie Schulman was brought in, according to Mary Foley, to sit within Health and to lead or be involved in the implementation. One of the questions we asked was what was the period of her engagement. She suggested that we ask you. Obviously, it's not something you'll know off the top of your head.

SUSAN PEARCE: I'd have to take it on notice.

ANSWER

PWC initially allocated Carrie Schulman to the NSW Health governance reform work on a full-time basis between September 2011 and December 2011. Ms Schulman was then further engaged from January 2012 for up to 2 days per week for up to 5 weeks to ensure the transition of the Program Management Office to NSW Health's operation.

QUESTION 13 – Page 10-11

The CHAIR: Thank you. In relation to eHealth NSW's answers, they noted that NSW Health Pathology engaged Deloitte to "provide some development services to cover staff leave". Is that sort of arrangement common, where we get consultants in to cover leave?

SUSAN PEARCE: I think that's where perhaps you get into the consultant/contractor professional services discussion as opposed to consultants to cover leave generally. It wouldn't be—I don't know, do you have any other comments, Alfa? Without knowing the exact specifics of what the positions were—again, it is a pretty large organisation—I'd need to take it on notice.

The CHAIR: It comes back to the original question in our very first hearing where we asked Treasury, "What is the total number we are giving to these firms?" No-one can tell us. We understand all of the differences in definition et cetera, but it is quite remarkable to me that we can't say "X amount of money left government accounts and went to PwC in this year". Whether it's a contractor or it's a consultant, or whatever, understanding the level of payments going to these consulting firms is clearly of public interest.

SUSAN PEARCE: Your question wasn't about payments, though, it was about people filling positions as consultants.

The CHAIR: Yes, but is that not a payment? Would you not—

SUSAN PEARCE: Yes, it clearly would be of—

The CHAIR: In that case, \$193,000 was paid to Deloitte for that work, so, yes, I'm curious—

SUSAN PEARCE: What year was this?

The CHAIR: I don't know, actually. Sorry, I'd have to go back and look at their answers. It's in eHealth's answers. They said, "NSW Health Pathology engaged Deloitte to provide development services to cover staff leave."

SUSAN PEARCE: We would have to take it on notice, Ms Boyd. But the general principle is that, yes, from time to time, there would be contractors. For example, during the height of the pandemic we had a media person that came over from the Sax Institute who was a contractor to

NSW Health to assist with media and the like during that period. There will be times where those types of things occur. Without the exact details, it's very hard for me to comment. But consultants—as in, someone providing professional advice—to fill a vacancy doesn't sound right to me. I think you're into the contractor discussion there.

The CHAIR: But we're also concerned with contracting—

SUSAN PEARCE: But, nevertheless, the payments go to the—

The CHAIR: Yes.

SUSAN PEARCE: Yes, so we—

ALFA D'AMATO: I just wonder, because it seems to me if it was reported by eHealth, it sounds as though there might have been a system implementation to perhaps support the vacancies or leave. So, as I say, it's probably best if we take it on notice to unpack it a little bit.

ANSWER

There will be times when contractors are used to fill vacancies when there is no permanent staff member to undertake a vacant role. Often this will be while recruitment is underway. Many roles within NSW Health are highly specialised and require candidates with specific qualifications, skills and experience. A contractor is a short-term option to ensure service provision.

QUESTION 14 – Page 11

The CHAIR: We heard that eHealth has 706 contingent workers, as at 30 June 2023, both consultants and contractors, however defined, engaged through the Contingent Workforce Scheme. How many are there across all of Health, do you know?

SUSAN PEARCE: No, I don't. I would have to take that on notice.

ANSWER

The Ministry of Health does not hold centralised data regarding contingent workers in NSW Health agencies at this time.

QUESTION 15 – Page 11

The CHAIR: There is obviously a difference between individual consultants and contractors, and I understand a lot of people structure their work as a sole contractor or sole consultant. How many of those contingent workers—perhaps you could provide on notice how many there are across Health—are actually from consulting firms, where you've got someone like Deloitte filling those roles as opposed to an individual who chooses not to be an employee, if you know what I mean?

SUSAN PEARCE: Yes. We'd have to take it on notice.

ANSWER

Should an independent contractor from a consulting firm be employed as an employee of NSW Health they are recorded as an individual employee and are not recorded as a contractor from a consulting firm.

Emergency procurement guidelines

How to manage procurements for unforeseen and sudden situations.

On this page

- [Authorise emergency procurements](#)
- [Assess proposed emergency procurements](#)
- [Report all emergency procurements](#)
- [Use any suitable procurement method](#)
- [Consider contract terms](#)
- [Keep records](#)



What you need to know

1. If the situation is unforeseen or sudden and requires an urgent response, it qualifies as an emergency.
2. Your agency head can approve procurements up to a value sufficient to meet the immediate needs of the emergency.
3. You can only procure what's required for the immediate needs of the emergency.
4. You don't have to comply with Procurement Board Directions, policies or your agency's accreditation terms.
5. You still need approval from the relevant financial delegate and to disclose contracts over \$150,000.
6. You can use any procurement method that meets your needs in the time available.
7. You don't have to demonstrate value for money. But you must always use government resources efficiently, effectively and economically.
8. You must manage conflicts of interest. You must always comply with your agency's code of conduct, the public sector values and the law.
9. Keep records. Record all decisions and approvals, including reasons for the emergency procurement.
10. You must report every emergency procurement to the Procurement Board.

[back to top](#)

Authorise emergency procurements

The **head of an agency** can, in an emergency, authorise procurements to a value to meet the emergency.

This is allowed by clause 4 of the [Public Works and Procurement Regulation 2019](#) (PWP Regulation). Such procurements are exempt from section 176 of the [Public Works and Procurement Act 1912](#) (PWP Act).

The agency can then speed up the procurement because they won't need to meet any policies or directions of the Procurement Board.

The PWP Regulation and PWP Act don't define 'emergency'. So it can be given its ordinary meaning:

‘an unforeseen occurrence, a sudden and urgent occasion for action’.

The agency will still need to:

- confirm there are funds available
- comply with financial delegations.

The agency head can appoint a nominee

The agency head can also nominate a government agency employee to make authorisations. This must be done under clause 4 of the PWP Regulations.

Standard agency delegations (under the Government Sector Finance Act 2018 or Government Sector Employment Act 2013) are not enough.

[Download a sample form of authorisation. DOCX, 37.45 KB](#)

Which rules don't apply

For an authorised emergency procurement under clause 4 of the PWP Regulation, you don't need to comply with:

- any policies or directions of the Procurement Board
- the requirement to use whole-of-government contracts or mandated schemes
- terms of your agency's accreditation
- the requirement to achieve value for money
- principles of probity and fairness
- complaints regime in section 176 of the PWP Act aligned with the enforceable procurement provisions in PBD-2019-05.



Enforceable procurement provisions don't apply

For an authorised emergency procurement under clause 4 of the PWP Regulation, you don't need to comply with the [PBD-2019-05 Enforceable Procurement Provisions](#).

You must however document the decision and reasons for the emergency procurement.

This will assist your agency if a supplier challenges the use of clause 4 of the PWP Regulation.

[Read more about urgent procurements under the EPP Direction.](#)

Even though you don't have to evaluate value for money for emergency procurements, you must always use government resources efficiently, effectively, economically and in accordance with the law.

You should try to follow the [Procurement Policy Framework](#) as much as possible.

Assess proposed emergency procurements

You should assess each proposed emergency procurement case by case. Check if the value meets the immediate needs of the emergency.

Your assessment may include (but is not limited to):

- the type, quantity and value of the goods or services to be procured and their general availability in the market

- your agency's functions and operations

- other relevant factors around immediate needs of the emergency.

If you determine that the procurement is over what's needed to meet the immediate needs of the emergency, you won't be able to rely on clause 4 of the PWP Regulation to conduct an emergency procurement.

Report all emergency procurements

You must report every emergency procurement authorisation to the Procurement Board as soon as possible.

In an evolving emergency, you can provide consolidated reports at regular intervals.

[Download the emergency procurement reporting template XLSX, 18.58 KB.](#)

Email completed reports to nswbuy@treasury.nsw.gov.au

Use any suitable procurement method

For an authorised emergency procurement under clause 4 of the PWP Regulation, you may use any procurement method.

Consider:

- how quickly and where you need the goods or services

- the type and quantity of goods or services

- the number of potential suppliers

- their ability to supply the goods or services, where and when.

Your procurement documentation should state this is an emergency procurement pursuant to clause 4 of the PWP Regulation.

Consider contract terms

Ensure there is a defined contract period that doesn't exceed the need to respond to the emergency. Or you can ensure there are rights for the agency to stop procuring once the emergency ends.

You should use these rights in a reasonable and fair way. For example, allowing for reasonable closure payments to suppliers if contracts are terminated early.

Be careful about these types of provisions:

clauses which seek to make the arrangement exclusive

force majeure clauses – if the emergency poses particular risks for the procurement, it may be best to have a specific clause rather than relying on a force majeure regime

representations or undertakings by the agency that it is complying with all laws including the PWP Act. Instead, consider a representation or undertaking that the procurement is being conducted under clause 4 of the PWP Regulation.

Keep records

Record all decisions and authorisations about emergency procurements, including:

the nature of the emergency and the justification for conducting an emergency procurement (why)

why the procurement is needed and limited to the immediate needs of the emergency

authorisation by the agency head or their nominee

type of procurement process (how)

suppliers approached (who)

type of goods or services (what)

the value (how much)

where the goods or services are required

timeframe (when) for the contract, including any rights for early termination

reporting of the emergency procurement to the Procurement Board.

You should also keep standard procurement records, such as:

criteria used for selecting suppliers

outcome of any comparative assessments or price assessments

licence and insurance checks,

contract documents.

Continue to disclose contracts over \$150,000, as per the [Government Information \(Public Access\) Act 2009](#).

Previous

◀ Working with suppliers through supply disruptions

Next

Urgent procurements under the EPP Direction ▶

For general enquiries and help

buy.nsw@customerservice.nsw.gov.au

1800 679 289

buy.nsw services and platforms

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[Supplier Hub](#)

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Health
Infrastructure

FRM 643 Request for Quotation (RFQ)

[HI_TC Tender Ref]

Project Name

Discipline/Name of Service

Form FRM 643 – Request for Quotation (RFQ)

The attached Document can be used as a **TEMPLATE** of a Request for Quotation.

Invitation Letter

Date: _____

XYZ Pty Ltd (ABN xx xxx xxx xxx)

Address Line 1

Address Line 2

NSW xxxx

Dear [First Name Last Name],

HI RFQ Number: HI2 _____

RFQ Title: Project Name – Discipline

SELECT ONE OF THE SENTENCES BELOW AS APPLICABLE:

- **IF ANY OF THE TENDERERS ARE FROM OUTSIDE A PREQUALIFICATION SCHEME FOR SCOPE OF SERVICES,, SEEK HI REGIONAL DIRECTOR AND HI PROCUREMENT MANAGER APPROVAL.**
- **IF THERE IS NO PREQUALIFICATION SCHEME IN PLACE, CONFIRM WITH HI PROCUREMENT PRIOR TO PROCEEDING**

As a Consultant on the SCMxxxx, Xxxx Pty Ltd (ABN xx xxx xxx xxx) is invited to submit a proposal to provide [Name of service] to support XYZ activities being undertaken for the Project Name.

Or

Xxxx Pty Ltd (ABN xx xxx xxx xxx) is invited to submit a proposal to provide [Name of service] to support XYZ activities being undertaken for the Project Name. This invitation is based on your prequalification application/listing on SCMxxxx or listing as an Aboriginal Business or Australian Disability Enterprise (ADE).

The scope of services is detailed within this document. The Respondent is to include response to all RFQ Schedules attached to this letter..

Respondents are requested to provide their submissions in two separate files:

- Non-Price response marked as Envelope 1
- Price response marked as Envelope 2

Engagement will be based on *Health Infrastructure Conditions of Agreement* which is attached in Attachment A.

RFQ Details	
Agency	Health Infrastructure (ABN 89 600 377 397) Mailing address: 1 Reserve Road, St Leonards NSW 2065
Contact Person:	Name of PD or PM: Role, Organisation: Email:

FRM 643 REQUEST FOR QUOTATION (RFQ)

	Phone:
RFQ Briefing (Mandatory/Optional)	2pm, Friday 11 June 2021 via MS Teams (Invitations will be sent separately)
Site Visit (Mandatory/Optional)	2pm, Friday 11 June 2021 (Max 2 representatives)
Closing Date and Time:	2pm, Friday 18 June 2021
Lodgment Method:	Email ONLY to: [REDACTED]. Tenders submitted or copied to any email address other than the above may not be considered for evaluation.
Evaluation Criteria	<p>Non-Price [REDACTED] (Envelope 1)</p> <ul style="list-style-type: none"> - Company Overview and Insurances (Schedule 4.1.1) - Understanding of Services (Schedule 4.1.2) - Project Plan (Schedule 4.1.3) - Experience of Key Personnel (Schedule 4.1.4) - Organisational Experience (Schedule 4.1.5) - [REDACTED] <p>Price [REDACTED] (Envelope 2)</p> <ul style="list-style-type: none"> - Lump Sum Fee (Schedule 4.2.1) - Lump Sum Fee Breakdown (Schedule 4.2.2) - Rates for Variation (Schedule 4.2.3)
Submission/Quotation Validity Period:	90 days after the Quotation Closing Date and Time
Conditions of Agreement:	FRM 603A / FRM 603PC / FRM 603C /.....

Please confirm by email to the contact person of your intention to submit a response.

Yours sincerely

Name of PD/PM

Role

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2 RFQ Conditions

2.1 Status of RFQ

- a) The Respondent is invited to submit a Quotation in accordance with these RFQ Conditions.
- b) The invitation to RFQ is an invitation to treat. It is not an offer capable of acceptance, nor should it be relied upon, construed or interpreted as such.
- c) By submitting a response, the Respondent acknowledges that the submission of a response does not create a contract between the Respondent and the Principal.

2.2 RFQ Documents

- a) The RFQ Documents comprise the RFQ letter and the following:
 - i. RFQ Conditions;
 - ii. RFQ Schedules;
 - iii. Scope of Services;
 - iv. Conditions of Agreement;
 - v. All Addenda (if any)

2.3 NSW Government Supplier Code of Conduct

- a) Respondents must comply with the NSW Government Supplier Code of Conduct (Code), which is available at: <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>
- b) Lodgment of a Quotation is evidence of the Respondent's agreement to comply with the Code for the duration of any contract awarded as a result of the RFQ process. If a Respondent fails to comply with the Code, the Principal may take the failure into account when considering this or any subsequent Quotation from the Respondent, and may pass over such a Quotation.

2.4 Addenda

- a) The Respondent must acknowledge and allow for all addenda received during the RFQ period.

2.5 Quotation Submission

- a) The Respondent must submit the Quotation ONLY via the lodgment method nominated in the invitation letter.
- b) The Respondent must submit their response in two separate PDF format files:
 - i. enclose the RFQ Schedules containing non-priced elements ONLY in one file labelled - "Envelope 1 – Non-price data – Company Name"; and
 - ii. enclose the RFQ Schedules containing priced elements of the Quotation ONLY in one file labelled - "Envelope 2 - Price data – Company Name".

- c) The Respondent must submit the response in file sizes of 10Mb max per email. Responses may be submitted via multiple emails where required to meet file size limitations.
- d) The Principal may decline and not consider Quotations that are incomplete or contain corrupt or otherwise illegible or unreadable files, or are submitted as links to an external cloud based storage service.
- e) In accordance with the "Market Approaches Guide", late Quotations will not be accepted, except where the Principal considers (in its absolute discretion) that the integrity and competitiveness of the RFQ process have not been compromised.

2.6 Conforming Quotation

- a) Respondents are required to submit a conforming Quotation in accordance with the Quotation Documents.
- b) Respondents must submit all RFQ Schedules completed with the relevant information. The non-submission of any RFQ Schedule or electronic Quotations that cannot be effectively evaluated because the file has become corrupt, may result in the Quotation being considered as non-conforming and not suitable for consideration. Any Quotation may be rejected if it does not comply with any requirement of the RFQ Documents, or if it contains provisions not required or allowed by the RFQ Documents.
- c) A non-conforming Quotation may be considered at its absolute discretion by the Principal. The Principal is under no obligation to consider a non-conforming Quotation.

2.7 Goods And Services Tax

- a) Fees, rates and other amounts in the Quotation, unless stated otherwise, exclude GST.

2.8 Acceptable Legal Entities

- a) The Principal only recognises and accepts Quotation from legal entities, excluding trusts, with appropriate and current insurance cover. Quotation from Respondents who do not meet these requirements will not be considered.

2.9 Assessment Of Quotations

- a) Quotations will be assessed against the evaluation criteria listed in the Invitation Letter which are not indicated in order of significance or equal weight. Information supplied by the Respondent in submission will contribute to the assessment against each criterion.
- b) Respondents are advised to respond clearly to all the evaluation criteria listed in this RFQ.
- c) Relevant information provided by the Respondents in the RFQ Schedules and in response to any requests by the Principal will be used to assess Quotations.

2.10 Disclosure of Contract Information

- a) Following the Principal's decision, all respondents will be notified in writing of the outcome of their Quotations.
- b) Details of this RFQ and the outcome of the RFQ process may be disclosed in accordance with the Government Information (Public Access) Act (NSW) and the NSW Government Procurement Policy Framework, which are available at <http://www.buy.nsw.gov.au>.

2.11 Discretion of the Principal

- a) The principal reserves the right at any time and on any grounds to:
 - i. amend or terminate the RFQ process;
 - ii. extend the closing date for RFQ;
 - iii. elect not to select any Respondent;
 - iv. not accept the lowest priced or any Respondent;
 - v. take such other action as it considers, in its absolute discretion, appropriate in relation to the RFQ process.

3 Scope of Services

3.1 Project Overview and Background

The XXX project

- Bullet Point.
- Bullet Point.
- Bullet Point.
 - Bullet Level 2

Table Heading			
Subhead	Table subhead	Table subhead	Table subhead
Table text	Table text		

3.2 Scope of Services

The XXX project scope

4 RFQ Schedules

4.1 Non Price Schedules (Submit in Envelope 1)

4.1.1 Company Overview & Insurances

Submit in Envelope 1

Respondent's Details	
Organisation Name	
ABN	
ACN	
Address	
Contact Person	
Telephone No.	
Mobile No.	
e-Mail Address	

4.1.1.1 Insurance

The Respondent must attach to this schedule a copy of a certificate of currency, for each policy of insurance required under the Conditions of Agreement.

4.1.1.2 Addenda

The Respondent acknowledges the receipt of all addenda issued during the RFQ period.

The Respondent:

- (a) represents and warrants that it has allowed in the Fee and the components of the Fee shown in this Lump Sum Fee Breakdown for all costs and expenses it will incur in performing each Part of the Services; and
- (b) acknowledges and agrees that it will only be entitled to payment for the Parts performed by reference to the above Lump Sum Fee Breakdown, and if the Services are directed to conclude at the end of a certain Part, it will not be entitled to any further monies or to make any other claim against the Principal.
- (c) acknowledges that in case of a discrepancy between the total of Lump Sum Fee Breakdown and the Lump Sum Fee, the Lump Sum Fee nominated in the Schedule 4.2.1 will be considered as the Respondent's submitted price.

Signed for the Respondent by: Date:.....

Name (in block letters): (Authorised Officer)

In the Office Bearer capacity of:

4.1.2 Understanding of the Services

Submit in Envelope 1

Provide information demonstrating the Respondents understanding of the required Consultancy services commenting on what the Respondent considers to be the key issues for the engagement and how they would propose to address those issues.

4.1.3 Project Plan

Submit in Envelope 1

Provide a preliminary project programme to demonstrate your ability to complete the project within the specified time-frame.

Insert Gantt chart

4.1.4 Experience of Key Personnel

Submit in Envelope 1

Please nominate the Key Personnel proposed to provide the Services, together with a summary of their skills, qualifications and experience.

Modify table below as required to suit the procurement.

Name of proposed key personnel	Skills, qualifications & experience directly related to the specified services	Minimum number of hours proposed for this project
1.		
2.		
3.		

4.1.5 Organisational Experience*Submit in Envelope 1*

Please provide details about the experience your organisation and the nominated personnel have with the delivery of the Services, particularly in relation to comparable projects, limited to past 5 years.

Client Company/Organisation	
Location of Project	
Estimated Value of the Project (\$)	
Contract Period	
General nature and scope of the work and relevance to this Project	
Nominated personnel who were involved and their role on the Project	
Client Name & Title / Position	
Client Contact Telephone Number	
Client Email address	

4.2 Price Schedules (Submit in Envelope 2)

4.2.1 Lump-Sum Fee

Submit in Envelope 2

The Fee, excluding GST is the lump sum of:

.....
[in words]

\$..... (excluding GST)

\$..... (GST)

The Fee, including GST is the lump sum of: \$.....

4.2.2 Lump-Sum Fee Breakdown*Submit in Envelope 2*

GST exclusive rates

Item No.	Description	Total \$ Amount
	<i>Lump Sum Fee (excluding GST)</i> <i>(This must match Schedule 4.2.1 - Lump Sum Fee)</i>	

4.2.3 Rates for Variation*Submit in Envelope 2*

Supply a list of proposed personnel and rates for Variations.

Rates must cover all costs and allowances such as profit, overhead, and margins and shall be exclusive of GST.

Name	Project Role	Rate (excluding GST) (\$/5-day week)	Rate (excluding GST) (\$/hour)
	Partner		
	Director		
	Senior Manager		
	Manager		
	Senior Consultant		
	Consultant		
	Analyst		

Attachment A – Conditions of Agreement

Professional Services (PS) Section 1 – Conditions of Tendering

Request for Tender

[HI_TC Project]

[HI_TC Tender Name]

RFT No: [HI_TC Tender Ref]



RFT No.	[HI_TC Tender Ref]
Issue Date:	Insert Month and Year
Distribution:	Tenderers
Issued and Authorised by:	PD/SPD Health Infrastructure

Professional Services (PS) Section 1 - Conditions of Tendering Guidance

Introduction

This Conditions of Tendering is part of the Request for Tender (RFT) documents for the procurement of Professional Services via e-Tender. The RFT documents consists of the following:

- PS Section 1 – Conditions of Tendering
- PS Section 2 – Tender Schedules
- PS Section 3 – Scope of Services
- PS Section 4 – Conditions of Agreement

Guide Notes

Further guidance is provided by the Guide Notes (in bold red upper-case font) to the various sections and paragraphs. Examples are in normal red font.

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18	Disclosure of Tendering and Contract Information _____	10
19	Work Health & Safety Management Systems _____	10
20	Performance _____	10
21	Discretion of The Principal _____	10

These Conditions of Tendering do not and will not form part of the Agreement.

1 Lodgement of Tender

Tenders must be lodged at the address stated in clause 1.1 of the Conditions of Tendering and by the time and date specified in clause 1.2 of the Conditions of Tendering.

1.1 Tender Closing Office

Government Agency:	Health Infrastructure
Address:	https://tenders.nsw.gov.au

1.2 Tender Closing Date/Time

2:00 pm on the date specified on the eTendering website.

2 Enquiries

(a) For enquiries in respect of this invitation to tender, contact:

Name:	
Agency:	
Phone:	
Email:	

(b) An **Optional or Mandatory** tender briefing is scheduled in the RFT details as published on the eTendering website.

For a **Mandatory** briefing, the Tenderer must attend the briefing to be eligible to submit a tender. Each Tenderer may attend with supporting persons including subcontractors and consultants. The maximum number of people who may attend the briefing on behalf of each Tenderer is limited to 2. Tenderers should notify the contact officer by email of their intention to attend and the number of supporting persons who will be attending.

(c) A tender site visit will be held as noted in the RFT details published on the eTendering website.

3 Status of Tenders

- (a) The Tenderer is invited to submit a tender in accordance with these Conditions of Tendering.
- (b) The invitation to tender is an invitation to treat. It is not an offer capable of acceptance, nor should it be relied upon, construed or interpreted as such.
- (c) By submitting a tender the Tenderer acknowledges that the submission of a tender does not create a contract between the Tenderer and the Principal.

4 Interpretation of RFT Materials

- (a) The RFT documents comprise of the following:
 - (i) PS Section 1: Conditions of Tendering;
 - (ii) PS Section 2: Tender Schedules;
 - (iii) PS Section 3: Scope of Services;
 - (iv) PS Section 4: Conditions of Agreement;
 - (v) all addenda (if any) to the Tender Documents issued to the Tenderer by the Principal; and
 - (vi) all documents referred to or incorporated by reference in any of the above documents, unless the context otherwise requires.
- (b) In the RFT Documents:
 - (i) the Tenderer is the entity who submits a tender and who is identified as such on the tender form; and
 - (ii) terms defined in the Conditions of Agreement have those meanings in the Tender Documents, unless the context otherwise requires.
 - (iii) the terms “Professional Services”, “Professional Services provider”, “Consultant” and “Service Provider” are interchangeable and have the same meaning.
- (c) The rules governing the construction of the Conditions of Agreement apply also to the Tender Documents.
- (d) The Information Documents may include:
 - (i) all information, data, test results, samples, reports (including reports of geotechnical or other investigations) or documents provided to the Tenderer by the Principal or the Principal’s servants, agents or consultants which are expressly stated to be “Information Documents” or which do not form part of the Tender Documents; and
 - (ii) any other information, data or document which is referred to or incorporated by reference in the information, data or documents referred to in paragraph (i) above.

5 NSW Government Code of Practice for Procurement

- (a) Tenderers must comply with the NSW Government Procurement Policy Framework including the Supplier Code of Conduct (Code), which is available at: <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>
- (b) Lodgement of a tender is evidence of the Tenderer’s agreement to comply with the Code for the duration of any contract awarded as a result of the tender process. If a Tenderer fails to comply with the Code, the Principal may take the failure into account when considering this or any subsequent tender from the Tenderer and may pass over such a tender.
- (c) The Tenderer:
 - (i) warrants that it has not provided and will not, whether as part of the Tender or otherwise, provide false or misleading information to the Principal;
 - (ii) warrants that no conflict of interest exists at the date of submitting its tender and that it will immediately inform the Principal upon the Tenderer becoming aware of any actual or potential conflict of interest;
 - (iii) acknowledges that evidence of collusive tendering may lead to the rejection of some or all tenders and Tenderers involved in such practices may be barred from tendering to the Principal in the future;

- (iv) has examined the Principal's statement of business ethics (at Conditions of Agreement) and satisfied itself of its capacity to carry out the Tender process and the Services in accordance with the terms and conditions of the statement of business ethics, without breaching such terms and conditions; and
- (v) acknowledges that the Principal may invite, consider, evaluate and accept tenders from entities which were involved (in any way) in the preparation of the Tender Documents (including the Project Background).

6 Tender Documents

- (a) A Tender is submitted as an offer that may be accepted by the Principal at any time and in such manner the Principal determines in its absolute discretion while the tender remains capable of acceptance.
- (b) The Tender must be fully completed and submitted in accordance with the Tender Documents.
- (c) The Tenderer must notify the Principal in writing of any perceived ambiguity, discrepancy, error or omission in the Tender Documents as soon as the Tenderer becomes aware of any such ambiguity, discrepancy, error or omission.
- (d) Upon receipt of any notification, the Principal may in its absolute discretion:
 - (i) not respond to or answer, or otherwise decline to respond or answer the notice;
 - (ii) respond to or answer the notice by issuing addendum or amending the Tender Documents; or
 - (iii) respond (in certain circumstances) only to the Tenderer which gave the notice.

7 Addenda

- (a) The Principal may issue addenda to clarify or amend the Tender Documents. Each addendum issued will, on issue, become part of the Tender Documents. Tenderers must acknowledge in writing that they have received the addendum after each addendum is issued. Addenda issued by the Principal are the only valid clarifications of, or amendments to, the Tender Documents.
- (b) The Tenderer must identify all addenda received at item 1.2 of the Tender Form in PS Section 2.

8 Completing the Tender

- (a) The Tenderer must complete the Tender Schedules and supply all other information requested.
- (b) The Principal wishes to streamline its tender assessment process. General information such as brochures and the firm's history must not be included by the Tenderer in the tender.
- (c) The Tenderer must submit the non-price data (Envelope #1) and the price data (Envelope #2) (as referred to in clause 9 (b) below) in two separate PDF format files appropriately named.
- (d) The Tenderer's tender must remain open and capable of acceptance by the Principal for 90 days from the closing date set out in the tender form.

9 Lodging the Tender

- (a) Without limiting clause 1 of the Conditions of Tendering, the Tenderer must lodge the tender through the Tenders NSW website at **<https://tenders.nsw.gov.au>**
- (b) The Tenderer must:

- (i) enclose all (and only) the Tender Schedules containing non-priced elements of the tender (and written confirmation of receipt of related addenda (if any) as set out in clause 7(b)) in one file labelled - "Envelope 1 - Non-price data – Company Name"; and
 - (ii) enclose all (and only) the Tender Schedules containing priced elements of the tender (and written confirmation of receipt of related addenda (if any) as set out in clause 7(b)) in one file labelled - "Envelope 2 - Price data – Company Name".
- (c) Tenders submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000 (NSW)*, and given no lesser level of confidentiality, probity and attention than tenders submitted by other means.
 - (d) Tenderers, by electronically submitting a tender, are taken to have accepted any conditions shown on the NSW Government eTendering web site.
 - (e) The Principal may decline to consider for acceptance tenders that are incomplete or contain corrupt or otherwise illegible or unreadable files.
 - (f) Tenders submitted electronically must be in a file format that can be read, formatted, displayed and printed by Microsoft Word, or any format required by the Tender Documents.
 - (g) Any CAD files submitted with an electronically lodged tender must be in DGN, DWG, or DXF format.
 - (h) Tenderers may compress electronic tenders in any format that can be decompressed by WinZip. Tenderers must not submit self-extracting (*.exe) zip files.
 - (i) Tenderers must not change existing text in electronic tender forms other than to insert required information.
 - (j) Instructions on lodgement are provided on the NSW Health eTendering website.
 - (k) Tenders cannot be lodged by facsimile or e-mail.
 - (l) In accordance with the “NSW Government Procurement Policy Framework”, late tenders will not be accepted, except where the Principal considers (in its absolute discretion) that the integrity and competitiveness of the tendering process have not been compromised.

10 Non-Disclosure of Information

- (a) The Tender Documents and any documents made available by the Principal for the information of Tenderers (including the Reference Documents and Information Documents) (Confidential Information) are confidential and are furnished to the Tenderer on that basis.
- (b) The Tenderer must:
 - (i) treat as confidential and keep confidential and secure any Confidential Information;
 - (ii) not copy, duplicate or otherwise reproduce any documents containing Confidential Information without the prior consent of the Principal, except as is necessary to comply with the Tender Documents; and
 - (iii) not allow any of its employees, subcontractors or consultants or any third party to copy, duplicate or otherwise reproduce any documents containing Confidential Information without the prior consent of the Principal, except as is necessary to comply with the Tender Documents.
- (c) The Tenderer may not disclose Confidential Information other than:
 - (i) to its employees, subcontractors or consultants as and when required under the Tender Documents;
 - (ii) to its legal advisers, financial advisers and auditors;
 - (iii) with the prior consent of the Principal; and

- (iv) to the extent:
 - (A) required by any law, any statutory body, the rules of any stock exchange, or any applicable accounting standards; or
 - (B) ordered by any court,having, to the extent practicable, consulted with the Principal with a view to agreeing the form, content, timing and manner of disclosure.
- (d) If the Tenderer discloses Confidential Information in accordance with this clause 10, it must use reasonable endeavours to ensure that no person to whom it disclosed that Confidential Information discloses it to any other person and that no such person uses the Confidential Information for any other purpose other than for the purposes of the Tenderer complying with the Tender Documents.
- (e) If required to do so by the Principal, the Tenderer must return to the Principal all Confidential Documentation (including copies) furnished to the Tenderer by, or on behalf of the Principal, and any such documentation (including copies) disclosed by the Tenderer to any other person.
- (f) The Tenderer acknowledges that damages for breach of this clause 10 are not a sufficient remedy and that the Principal will be entitled to seek injunctive relief as a remedy in respect of any breach or threatened breach of this clause 10 in addition to any other remedies available at law or in equity.

11 Information Documents

- (a) The Tenderer must not in any way rely upon:
 - (i) any Information Documents or other data, representation, statement or document made by or provided to Tenderers by the Principal or anyone on behalf of the Principal which will not form part of the eventual agreement with the Principal for the performance of the Services; or
 - (ii) the accuracy, adequacy, suitability or completeness of the Information Documents or any other such information, data, representation, statement or document.
- (b) In the tender form, the Tenderer is required to represent that it:
 - (i) has examined all information relevant to the risks, contingencies and other circumstances having an effect on its tender and which is obtainable by the making of reasonable enquiries including the material contained in the Tender Documents, the Reference Documents, the material made available for the information of the Tenderer, including the Information Documents, any technical advice made available by the Principal, and the terms and conditions of any Approval relevant to the Services;
 - (ii) has:
 - (A) examined the Project site and its surroundings, conditions and characteristics;
 - (B) satisfied itself as to the access to the site, physical restrictions, environmental, health and safety requirements and the requirements for permits, consents and Approvals; and
 - (C) made an appropriate allowance in its tender for any effect thereon;
 - (iii) has based its tender on its own investigations, determinations and assessment of the risks involved in carrying out the Services and carried out any further investigations necessary to provide adequate information for the purpose of tendering;
 - (iv) has satisfied itself as to the role of other parties involved in the Project and has factored such roles into its tender;
 - (v) has satisfied itself as to the correctness and sufficiency of its tender for the Services and that its price covers the cost of complying with the Professional Services providers obligations under the Agreement; and

- (vi) has examined all statutory and regulatory requirements relevant to the Services and which may restrict or inhibit the execution of any part of the Project work and satisfied itself of its capacity to execute the Services in accordance with the Agreement without breaching any such terms, conditions, requirements, orders, regulations, rules, directions and practices.
- (c) The Tenderer acknowledges that, if the Principal accepts the Tenderer's tender, the Principal will be entering into the Agreement relying upon the representations in paragraph 11(a) and 11(b) above.

12 Conforming Tenders

- (a) Tenderers are required to submit a conforming tender in accordance with the Tender Documents.
- (b) Tenders must submit all Tender Schedules completed with the relevant information. The non-submission of any Tender Schedule with the tender may render the tender as nonconforming and not suitable for consideration. Any tender may be rejected if it does not comply with any requirement of the Tender Documents, or if it contains provisions not required or allowed by the Tender Documents.
- (c) A nonconforming tender may be considered at its absolute discretion by the Principal. The Principal is under no obligation to consider a nonconforming tender.

13 Alternative Tenders

- (a) Tenders containing an alternative option may be considered at the absolute discretion of the Principal.
- (b) Where a Tenderer wishes to offer an alternative option which it considers may benefit the Principal, the Tenderer should also submit a conforming tender. The alternative option should be fully described, including how it differs from the requirements of the Tender Documents and with separate Tender Schedules applicable to the alternative.

14 Goods and Services Tax

Fees, rates and other amounts in the tender, unless stated otherwise, exclude GST.

15 Acceptable Legal Entities

The Principal only recognises and accepts tenders from legal entities, excluding trusts, with appropriate and current insurance cover. Tenders from Tenderers who do not meet these requirements will not be considered.

16 Assessment of Tenders

All Tenders not rejected because of a failure to conform with the requirements of the Tender Documents will be evaluated on the basis of the criteria set out below.

(a) **Non-Price Criteria**

Non-Price criteria which includes the following issues shall have a tender evaluation weighting of XX%:

- (i) Project Plan
(Refer to Tender Schedule 6 for the submission requirements)
- (ii) Experience of Key Personnel
(Refer to Tender Schedule 7 for the submission requirements)

(iii) Organisational Experience

(Refer to Tender Schedule 8 for the submission requirements)

(iv) Risk Management

(Refer Tender Schedule 9 for the submission requirements)

(v) Resource Schedule

(Refer to Tender Schedule 10 for the submission requirements)

(vi) Insurance

(Refer to Tender Schedule 11 for the submission requirements)

The parties acknowledge and agree that:

(A) the Principal will first assess the Non-Price Criteria set out in clause 16(a); and

(B) only if the Tenderer achieves a score of at least 50% in each of the Non-Price Criteria set out in clauses 16(a)(i) to 16(a)(v) inclusive of the Conditions of Tendering, will the Principal assess the Tenderer's Price Criteria set out in clause 16(b).

(b) Price Criteria

Price criteria which includes the following issues shall have a tender evaluation weighting of X%:

(i) Lump Sum Fee (Tender Schedule 2)

(ii) Lump Sum Fee Breakdown (Tender Schedule 3)

(iii) Rates for Variations (Tender Schedule 4)

(iv) Non-Compliances and Qualifications (Tender Schedule 5).

Relevant information provided by the Tenderers in the Tender Schedules and in response to any requests by the Principal will be used to assess tenders.

17 Acceptance and Rejection of Tenders

(a) The Principal is not bound to accept the lowest or any tender.

(b) The Principal may in its absolute discretion accept a Tender that does not conform to all requirements of the Tender Documents.

(c) Unless expressly stated otherwise in writing from the Principal to the successful Tenderer, no tender will be deemed to have been accepted and no contract in respect of the Services will arise between the Tenderer and the Principal and the Tenderer must not perform any of the Services (and will have no entitlement to payment) unless and until the Principal has accepted the Tender at such time and in such manner as the Principal determines in its absolute discretion.

(d) The Principal may also, in its absolute discretion, issue a letter of award in respect of the Services to the successful Tenderer, in which case a contract in respect of the Services will be formed by and when such a letter is issued, with the parties unconditionally bound at that time.

(e) The Principal may terminate the tender process at any time.

(f) The Principal will notify all Tenderers of the termination of the tender process.

(g) The Tenderers' participation in the tender process is at the Tenderer's sole risk, cost and expense. The Principal will not be liable to the Tenderer for any costs, losses, damages or expenses suffered or incurred by the Tenderer arising out of or in connection with the preparation

and submission of its tender, any discussions, enquiries or negotiations undertaken by the Tenderer after its Tender is submitted, the tender process, the termination of the tender process or any act or omission of the Principal in relation to the tender process.

18 Disclosure of Tendering and Contract Information

- (a) Details of a tender and contract awarded as a result of this tender process may be disclosed in accordance with the Government Information (Public Access) Act (NSW) 2009, and the NSW Government Procurement Policy Framework, which are available at <http://www.buy.nsw.gov.au>
- (b) The Tenderer must give a copy of the following statement to each person nominated in its tender as part of the Tenderer's team (or in respect of whom the Tenderer has disclosed personal information to the Principal):

'Privacy and Personal Information Protection Act 1998 - Statement by the Principal (HI)

As part of the tender process, HI may collect from the Tenderer certain personal information about you ("personal information").

HI may use personal information which it collects about you from the Tenderer for the purpose of assessing the tender response, managing and enforcing any resulting agreement with the Tenderer and otherwise for the purpose of its operation of health services throughout New South Wales. HI may disclose such personal information to its advisers and to other persons necessary for the purpose set out above.

Except where precluded by the *Privacy and Personal Information Protection Act 1998*, you can access the personal information HI holds about you by contacting us on (02) 9978 5402. Further information about the way that HI handles personal information is set out in HI's Privacy Statement which can be viewed on our website www.hinfra.health.nsw.gov.au

19 Work Health & Safety Management Systems

- (a) The Principal is committed to providing safe workplaces and environments for all Stakeholders, including the general public, throughout all delivery, maintenance and operational processes for the Project.
- (b) The successful Tenderer will be required to manage work health & safety, as outlined in PS Section 4.

20 Performance

The successful Tenderer's performance will be monitored in accordance with the unsatisfactory performance will be taken into account when considering future opportunities for engagements with NSW Government agencies.

21 Discretion of The Principal

- (a) The Principal reserves the right at any time and on any grounds to:
 - (i) amend the Tender Documents or the Services;
 - (ii) re-advertise for new tenders;
 - (iii) terminate at any time further participation in the process by any or all Tenderers;
 - (iv) amend or terminate the tender process;

- (v) extend the closing date for tenders;
 - (vi) require additional information, clarification or further offers from any Tenderer;
 - (vii) negotiate with one or more Tenderers;
 - (viii) invite one or more Tenderers to make a presentation on any matter to the Principal;
 - (ix) elect not to select any Tenderer as preferred Tenderer;
 - (x) withdraw the invitation to tender; or
 - (xi) take such other action as it considers, in its absolute discretion, appropriate in relation to the tendering process.
- (b) The Principal may, at any time following receipt of tenders, request one or more of the Tenderers to supply any further information or clarification concerning a tender which the Principal considers necessary or desirable.
- (c) The Principal reserves the right to seek clarification, verification and additional information concerning the tender or the Tenderer from third parties and the Tenderer authorises the Principal to do so.

Professional Services (PS) Section 2 – Tender Schedules

Request for Tender

[HI_TC Project]

[HI_TC Tender Name]

RFT No: [HI_TC Tender Ref]



RFT No.	[HI_TC Tender Ref]
Issue Date:	Insert Month and Year
Distribution:	Tenderers
Issued and Authorised by:	PD/SPD Health Infrastructure

Professional Services (PS) Section 2 – Tender Schedules Guidance

Introduction

This Tender Schedules is part of the Request for Tender (RFT) documents for the procurement of Professional Services via e-Tender. The RFT documents consists of the following:

- PS Section 1 – Conditions of Tendering
- PS Section 2 – Tender Schedules
- PS Section 3 – Scope of Services
- PS Section 4 – Conditions of Agreement

This suite of RFT documents is **NOT** suitable for the procurement of

1. Capital Consultants (Project Manager / Architect / Cost Manager) or
2. Engineering Services Consultants (Mechanical / Electrical / Hydraulic / Civil & Structural)
3. Contractors

Guide Notes

Further guidance is provided by the Guide Notes (in bold red upper-case font) to the various sections and paragraphs. Examples are in normal red font.

When completed, delete this User guidance.

Contents/Schedules

1.	Tender Form_____	4
2.	Lump Sum Fee _____	9
3.	Lump Sum Fee Breakdown _____	10
4.	Rates for Variations _____	11
5.	Non-Compliances and Qualifications _____	12
6.	Project Plan _____	13
7.	Experience of Key Personnel _____	14
8.	Organisational Experience _____	15
9.	Risk Management _____	16
10.	Resource Schedule _____	17
11.	Insurance _____	18
12.	Additional Schedule _____	19

The following documents and returnable schedules must be completed and submitted as part of the tender:

Envelope 1 (Non-Price Schedules)

Schedule Number	Schedule Title
1	Tender Form
6	Project Plan
7	Experience of Key Personnel
8	Organisational Experience
9	Risk Management
10	Resource Schedule
11	Insurance
12	Additional Schedule (Delete if not applicable)

Envelope 2 (Price Schedules)

Schedule Number	Schedule Title
2	Lump Sum Fee
3	Lump Sum Fee Breakdown
4	Rates for Variations
5	Non-Compliances and Qualifications

1. Tender Form

Submit in Envelope 1.

1.1 Tenderer's Details

Company Name:

ACN:

ABN:

Address:

Contact Person:

Office Contact No.:

Mobile No.:

Email:

1.2 Tender Details

Agreement Name :

INSERT

Contract Number :

INSERT

Tender Closing Time
and Date:

**2:00PM ON THE DATE SPECIFIED ON THE E-TENDERING
WEBSITE**

in accordance with the following documents:

- PS Section 1 – Conditions of Tendering
- PS Section 2 – Tender Schedules
- PS Section 3 – Scope of Services
- PS Section 4 – Conditions of Agreement

and Addenda Numbers: _____ (Tenderer to Complete)

Offer

To: Health Infrastructure <https://tenders.nsw.gov.au/health/>

EXECUTED as a deed poll on the date set out below

The Tenderer

(ABN) (ACN)

of

..... (Tenderer)

On (date)

1. in accordance with the Conditions of Tendering offers to carry out the Services set out and described in the Tender Documents in strict conformity with the requirements of the Tender Documents for the Fee tendered by the Tenderer.
2. represents that:
 - (a) the Tenderer has examined carefully and has acquired actual knowledge of the contents of the Tender Documents and the other information made available in writing by the Principal to the Tenderer for the purpose of tendering;
 - (b) the information supplied by it in the Tender Schedules and the documents attached to the Tender Schedules are accurate and correct;
 - (c) the Tenderer can and, if selected as the Professional Services provider, will:
 - (i) comply with all insurance obligations set out in the Agreement; and
 - (ii) comply with all occupational health and safety obligations set out in the Agreement;
 - (d) the Tenderer has examined the Principal's statement of business ethics (in PS Section 4 – Conditions of Agreement) and satisfied itself of its capacity to carry out the Tender process and the Services in accordance with the terms and conditions of the statement of business ethics without breaching such terms and conditions;
 - (e) the Tenderer has examined all information relevant to the risks, contingencies and other circumstances having an effect on its tender and which is obtainable by the making of reasonable enquiries including the material contained in the Tender Documents, the material made available for the information of the Tenderer, any technical advice made available the Principal and the terms and conditions of any Approval relevant to the Services;
 - (f) the Tenderer has:
 - (i) examined the Project site and its surroundings, conditions and characteristics;
 - (ii) satisfied itself as to the access to the site, physical restrictions, environmental, health and safety requirements and the requirements for permits, consents and approvals; and
 - (iii) made an appropriate allowance in its tender for any effect thereon;

- (g) the Tenderer has based its tender on its own investigations, determinations and assessment of the risks involved in carrying out the Services and carried out any further investigations necessary to provide adequate information for the purpose of tendering;
- (h) the Tenderer has examined all statutory and regulatory requirements relevant to the Services and satisfied itself of its capacity to execute the Services in accordance with the terms and conditions of the Agreement without breaching any such terms, conditions, requirements, orders, regulations, rules, directions and practices;
- (i) the Tenderer has satisfied itself as to the correctness and sufficiency of its tender for the Services and that its price covers the cost of complying with all of its obligations under the Agreement;
- (j) the Tenderer has examined the Reference Documents and satisfied itself of its capacity to execute the Services in accordance with the Reference Documents and that its lump sum Fee covers the cost of complying with all of its obligations under the Reference Documents; and
- (k) the Tenderer is not the trustee or responsible entity of any trust nor does it hold any property subject to any trust.

3. acknowledges and agrees that:

- (a) any Information Documents made available by the Principal or its servants, agents or consultants to the Tenderer prior to the date of the Agreement is information furnished for the convenience of tenderers and will not form part of the Agreement between the Principal and Professional Services provider;
- (b) the Principal and its servants, agents or consultants will not be liable to the Tenderer, whether under the Agreement or otherwise, for the accuracy or adequacy of any Information Documents;
- (c) the Fee is a fixed lump sum for the performance of the Services and, subject to any Variations directed in accordance with the Agreement, will be the successful Tenderer's only entitlement to payment for the Services notwithstanding that the Tenderer may have calculated the Fee or components thereof by reference to an assumed or quantified number of hours, days or units;
- (d) the Principal makes no representations and assumes no duties of care concerning the Information Documents made available by it; and
- (e) the Principal will be relying on the representations referred to in clause 2 of this tender schedule in assessing the Tenderer's tender and in entering any contract with a successful tenderer.

4. agrees to abide by and hold firm all of the terms and prices in its offer for a period of ninety (90) calendar days from the expiration of the closing date for tenders and these terms and prices will remain binding upon the Tenderer and may be accepted at any time by the Principal before the expiration of that period. The agreement contained in this paragraph is made in consideration of the administrative time and expense to the Principal in evaluating the Tenderer's offer.

EXECUTED as a deed poll

Please select the appropriate execution clause and execute as required

- 1. If the Tenderer is a company, the company must execute this deed poll in accordance with section 127 (1) of the *Corporations Act 2001*:**

EXECUTED by

Company Name (ACN _____)
in accordance with s.127(1) of the *Corporations Act 2001* by being signed by the following persons who are authorised to sign for the company

Director /Secretary

Full name

Director/Secretary

Full name

- 2. If the Tenderer is a proprietary company with a sole director/company secretary the company must execute this deed poll in the following manner in accordance with section 127(1)(c):**

EXECUTED by

Company Name (ACN _____)

In accordance with s.127(1)(c) of the *Corporations Act 2001*.

Sole Director/Company Secretary

Full name

Usual address

- 3. If the Tenderer is an individual:**

SIGNED SEALED AND DELIVERED

by

in the presence of:

Witness

4. If the Tenderer is a partnership the partnership must execute this deed in the following manner:

SIGNED SEALED AND DELIVERED
on behalf of

Firm /Partnership Name

by being signed by the following person/s who are authorised to bind the firm in accordance with sections 5 and 6 of the *Partnership Act 1892*.

Partner # 1

in the presence of:

Witness

Partner # 2

in the presence of:

Witness

2. Lump Sum Fee

Submit in Envelope 2.

2.1 Agreement Details

Agreement Name :

.....

Contract Number :

.....

2.2 Tenderer's Offer: Fee

The Fee, excluding GST is the lump sum of:

.....
[in words]

\$..... (excluding GST)

\$..... (GST)

The Fee, including GST is the lump sum of: \$.....

The Tenderer acknowledges that the engagement for the entire duration of the Project is dependent upon government approval of the Project being obtained. Should the Project not be approved for any reason whatsoever, and without affecting any other right the Principal may have, the Principal may discontinue the engagement.

3. Lump Sum Fee Breakdown

Submit in Envelope 2. GST Exclusive rates.

Milestone	Description	Total \$ Amount (excluding GST)
1.0		
2.0		
3.0		
	Lump Sum Fee (excluding GST)	

DELETE THIS TABLE IF NOT REQUIRED

Milestone	Average number of FTE resources*	Average hourly rate** (excluding GST)
1.0		
2.0		
3.0		
	Lump Sum Fee (excluding GST)	

*average number of FTE resources is calculated as the total minimum hours planned for that Phase, divided by (8 times the number of working days in the program for that Phase).

**average hourly rate is calculated as total cost for the Phase (ex. GST), divided by the total minimum hours planned for that Phase.

The Tenderer:

- (a) represents and warrants that it has allowed in the Fee and the components of the Fee shown in this Lump Sum Fee Breakdown for all costs and expenses it will incur in performing each Milestones of the Services; and
- (b) acknowledges and agrees that it will only be entitled to payment for the Milestones performed by reference to the above Lump Sum Fee Breakdown and if the Services are directed to conclude at the end of a certain Milestone, it will not be entitled to any further monies or to make any other claim against the Principal.

4. Rates for Variations

Submit in Envelope 2.

Supply a list of proposed personnel and rates for Variations. Include rates for both the Tenderer's personnel and, if subconsultant/subcontractor personnel are proposed to be used, rates for subconsultant/ subcontractor personnel.

Rates for salaried staff must include all items/costs such as base salary, payroll tax, holidays, long service leave, workers compensation insurance, company benefits, statutory superannuation, and any other allowances and fringe benefits tax. Weekly rates must allow for at least 8 hrs / day.

Hourly rates must include all costs such as fares, holidays, annual leave loading, sick leave, payroll tax, workers compensation insurance, common law provisions and allowances.

Rates must cover all costs and allowances such as profit, overhead, and margins and shall be exclusive of GST.

Name	Project Role	Rate (excluding GST) (\$/day)	Rate (excluding GST) (\$/hour)
	Partner		
	Director		
	Senior Manager		
	Manager		
	Senior Consultant		
	Consultant		
	Analyst		

THE 7 PROJECT ROLE TYPES NOTED ABOVE ARE BASED ON THE PMS SCHEME (SCM 0005) REQUIREMENTS. IF THIS PROCUREMENT IS NOT BASED ON PMS SCHEME THEN DELETE THESE 7 ROLE TYPES AND LEAVE BLANK.

5. Non-Compliances and Qualifications

Submit in Envelope 2.

The Tenderer is required to submit a conforming offer in accordance with the Tender Documents.

If the Tenderer proposes to include any departures from or qualifications to the Scope of Services, all such departures and/or qualifications must be fully documented in this schedule.

Any departures and/or qualifications not shown in this schedule will not be considered.

Reference (Item and Clause)	Non-Compliance	Reason for Non- Compliance

6. Project Plan

Submit in Envelope 1. (Maximum 10 pages)

Please provide a Project Plan detailing your understanding of the Project scope and Services in the table below.

Understanding of the Project Scope	
Methodology / Approach	
Communication and Consultation	
Approach to coordination with other Consultants	

Please provide a preliminary project programme to demonstrate your ability to complete the project within the specified time-frame.

Insert Gantt chart

7. Experience of Key Personnel

Submit in Envelope 1. **(Maximum 3 pages excluding CVs)**

Please nominate the Key Personnel you are proposing to be available to provide the Services, together with a summary of their skills, qualifications and experience.

Name of proposed key personnel	Skills, qualifications & experience directly related to the specified services	Employer *

*If the person is a sub-contractor, state their employer here. If self-employed, state self-employed.

8. Organisational Experience

Submit in Envelope 1. (Maximum of 5 pages)

Please provide details about the experience your organisation and the nominated personnel have with the delivery of the Services, particularly in relation to comparable projects, limited to past 5 years.

Client Company/Organisation	
Location of Project	
Estimated Value of the Project (\$)	
Contract Period	
General nature and scope of the work and relevance to this Project	
Nominated personnel who were involved and their role on the Project	
Client Name & Title/Position	
Client Contact Telephone Number	
Client Email address	

Repeat table as required.

9. Risk Management

Submit in Envelope 1. (Maximum 2 pages)

Provide a Risk Management Strategy within the area of responsibility, identifying and assessing the key risks and exposures, together with a contingency to mitigate and manage those risks.

Regular reporting of project risks will be maintained throughout the project lifecycle in the following forums:

- Executive Steering Committee (ESC) Reports are prepared monthly by the Project Manager and include a high-level summary of key and high rated risks, to be reported on at ESC meetings.
- Planning and Development Committee (PDC) Reports are prepared monthly by the Project Manager and include a both a high-level summary of key and high rated risks and also the full risk register will be included as an appendix. The Cost Manager will also prepare a supplementary cost report to address key financial risks.
- PRC Reports are prepared quarterly for the HI executive. Reports are prepared through the HI Portal and summarise the high rated risks and any risks with a cost implication.

10. Resource Schedule

Submit in Envelope 1

Provide resource details for each milestone as nominated in Schedule 3 – Price Breakdown

Milestone 1 – Milestone Name		
Resource Name	Position Title	Minimum number of hours

Milestone 2 – Milestone Name		
Resource Name	Position Title	Minimum number of hours

11. Insurance

Submit in Envelope 1

The Tenderer must attach to this schedule a copy of a certificate of currency from its insurance company, not its broker, for each policy of insurance required under the Conditions of Agreement.

12. Additional Schedule

Submit in Envelope 1/2

Text here

Professional Services (PS) Section 3 – Scope of Services

Request for Tender

[HI_TC Project]

[HI_TC Tender Name]

RFT No: [HI_TC Tender Ref]

Note: This document can be customised to suit project requirements or project team can utilise their own Scope of Works document and rename as Section 3

STRICTLY CONFIDENTIAL

RFT No.	[HI_TC Tender Ref]
Issue Date:	Insert Month and Year
Distribution:	Tenderers
Issued and Authorised by:	PD/SPD Health Infrastructure

Professional Services (PS) Section 3 – Scope of Services Guidance

Introduction

This Tender Schedules is part of the Request for Tender (RFT) documents for the procurement of Professional Services via e-Tender. The RFT documents consists of the following:

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- PS Section 2 – Tender Schedules
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- PS Section 4 – Conditions of Agreement

This suite of RFT documents is **NOT** suitable for the procurement of

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3. Contractors

Guide Notes

Further guidance is provided by the Guide Notes (in bold red upper-case font) to the various sections and paragraphs. Examples are in normal red font.

When completed, delete this User guidance.

Contents

1.	Introduction	3
2.	Project Overview	3
3.	Scope of Services	4
3.1.	Services and deliverables	4
3.2.	Programme	4
3.3.	Services requirements	4

1. Introduction

Section 3 details the Scope of Services for the Professional Services provider engaged on the [HI_TC Project].

The Professional Services provider (the Consultant) will deliver and provide the Services in accordance with the FPP, NSW Assurance Process and guidance available on the Knowledge Library including SPPGs, DGNs, Checklists and Templates.

This Section provides an overview of the delivery frameworks under which HI operates.

2. Project Overview

The project overview is summarised in **Table 1** below.

Table 1: Project Information

Project Information	Details
Description of the project	Briefly describe the project.
Local Health District (LHD)	Identify the relevant LHD or Health Entity for the project.
Budget	Provide information available about the project budget and funding sources.
Status	Identify the current status of the project, in terms of the NSW HI project life cycle.
Reference documents	<p>The following reference documents are being provided to the Consultant:</p> <p>[Examples of reference documents being provided e.g. clinical services plan, functional brief, models of care, schedules of accommodation]</p> <p>The Consultant must use these reference documents in accordance with this Section 3.</p> <p>These reference documents may be given, amended or updated during the project.</p> <p>Some Deliverables developed by or contributed to by the Consultant will become additional reference documents during the Services for which the Consultant has been engaged.</p> <p>Some Deliverables developed by or contributed to by the Consultant will supersede previous reference documents.</p> <p>Any additional, updated or amended reference documents shall not give rise to any change in the Services or their scope unless specifically stated in writing by the Principal's Authorised Person.</p>
Information documents	<p>The following information documents are provided to the Consultant:</p> <p>[List of information documents being provided e.g. site investigation reports, traffic studies, surveys]</p> <p>The Consultant must not rely on these information documents, as stated in this Section 3.</p> <p>These information documents may be given, amended or updated during the Project. Additional information documents may be developed and provided to the Consultant during the Project.</p> <p>Any additional, updated or amended information documents shall not give rise to any change in the Services or their scope unless specifically stated in writing by the Principal's Representative.</p>

3. Scope of Services

3.1. Services and deliverables

>>Specify description of requested services and deliverables to be provided by the Consultant in sufficient detail. Specify any specifications / or documents that the Consultant must comply with in providing these Services.

3.2. Programme

The Consultant is to perform the Services in accordance with the following programme, and by the respective Dates for Completion of each milestone:

Table 2: Services Programme

Services Programme		
Milestone	Description	Date for Completion
1.0	>> Add description / deliverable here	

3.3. Services requirements

The Consultant is responsible to the Principal at all times during their engagement in the Project. The Principal's Representative will, on behalf of the Principal, engage and direct the services, responsibilities and duties of the Consultant throughout the Project.

The Consultant will be managed by and report directly to the Principal's Representative and must fully engage with the Principal's Representative in providing professional services consistent with best practice for their area of specialisation.

Without limiting any other requirements set out elsewhere in the Agreement, the Consultant is responsible for the following Services as well:

<p>a) Services Delivery Plan</p> <p>The Consultant must:</p> <ol style="list-style-type: none"> 1. Prepare and submit a Services Delivery Plan for the Services as outlined below, as required under Section 4, and in accordance with the Services Programme above (at Table 2): <ol style="list-style-type: none"> (i) The Services Delivery Plan must be submitted to the Principal by the Consultant no more than four weeks after the date of engagement; (ii) The Service Delivery Plan must include a program and resourcing schedule for the completion of all deliverables for the Service for which the Consultant has been engaged; 2. Update this Services Delivery Plan on account of any change subject to the approval by the Principal. 3. Complete or carry out the Services in accordance with the Services Delivery Plan.
<p>b) Completion Checklists</p> <p>The Consultant must, as a condition precedent to completion of the Services, certify in writing to the Principal that:</p> <ol style="list-style-type: none"> 1. The required Services have been completed; and 2. The Principal's checklists, where relevant, are completed and included in the relevant reports and/or documents compiled.
<p>c) Meetings</p>

<p>The Consultant must:</p> <ol style="list-style-type: none"> attend requested meetings with the Principal regarding performance of the Services; conduct coordination meetings with any subconsultants and/or others who are assisting in providing the Services.
<p>d) Project Reporting and Communication Systems</p> <p>The Consultant must use the Principal's project reporting and communication systems as directed.</p> <p>The Consultant must supply files in a format (either created in or saved as), consistent with the software used by the Principal, to simplify the exchange of files between the Principal and Consultants, the LHD, Stakeholders and where relevant, the Contractor.</p> <p>The Consultant must also use any Project Communication System nominated by the Principal such as Aconex. The Principal will procure such a system if required and provide the Consultant such access and training as to enable use of the system.</p> <p>The Consultant must allow for the use of any online documentation and information management system for the duration of the Project.</p>
<p>e) HI Portal</p> <p>If required by the Principal, the Consultant must use the HI Portal.</p> <p>The HI Portal is used as a singular reference point for all Project information. Each project has a profile within the HI Portal which must be constantly accessed and updated throughout the Project lifecycle to maintain correct and current Project-related information. The Principal will provide the Consultant with access to the HI Portal on the commencement of engagement.</p> <p>The Consultant must use the HI Portal as detailed in this Section, in accordance with the guidance available on the Knowledge Library, or as otherwise necessary to ensure successful completion and documentation of the Project. This includes the accessing of documents, relevant data input and processing, and the upload and amendment of completed Deliverables.</p> <p>The Principal is responsible for the provision of the HI Portal. All system or performance issues or comments should be forwarded to the Principal. The Principal will provide training to the Consultant on the use of the HI Portal upon request.</p>
<p>f) Work Health and Safety Management</p> <p>The Consultant must comply with all relevant Statutory Requirements and Standards, e.g. the <i>Work Health and Safety Act 2011</i> (NSW), the <i>Work Health and Safety Regulation 2017</i> (NSW), and the NSW Government Work Health and Safety Management Systems and Auditing Guidelines (or any legislation amending or superseding these acts).</p> <p>The Consultant must comply with all requirements of, or directions given by, any Principal Contractor (as that term is defined in clause 293 of the <i>Work Health and Safety Regulation 2017</i> (NSW)), or the person with management or control of the site, with respect to work, health and safety issues at the site, including entering any arrangement or agreement with the Principal Contractor or that person. The Principal may direct the Project Manager to comply with any of the requirements in this clause (e), and the Project Manager must promptly comply with any such direction.</p> <p>The Consultant must incorporate the principles of safe design for work from Safe Work Australia Guidance materials into any design process. The Consultant must coordinate with the LHD's WHS team to conduct the necessary risk assessments and facilitate the provision of relevant supporting advice.</p>
<p>g) Infection Prevention and Control</p> <p>The Consultant must consult and coordinate with the LHD's infection prevention and control team and comply with any requirements for infection prevention control, as necessary in carrying out the Services.</p>
<p>h) Communications and Consultation Management</p> <p>The communications and consultation management approach for the Project shall ensure strategic, transparent, professional and proactive strategies are developed and implemented. Communications and consultation activities are required to ensure the Project is informed by engaged stakeholders in order that there is proactive management of expectations and mitigation of relevant risks.</p> <p>The Consultant must work with the Principal and the LHD to support the Project communications and consultation activities to promote a low risk environment during the planning and implementation of the Project.</p> <p>The Consultant must proactively manage engagement of stakeholders associated with their Services to ensure issues are quickly identified and addressed including disruptions to staff, patients and community, and day-to-day operations.</p> <p>The Principal has developed a series of guidance documents including SPPG, DGN, Templates and Checklists to inform and support Project communications and consultation, and the Consultant must use these if applicable (available on the Knowledge Library).</p>

i) Facilities Management

NSW Health may utilise a computerised asset and maintenance management systems such as AFM Online or similar. The computerised asset and maintenance systems capture all relevant asset, maintenance and drawing information and makes it available to local asset managers to support their ongoing activities.

The Consultant must consider, as applicable to the Services, whether the Consultant's deliverables are compatible with upload to the computerised asset and maintenance management system, including data relating to asset and maintenance management of the Works, which includes (without any limitation) as-built building information models, executed drawings, warranties, commissioning certificates, manuals, maintenance requirements, testing and training.

The Consultant must comply with any BIM requirements nominated for the Services by the Principal and the Consultant must consider the data transfer required for input into the facility or building management system utilised by the LHD for the Project.

j) Invoicing

The Consultant shall submit invoices for payment in accordance with the requirements outlined in Section 4.

k) Record Keeping and Data Security

The Principal and the NSW Government retain legal ownership of all deliverables related to the Services provided by the Consultant. All deliverables are considered to be Project Records.

The Consultant is required to ensure that the following record keeping requirements are satisfied:

1. Capture all Project Records, as defined, in the HI Portal or in the Project Communication System;
2. Implement and administer a record keeping system that creates and maintains full and accurate hardcopy and/or electronic records for all Deliverables related to the Services provided by the Consultant in accordance with Standards issued under the *State Records Act 1998* (NSW);
3. Store Project Records created and maintained for services provided in accordance with Standards issued under the *State Records Act 1998* (NSW);
4. Ensure the security of Project Records created and maintained for the Services in accordance with Standards issued under the *State Records Act 1998* (NSW) and the NSW Government Digital Information Security Policy of November 2012;
5. Only dispose of Project Records in accordance with specific instructions by the Principal; and
6. Upon completion, expiry or termination of the Agreement, the Consultant will transfer all Project Records created and maintained for the Services in a format and manner which allows the Project Records to be quickly and easily retrieved, reviewed and utilised by the Principal. This includes maintaining any relationships between the Project Record object and any control tools needed to interpret and understand the object.

l) Quality Assurance

The Consultants shall ensure the quality of all Deliverables relevant to their Services so that they:

1. Meet all applicable statutory requirements;
2. Meet all operational and functional requirements as outlined in any applicable policy, SPPG, DGN, Templates, Checklists and reference documents specified by the Principal; and
3. Meet any procurement strategy and buildability requirements specified by the Principal for the Project.



Form FRM 610A - Tender Evaluation Plan – (Consultants)

TENDER EVALUATION PLAN GUIDANCE

Introduction

The Tender Evaluation Plan sets out how the evaluation is to be conducted. The plan must be prepared and agreed at the latest before tenders are opened. In circumstances where an Interactive Tender Process (refer below for a definition) is followed the Tender Evaluation Plan may need to be agreed earlier.

Prior to the RFT documents are issued, the following must be developed and incorporated into the Conditions of Tendering 1) the Price/Non-Price ratio, 2) the Non-Price criteria and 3) the description of the information to be submitted for assessment by the Tenderers. A weighting for each Non-Price criterion is developed as part of the Tender Evaluation Plan

The Tender Evaluation Plan describes the specific evaluation criteria to be used and the detailed break-up of the Non-Price scores and weightings against the criteria, and provides for probity, fairness and how value for money will be assessed and achieved.

The Tender Evaluation Plan should reproduce the evaluation criteria described in the Conditions of Tendering, relate the information sought from tenderers to each criterion identified, and explain how each criterion will be assessed. It must be explicit about what will be done, how it will be done, when it will be done, and who is responsible for doing it.

DIRECTION TO USERS OF THE TENDER EVALUATION PLAN TEMPLATE

The attached Template is to be used to develop Tender Evaluation Plans for consultant engagements using the Price and Non-Price system..

Where an NSW Government Document, Guideline or Direction is referred to, the reference is to be inferred to be to the latest version of that document.

The **Tender Evaluation Plan Template** is divided into six sections.

1. Introduction:

This contains the details of the contract, the objectives of the TEP, probity arrangements, the timetable in which the evaluation is to be managed and references to related documents.

2. Evaluation Committee:

This section refers to the make-up of the Tender Evaluation Committee, and the roles and responsibilities of the committee members and the Chairperson.

3. Tendering Process:

This section provides details of the various steps through the tendering process from the release of the RFT documents, meetings with Tenderers before and after the close of tenders and actions to be taken under certain circumstances.

4. Tender Evaluation Process:

This section details the methodology in assessing both the Non-Price and Price criteria of the tenders and the process in identifying the Preferred Tenderer.

5. Recommendation and Award:

This section describes the process of developing the Tender Recommendation Report and the Independent Review.

6. Appendices

The appendices contain schedules and details not readily contained in the body of the plan and which can be modified without affecting the content of the document. Where not required they can be discarded.

Methodology

Price and Non-Price Scoring

Where it is intended to evaluate the Tenders on both Price and Non-Price scoring the ratio for Price and Non-Price scoring for the various types of contracts/engagements should be as follows:

- Consultant engagements 30:70 Price: Non-Price

If it is required to adopt a ratio other than the above, approval shall be sought from Director/ED.

Interactive Tender Process

The Interactive Tender Process provides an opportunity for those selected to tender to discuss the development of their tenders with Health Infrastructure ("HI") and associated Ministry of Health clients and to seek clarification and feedback with respect to HI's requirements. The Interactive Tender Process will involve a series of workshops and presentations with the tenderers. Each workshop usually involves both the HI project team representatives and the team from a single tenderer.

Guide Notes

Further guidance is provided by the Guide Notes (in bold red upper case font) to the various sections and paragraphs. Examples are in normal red font. Remove the Guide Notes upon completion of the document.



Health Infrastructure

Tender Evaluation Plan

[HI_TC Project]

[HI_TC Tender Name]

RFT No: [HI_TC Tender Ref]

» /2022»

Issue	Date	Issue to	By

[For review within 3 years of Document Reference Date in footer.]

TENDER EVALUATION PLAN ENDORSEMENT FORM

The Tender Evaluation Committee agrees with and approves the *Tender Evaluation Plan* to evaluate tenders for [HI_TC Tender Name] of [HI_TC Project].

The following persons declare that they have read the Code of Conduct for a Tender Process as attached in Appendix 1 “Code of Conduct for a Tender Process”, and understand what it means and agree to always behave as it directs when performing functions relating to the tender process and other such processes. Any declaration of conflicts are noted below this signature block.

<i>Name / Title</i>	<i>Organisation</i>	<i>Signature</i>	<i>Date</i>
Name: » Position: » Director Email: » Phone:			
Name: [HI_TC Project Director] Position: Project Director Email: » Phone:			
Name: Position: (Chairperson) Email: » Phone:			
Name: » Position: » Email: » Phone:			

Declaration of any Conflicts:

Name	Potential Conflict to be addressed
Name: » Position: » Organisation: »	
Name: » Position: » Organisation: »	

The declaration of any conflict of interest may not exclude the evaluation committee member from the process; however the risk will have to be declared, assessed and managed by the TEC in the context of any evaluations.

If during the Tender Evaluation process there are any further Conflicts of Interest identified, the committee member must complete an additional FRM601A Code of Conduct for a Tender Process and declare the conflict to be resolved, where found appropriate.

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1 INTRODUCTION

1.1 BACKGROUND

This Tender Evaluation Plan (“TEP”) is for the evaluation of tenders for the [] of the [HI_TC Project] project at []. The conditions of contract are []. The pre-tender estimate as at the [] is \$ [HI_TC Tender PTE] excluding GST and the time for completion is [] weeks.

Tenderers were selected and invited from amongst the appropriate service providers listed with HI Procurement arrangements and/or the NSW Government procurement arrangement.

Where a tenderer has been selected based only on their agreement to the Standard Commercial Framework within the PMS Scheme (SCM0005), the requirement of compliance with BAS Standard Commercial Framework will be applicable to them if they are the preferred tenderer.

Tenders will close on the [HI_TC Tender Closing Date].

1.2 PURPOSE

The purpose of this TEP is to ensure that the most suitable Tenderer is selected to deliver the project while achieving the best value for money with the expenditure of public funds and being fair, ethical and transparent in accordance with NSW Government procedures.

The TEP describes:

- Tender Evaluation Committee (“TEC”) composition and responsibilities.
- The Tendering process and the Tender Evaluation process including the Price and Non-Price evaluation criteria and Risk and Merit review.
- The process of Recommendation and award.

1.3 PROBITY ARRANGEMENTS

Risk, confidentiality and probity during the tender process will be managed as follows:

- The Chairperson will be responsible for the management of probity.
- Request for Tender (“RFT”) documents will only be issued to the selected/invited Tenderers;
- The Chairperson shall manage contact with the Tenderers during the tender evaluation period. Any contact will be documented and confirmed in writing.
- The Chairperson will document all meetings with Tenderers which should cover matters to be included in the contract documents. These will be issued as an addendum to all Tenderers subject to the confidential information provisions of this document.
- Members of the TEC are responsible for maintaining the security of the tender documents in their possession. This includes secure storage and accessibility for all tender documents while ensuring that the contents of any tender documents are not disclosed during their performance on the TEC.
- Tenderers’ intellectual property and other confidential information will not be disclosed to other tenderers.
- All members declare that they have read the Code of Conduct for a Tender Process as attached in Appendix 1 “Code of Conduct for a Tender Process”, and understand what it means and agree to always behave as it directs when performing functions relating to the tender process and other such processes. All members of TEC have signed the page 2 of this Tender Evaluation Plan (TEP). Other

members assisting the evaluation process have signed the Appendix 1 of this TEP and placed in the tender file.

- A Probity Plan has been developed, which includes, among other things, the roles and responsibilities of Project Team members and probity and procedural requirements that are to be followed by all Project Team members. Each Project Team member is required to read and follow the Probity Plan. Further, the processes followed are to comply with requirements of the NSW Procurement Policy Framework for NSW Government Agencies and Market Approaches Guide.

1.4 TIMETABLE

The Timetable for the tender evaluation is shown in Appendix - 2.

1.5 RELATED DOCUMENTS

- NSW Procurement Policy Framework for NSW Government Agencies
- Market Approaches Guide
- NSW Procurement Board –Industry Engagement Guide
- Health Infrastructure PRC601 Tender Assessment

1.6 DICTIONARY

Adjusted Tender Amount is the amount that would become the Contract Price/Sum should the Tender be awarded to the Preferred Tenderer. The Adjusted Tender Amount consists of the tender amount (including corrections to Schedule of Rates item amounts); acceptable adjustment to tender amounts for resolution of Qualifications and Departures; and amounts agreed to in writing with the Preferred Tenderer for any changed scope of works.

Alternative Tenders are those that do not fully meet the conditions of tendering but purport to provide a better value for money solution. The alternative tender may be a solution that is consistent with the scope of the outcome sought by the RFT documents but is not the solution anticipated in the RFT.

Assessed Tender Amount is the Tender Amount plus (or minus) the Assessed Values of the Qualifications and Departures, and including any applicable Loadings. This amount is to be used only for comparing tenders during the price assessment stage.

Conditions of Tendering are the rules governing the content and submission of tenders and the conduct of the tendering process.

Conflict of interest is a situation that occurs when an official's private interests may benefit from his or her public actions.

Departures are matters contained in a tender not in accordance with the RFT.

Fairness refers to unbiased, reasonable and even-handed behaviour.

Intellectual property means all rights in copyright, patents, registered and unregistered trademarks, registered designs, trade secrets, and all other rights of intellectual property defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967.

Late tender refers to a tender received after the stated closing date and time.

Preferred Tenderer is the Tenderer identified as providing the best value tender as a result of the tender evaluation process.

Probity means honesty, integrity and uprightness. In the context of a government tender or procurement process, is often used in a general sense to mean a defensible process which is able to withstand internal and external scrutiny – one which achieves both accountability and transparency and provides tenderers with fair and equitable treatment.

Qualifications refers to conditions set by a Tenderer as part of its tender.

Request for Tender (“RFT”) refers to the issuing of an invitation to respond to tender requirements by lodging a tender.

Request for Tender documents are those documents prepared by the party seeking tenders and provided to the Tenderers outlining the invitation and the requirements involved, including the Conditions of Tendering and the proposed Contract Conditions.

Technical specification refers to a detailed description in the RFT documents setting forth the function, performance, material and other specific technical requirements for a proposed building contract, engineering work, IT system or good or service or other work or product.

Tender is a price, bid, offer, quotation, consultant proposal or expression of interest or the like, lodged in response to a Request for Tender.

Tenderer is the entity submitting a tender in response to an RFT.

Tender Opening Committee is a quorum of people who convene to open and process the tenders prior to the evaluation in accordance with agency procedures.

Tender period is the period between the initial issue date or date of availability of the RFT documents and the closing date and time of tenders.

2 EVALUATION COMMITTEE

2.1 MEMBERSHIP

The Tender Evaluation Committee (“TEC”) will comprise of members as listed on TEP Endorsement Form (Page 2) of this document.

2.2 EXPERT ADVICE

The TEC may be advised by experts as appropriate. Expert advisers will be required to sign the Code of Conduct for a Tender Process per FRM601A prior to accessing any tender submissions.

ADVISOR	NAME / ORGANISATION	EMAIL	PHONE
Cost Manager			

2.3 ROLES AND RESPONSIBILITIES

The role and responsibilities of the TEC are as follows:

- To act at all times in an impartial manner and in accordance with Appendix – 1 Code of Conduct for a Tender Process.
- Review and endorse the TEP.
- Ensure that the processes and timetable of the TEP are adhered to.
- Thoroughly review and score all Tenderers’ submissions prior to evaluation meetings.
- Undertake a comparative analysis to identify the merits, concerns, issues, benefits, risks and deficiencies of each Tender including alternative tenders, qualifications, rates, capability and resources against both the tendered price and the pre-tender estimate.
- Communicate with the Tenderers only through the Chairperson.
- Ensure that you have a logon into the file transfer environment (Accellion) to avoid delay in file transfer when tender closes.
- Identify the Tender which provides the best value for money in accordance with the TEP.

2.4 CHAIRPERSON’S RESPONSIBILITIES

The responsibilities of the Chairperson are summarised as follows:

- Develop the draft TEP, including the Non-Price criteria weightings and scoring.
- Ensure that ALL members of the TEC and the relevant Expert Advisors have a logon into the Secure File Transfer environment (Accellion) to avoid delay in file transfer when tender closes.
- Present the draft TEP to the TEC for agreement and endorsement.
- Maintain a schedule of all documentation and correspondence issued to and by the Tenderers.
- Receipt of the tender submissions from TOC
- Ensure distribution of copies of the tender submissions to the TEC.

- Ensure preparation of the Price Assessment (in accordance with sub section 4.2) initial evaluation and distribution to the TEC.
- Coordinate with HI Procurement and liaise for TEC queries.
- Identification and arranging the pricing of qualifications and departures.
- Completion of the draft Merit and Risk Review in accordance with the recommendations of the TEC, and finalisation as applicable.
- Preparation and finalisation of the draft *Tender Recommendation Report* (“TRR”) for endorsement by the TEC.
- Calling of TEC meetings as required in accordance with the TEP.
- Organising, chairing and minuting the meetings with the Tenderers and distributing the meeting minutes to the TEC.
- Secure holding of the tenders and other confidential documents.
- Arranging and attending Tenderer debriefings, if requested.
- Tender negotiations in accordance with sub section 4.10 with the preferred Tenderer.
- Routine or other contact with the Tenderers in accordance with the requirements of sub-Section 1.3 probity arrangements.
- Routine liaison with the Probity Adviser, if engaged.

3 TENDERING PROCESS

3.1 REQUEST FOR TENDER (RFT)

The Request for Tender (“RFT”) documents were issued on [HI_TC Tender Date Advertised]. Tenders were invited from (in alphabetical order):

• TENDERER	• ABN
•	•
•	•
•	•

3.2 MEETINGS BEFORE CLOSE OF TENDER

Prior to the Close of Tenders [HI_TC Tender Closing Date] meetings with Tenderers will be / were held with the TEC as per the details of the RFT documentation.

Interactive Tender Process	For some major projects HI engages in an interactive tender process whereby a managed series of workshops is held to discuss the development of the tenders and provide clarification and feedback in relation to the RFT. This process will be held in accordance with a separate document.
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3.3 RECEIPT AND OPENING OF TENDERS

The Chairperson will submit the endorsed TEP to the TOC in accordance with document HI PRC601 Tender Assessment.

The receipt, opening and registration of tenders will be managed by the Health Infrastructure TOC in accordance with HI procedures for the opening of electronic tender (e-Tendering) submissions. HI staff forming the TOC must have signed the Code of Conduct for a Tender Process (refer Appendix 1 Code Of Conduct For A Tender Process) and cannot be members of the TEC.

Late tenders	Late tenders will be managed according to Section 3.6.4: Late Tenders of the <i>Market Approaches Guide</i> . Late tenders shall be referred to the Procurement Manager for a determination.
---------------------	--

The TOC will check the completeness of both the Non-Price and Price submissions from all Tenderers using the checklist provided by the Chairperson to the TOC (Appendix - 3). Copies of the checklists completed by the TOC will be provided to the TEC.

The TOC will release the Non-Price submissions to the TEC upon receipt of signed TEP. The TOC will also release the Price submissions to the nominated Cost Manager to carry out their comparative analysis (if applicable).

The TOC will retain the Price submissions. The TOC will be responsible for securing the Price submissions.

The TEC will determine whether each tenderer has supplied sufficient information with which to evaluate the tender. Where the information is inadequate it may be prudent to pass over the tender as such a failure demonstrates a lack of commitment and ability.

On completing the Non-Price scoring the Chairperson will provide the TOC with the Non-Price scores. The TOC will release the Price submissions along with the initial price comparison on HI FRM612, and Cost Manager's comparative analysis to the TEC.

3.4 ALTERNATIVE TENDERS

Tenderers may submit alternative tenders with their conforming tender, which may be considered but must meet the scope, functional intent and design concept of the tender documents. A separate submission must be provided for each alternative tender and conform to the Conditions of Tendering. The TEC reserves the right to reject any alternative tender.

4 TENDER EVALUATION PROCESS

4.1 NON-PRICE EVALUATION AND SCORING

4.1.1 Evaluation

The RFT provided for the submission of information in response to detailed requirements in the Conditions of Tendering document. The detailed requirements (*RFT Evaluation Criteria*) are scheduled in Appendix – 4. The detailed requirements are to be submitted by the Tenderers as part of the Non-Price Schedules as described in Appendix – 3.

Following receipt of the Non-Price criteria the Chairperson shall review their content and identify qualifications, clarifications, options and any alternative tenders for consideration by the TEC. **The Non-Price evaluation scores will apply to the complete tender submission including any tender Option(s).**

Omission of a Returnable Tender Schedule required to be submitted at the time of tender or failure to provide sufficient information on a Returnable Tender Schedule may cause a tender to be passed over. Furthermore the TEC may pass over any tender that does not substantially comply with the RFT documents. The TEC must document its reasons for passing over a tender.

The Chairperson may approach the Tenderer to make good the omission subject to the requirements of probity and fairness and any perceived benefits to Health Infrastructure.

TEC members will individually score the Non-Price items of the Tender Schedules submitted by the Tenderers against the criteria shown in the *Tender Evaluation Scoring System* (Appendix - 5).

A maximum score for a criterion will only be given if it fully meets the specific requirements of the criterion. The score will be reduced to the extent of non-conformities, discrepancies, errors, omissions and risk, indicated as follows:

Score	Description
10 Exceptional	Full achievement of the requirements specified in the documentation, for that criterion. Demonstrated strengths, no errors, risks, weaknesses or omissions.
8-9 Superior	Sound achievement of the requirements specified in the documentation, for that criterion. Some minor errors, risks, weaknesses or omissions which may be acceptable as offered.
6-7 Good	Reasonable achievement of the requirements specified in the documentation, for that criterion. Some errors, risks, weaknesses or omissions which can be corrected/overcome with minimum effort.

5 Adequate	Minimal achievement of the requirements specified in the documentation, for that criterion. Some errors, risks, weaknesses or omissions, which are possible to correct/overcome and make acceptable.
1-4 Poor to deficient	No achievement of the requirements specified in the documentation, for that criterion. Existence of numerous errors, risks, weaknesses or omissions, which are difficult to correct or overcome and make acceptable.
0 Unacceptable	Totally deficient and non-compliant.

The TEC will then meet to review the scores and agree on a consensus, which will be entered into – FRM611. (Refer Appendix 5 for example)

Any criterion of a tender submission assessed as “Poor to deficient” or less, will be dealt in accordance with the relevant clause of RFT Conditions of Tendering.

The TEC may seek clarification of any information provided in a tender to assist in the evaluation process. Contact with the tenderers will be through the Chairperson.

The Chairperson will as required organise contact between Tenderers’ referees (where applicable) and the TEC. All approaches and responses will be recorded and the records maintained by the Chairperson. The Chairperson shall develop a Referee Report in accordance with the example described in Appendix – 7.

4.1.2 Scores

The following weightings are applicable to each criterion:

Project Plan (Schedule 6)	■
Experience of Key Personnel (Schedule 7)	■
Organisational Experience (Schedule 8)	■
Risk Management (Schedule 9)	■
Resource Schedule (Schedule 10)	■
Training, Diversity and Aboriginal Participation (Schedule 13)	■
Management Systems (Schedule 11)	Compliance Y/N
Insurance (Schedule 12)	Compliance Y/N
Total	■

The method shown on the *Tender Evaluation Scoring System* spreadsheet shown in Appendix-5 will be used to calculate the overall Non-Price scores for each Tenderer.

4.1.3 Non-Price Criteria Score Clarifications

Clarifications identified in the TEC meeting to enable finalisation of a Non-Price score, should be sought and resolved, prior to release of Price submissions from the TOC. Where this is not practical, the clarification items should be recorded in the FRM611 (Non Price Criteria Comments). Any major unresolved Non Price score items, for tenderers in contention, must be addressed under the Merit and Risk review process (Clause 4.6)

4.2 PRICE ASSESSMENT

Price assessment must be carried out in accordance with Health Infrastructure's procedure PRC 601. Following the determination of the Non-Price scores the Chairperson shall provide the Non-Price scores to the TOC and obtain the Price submissions of the Tenderers in accordance with sub-section 3.3.

A weighting of % will be applied to the Price Criterion.

For each tender the Chairperson shall identify and price all qualifications in accordance with Appendix 6 and shall tabulate and score each Price submission and provide it to the TEC for its assessment. Advice will be sought from the consultant cost planner or other expert advisers, if needed. Unless the TEC is satisfied that the Qualifications/Departures in tenders that are not in contention, do not have a material impact on their ranking, the Qualifications/Departures of all tenderers should be reviewed and assessed. The break-up of the tender prices will be scheduled and compared with the break-up of the pre-tender estimate.

Priced option items included in the tender schedule are to be included as part of the price evaluation.

Qualifications	The Chairperson will assess and adjust the prices in accordance with Health Infrastructure's procedure PRC 601. Where relevant, the value of the tender qualifications and departures must be quantified in order to compare tenders.
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Any adjustments to be applied will be agreed by the TEC members as being fair, reasonable and value for money, so that the Chairperson can then prepare a summary of the Assessed Values of the adjustments on FRM612A.

The Assessed Tender Amount will then be reviewed by the TEC for correctness.

The Chairperson shall score the tenders on a price basis in accordance with Appendix – 5.

4.3 COMBINED SCORE AND CLARIFICATION

When both the Non-Price and Price scores are evaluated in accordance with the processes described in this section of the TEP the Combined Score will then be calculated. See Appendix - 5 and the Summary of the associated Tender Evaluation Scoring System spreadsheet.

On the basis of the combined score analysis, the TEC may nominate the Preferred Tenderer.

Alternatively the TEC may choose to meet with one or more Tenderers in order to clarify aspects of their tenders before nominating the Preferred Tenderer.

4.4 POST TENDER MEETINGS (with Tenderers)

During the Tenderer meetings referred to in sub section 4.3 the TEC may request clarification and additional information from Tenderer(s) regarding various aspects of the proposals in relation to the Price and Non-Price Criteria. Expert advisers may be in attendance at these meetings and may ask questions as required relating to their expertise.

The aim of these meetings will be to:

- Review, clarify and confirm the information provided in the tenders.
- Confirm that the Tenderers understand the scope of the contract, the delivery methodology proposed by the Tenderers is robust, and that their team has the capability to deliver the contract on time, on budget and to project objectives.
- Clarify any contentious amounts in the Price submission.

In accordance with the *Code of Practice for Procurement*, the clarification process will be managed in such a way so as to not give a Tenderer an unfair advantage over other Tenderers by allowing the Tenderer to revise or enhance its original tender

Adjustments to the Non-Price score may only be made for the tenderers in contention, for items specifically identified as requiring clarification in accordance with Clause 4.1.3 of this document. Clear reasons shall be documented for any adjustment to the scores in relation to specific clarifications of the material tendered.

As a result of the meetings the TEC may review its Non-Price scores for the relevant Tenderer(s) and rank tenders again to identify the Preferred Tenderer.

4.5 FAIR TREATMENT OF TENDERERS

Fair treatment of tenders is usually achieved by ensuring that identical correspondence and information is provided to all tenderers, and all tenderers are given the same opportunity to attend meetings and inspections.

After tenders close, clarifications sought from one tenderer may, if seen by another, unfairly disclose or imply the substance of the first tender. Provided the initial assessment does not disclose any need for change in the original RFT documents, which need to be adjusted for all tenderers, clarification of tenders would normally be specific to each tenderer.

Tenders which are substantially non-conforming or which offer substantially higher prices than other acceptable tenders may be passed over and regarded as not being in contention for acceptance.

4.6 MERIT AND RISK REVIEW

A Merit and Risk Review must be undertaken to identify the merits, benefits, concerns, issues, risks and deficiencies against the Non-Price criteria, the tendered price and the expected end cost.

In carrying out the review, particular consideration will be given to the potential risks associated with the following:

- Any criterion with a low Non Price score, or Price variance of over $\pm 15\%$ from the PTE in accordance with PRC601.
- There is a significant risk the Tenderer cannot complete the contract without incurring financial distress or cannot complete the contract within the price submitted
- The Tenderer's price is greater than that budgeted for in the project budget.
- Other matters relating to the Tenderers' ability to resource the contract, management of recent contracts with respect to WHS and any adverse Contractor Performance Reports and Referee Reports are to be taken into account when reviewing the Tenders.
- Consideration will also be given to the merit of any of the qualifications, non-conformities and departures of the Tenderer.

If the outcome of the Merit and Risk Review identifies unacceptable risks associated with the preferred tender the TEC may pass over this tender. Clear justification of any actions under this section will be documented by the Chairperson.

The Chairperson will as required organise contact between Tenderers' referees (where applicable) and the TEC. All approaches and responses will be recorded and the records maintained by the Chairperson. The Chairperson shall develop a Referee Report in accordance with the example described in **Appendix 7**.

4.7 QUALIFICATIONS AND DEPARTURES

The TEC will then agree on the proposed contractual treatment of qualifications and departures of the preferred Tenderer that is, acceptance, rejection or negotiated settlement.

If the TEC intends to accept any of the preferred Tenderer's qualifications or departures and such acceptance would have a material impact on project scope or the project's risk allocation, the Chairperson shall obtain advice and authorisation from senior management in Health Infrastructure.

On this basis the Chairperson will negotiate the removal of unacceptable qualifications or departures with the preferred Tenderer. This may alter the Price score but not the Non-Price score.

A change in the relativities of Tenderers as a result of a negotiated settlement or failure to satisfactorily resolve Qualifications and Departures may result in a review of the decision to negotiate with the Tenderer that was initially the preferred Tenderer (Refer Item 8, Appendix 6).

Any changes to the tender price or rates resulting from the withdrawal or modification of a Tenderer's qualification and departures must be fully justified and explained in the tender evaluation report and recommendation..

4.8 PREFERRED TENDERER

Following completion of all reviews referred to in sub sections 4.3, 4.4, 4.5, 4.6 and 4.7 the TEC will confirm the Preferred Tenderer.

4.9 LACK OF ACCEPTABLE TENDERS

Where there are no acceptable tenders, negotiations may be conducted with the tenderer submitting the least unacceptable tender, or the tender which is closest to conforming with the requirements and provides best value for money (the 'best tender').

Where tenders are ranked by a systematic method, for example, by scoring tender prices and against evaluation criteria, the tender with the best ranking should normally be regarded as the best tender.

If the best tender is not clearly apparent, and unless time constraints dictate otherwise, or more than one contract is to be awarded, negotiations with the first identified tenderer must be exhausted before negotiations with any other tenderer are pursued.

While the aim of negotiations is principally to achieve a reasonably conforming tender, should this not be possible, an acceptable change to the RFT requirements may be negotiated.

Any such negotiation shall be documented in detail as part of the *Tender Recommendation Report*.

4.10 NEGOTIATION OVER PROJECT CHANGES

The TEC may negotiate with the Preferred Tenderer to address budget or scope issues that may have arisen and which may lead to material changes in the project compared to the project as tendered. Any such negotiation will be subject to confirmation that:

- The preferred tender remain value for money;
- The changes will not result in a fundamental change in the nature of the project.
- The original project objectives are substantially being met.
- The Adjusted Tender Amount is within the available funds.

The Chairperson must arrange an estimate of any proposed scope changes prior to entering into negotiations with the Preferred Tenderer to ensure that the negotiations achieve value for money.

Should negotiations fail to achieve an acceptable price for the agreed scope changes the TEC will develop a range of available options including re-tendering. Options should be discussed with the Procurement Manager prior to making recommendation(s) to the relevant Financial Delegate.

Any such negotiation shall be documented in detail as part of the Tender Recommendation Report.

5 RECOMMENDATION AND AWARD

5.1 TENDER RECOMMENDATION REPORT (TRR)

On completion of the TEC's final assessment, the Chairperson will write a draft *Tender Recommendation Report* ("TRR") for review and endorsement by the TEC.

The TRR will provide the basis for the recommendation of the Preferred Tenderer to be awarded the contract to deliver the project. The TRR will demonstrate that the best value for money in the expenditure of public funds is likely to be achieved, and that the tendering process was fair, ethical and transparent.

The Chairperson shall submit the final TRR, including all appendices, for an Independent Review of the TRR as required by sub-section 5.2 Independent Review

5.2 INDEPENDENT REVIEW

An independent review of the Tender Recommendation Report must be done.

"In more complex tender processes that involve unusual circumstances or lead to large contracts, or have risks that require expert attention, an independent expert or expert panel should review the report and process. This would be to check the probity and fairness of the process and the appropriateness of and rationale for the recommendation. The review may identify a need to reconsider and where necessary change the report. The reviewers may ask questions of the evaluation team and either suggest they reconsider matters in the report and the recommendation or support or concur with the recommendation."

The Independent Reviewer will be:

Name: [HI_TC Procurement Owner] Position: Senior Procurement Advisor Organisation: Health Infrastructure	Tel: xxxx xxxx Email: »
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5.3 RECOMMENDATION TO AWARD

Upon the concurrence of the independent reviewer(s), the Chairperson shall submit the TRR for approval to engage the recommended Tenderer, in accordance with HI procedures.

APPENDIX 1 CODE OF CONDUCT FOR A TENDER PROCESS

Introduction

Tender processes should be structured to achieve best value for money in the expenditure of public funds while being fair, ethical and transparent.

In order to achieve outcomes that not only comply with these principles but, importantly, are seen to do so, a variety of people are often involved in a tender process.

This Code is designed to assist these people to behave with probity and fairly, and ensure that service providers (contractors, consultants and others) are selected on the basis of offering best value for money.

Application of the Code

This Code applies to all persons involved in performing functions with the procurement list and prequalification or selection of tenderers or the assessment and acceptance of tenders for service providers engagements and contracts. This includes members of tender evaluation, assessment and review committees, Tenderer Selection Committees, tender opening committees and others handling tenders. It also includes support staff as well as the advisers and decision makers involved. Persons covered by the Code include employees of Government Agencies and other organisations, both government and non-government, and consultants engaged for specific activities associated with tender processes.

The Code is complementary to, not a substitute for provisions of the NSW Procurement Policy Framework or other codes of conduct or ethics with which you may have a responsibility to comply when performing roles and functions.

Personal interests - Declaration and potential conflicts

The need to avoid bias in tender processes cannot be overemphasised. Should you have any potential conflict of interest, such as a personal or financial interest, no matter how remote, in the outcome of the tender process you must immediately declare that interest. If you are chairing a committee or panel on behalf of Health Infrastructure (HI), the declaration should be made to the Senior HI Manager, (or nominated representative), or to the Chair if you are a member of a committee or panel. Depending on the significance of your interest you may be required to take no further part in the tender process concerned, to undertake a reduced role or to continue your involvement with your interest being known to, and managed by, all the others involved.

Use of confidential information

During the tender process you will usually have access to confidential, often commercially sensitive, information. You are only entitled to use that information as part of the tender evaluation or selection process. Use of the information for other purposes may cause harm or provide improper advantage(s), including in areas totally unrelated to the tender process.

Release of confidential information

Information, which you acquire in the course of your involvement in the tender process, must only be released to people entitled to have it in order for them to carry out their functions in the tender process, or under disclosure policy or as may otherwise be required by law. If you are in any doubt as to whether a person is entitled to receive certain information you must first obtain permission from the relevant Senior HI Manager in charge of the tender process, to provide the information.

APPENDIX 2 EVALUATION TIMETABLE

List of activities noted below is for guidance and should be tailored to individual exercise at time of creating the Tender Evaluation Plan.

<i>Populate these two columns as part of the TEP</i>		<i>Populate these two columns as part of the TRR</i>	
<i>Activity</i>	<i>Target Date</i>	<i>Actual Date</i>	<i>Note</i>
Tender Issue	»		
Tenderer Briefings	»		
Tender Close	»		
Receive Non-Price criteria	»		
TEC Meeting No. 1: Non-Price Consensus	»		
Receive Price criteria	»		
TEC Meeting No. 2: Review price	»		
Post Tender Clarifications process completed	»		
TEC Meeting No. 3: Post-Tender Review / Tenderer Presentations *	»		
Tender Recommendation Report ("TRR")	»		
Independent Review	»		
HI Legal Review of draft contract documents (if required)	»		
Submit TRR for approval by relevant Financial Delegate	»		
Contract Award (Deed of Agreement) [REDACTED] [REDACTED]	»		
Issue advice to unsuccessful Tenderers	»		
Debriefing of unsuccessful tenderers	»		

* if Required

APPENDIX 3 TENDER CHECKLIST

	Tenderer 1		Tenderer 2		Tenderer 3		Tenderer 4	
Invited Tenderer's ABN								
Tenderer's ABN on 'Tender Form'								
Tender Submitted								
Addendums Acknowledged	Addendum 1		Addendum 1		Addendum 1		Addendum 1	
	Addendum 2		Addendum 2		Addendum 2		Addendum 2	
	Addendum 3		Addendum 3		Addendum 3		Addendum 3	
	Addendum 4		Addendum 4		Addendum 4		Addendum 4	
Non Price Schedules								
1. TENDER FORM								
6. PROJECT PLAN								
7. EXPERIENCE OF KEY PERSONNEL								
8. ORGANISATIONAL EXPERIENCE								
9. RISK MANAGEMENT								
10. RESOURCE SCHEDULE								
11. MANAGEMENT SYSTEMS								
12. INSURANCE								
13. TRAINING, DIVERSITY AND ABORIGINAL PARTICIPATION								
Price Schedules								
2. LUMP SUM FEE								
3. LUMP SUM FEE BREAKDOWN								
4 RATES FOR VARIATIONS								
5. NON COMPLIANCES AND QUALIFICATIONS								

[HI_TC Tender Ref]
[HI_TC Tender Name]
[HI_TC Project]



TOC Members	Signed	Date

APPENDIX 4 RFT EVALUATION CRITERIA

Category	Tender Schedules (Insert relevant Schedule number)	Description
Project Plan	•	<ul style="list-style-type: none"> • Please provide a Project Plan detailing your understanding of the Project scope and Services for the relevant Parts. •
Experience of Key Personnel	•	<ul style="list-style-type: none"> • Nominate the Key Personnel proposing to be available to provide the Services, together with a summary of their skills, qualifications and experience.
Organisational Experience	•	<ul style="list-style-type: none"> • Provide details about the experience of organisation and the nominated personnel have with the delivery of the Services, particularly in relation to comparable projects, limited to past 5 years.
Risk Management	•	<ul style="list-style-type: none"> • Provide a Risk Management Strategy within the area of responsibility, identifying and assessing the key risks and exposures, together with a contingency to mitigate and manage those risks
Resource Schedule	•	<ul style="list-style-type: none"> • Provide a resource schedule by Part.
Management Systems		<p>Provide information to illustrate the current status of the organisations:</p> <ul style="list-style-type: none"> ○ Quality Management System; ○ Environmental Management System; and • WH&S Management System
Insurance	•	<ul style="list-style-type: none"> • Attach a copy of a certificate of currency from its insurance company, not its broker, for each policy of insurance required under the Conditions of Agreement.
Training, Diversity And Aboriginal Participation	•	<ul style="list-style-type: none"> • Submit a statement outlining the Tenderer's strategy towards Training, Diversity and Aboriginal Participation by project part where relevant at the following levels: <ul style="list-style-type: none"> • Company • Project

APPENDIX 5 TENDER EVALUATION SCORING SYSTEM

The following describes the method of evaluating the tenders, which contain both Price and Non-Price criteria.

The TEC members will individually score each tender for each criterion, based on the scoring framework set out in this TEP at sub section 4.1. The TEC will then reach a consensus on the scores for each RFT Evaluation Criterion. Scores will be recorded for each Tender and each Criterion as shown in the example below.

Non-Price Scoring

The scoring procedure is illustrated in the following example where each criterion is given a value of 0, 1-3, 4-5, 6-7, 8-9 or 10 by each TEC member:

Tender No. 1 – Criteria A

RFT Evaluation Criterion	TEC Member 1	TEC Member 2	TEC Member 3	TEC Member 4	TEC Member 5	TEC Member 6	Consensus
A.	8	9	10	9	8	9	9
B.	9	8	9	8	7	8	9
C.	9	10	9	8	8	9	9

Weighted scores will be calculated by multiplying the consensus score for each criterion by its weighting. The weighted scores will be totalled for each tender. The totals will be normalised so that the normalised highest total equals the maximum weighting for the Non-Price criteria.

The scoring procedure is illustrated in the following example where the normalised highest total equals the weighting of 80 for the Non-Price criteria:

		Tender 1	Tender 2	Tender 3
Total Criterion A, weight 40	Score	9	9	8
	Weighted score	36	36	32
Total Criterion B, weight 25	Score	9	9	8
	Weighted score	22.5	22.5	20
Total Criterion C, weight 15	Score	9	8	8
	Weighted score	13.5	12	12
Total weighted score (maximum 80)		72	70.5	64
Normalised total Non-Price score		$72 \times (80/72)$	$70.5 \times (80/72)$	$64 \times (80/72)$
		80	78.3	71.1

Price Scoring

The Price scoring formula uses the *average* of all the *Assessed Tender Amounts* as the basis of comparison and “normalisation” to make the highest total weighted result equal to the weighting for the price criteria.

Price Scoring	Tender 1	Tender 2	Tender 3
P_c = Assessed Tender Amount of each tender.	\$	\$	\$
P_{av} = average of all Assessed Tender Amounts	\$		
P_s = price score = $200 - \left(\frac{100}{1} \times \frac{P_c}{P_{av}}\right)$			
P_n = normalised Price score $P_n = \frac{P_s}{\text{Highest } P_s} \times \frac{100}{1}$			
P_w = weighted Price score $P_w = P_n \times \frac{\text{percentage weighting}}{100}$			

Total Score

	Tender 1	Tender 2	Tender 3
Total Score is the addition of the normalised total Non-Price score and weighted Price score .			

APPENDIX 6 TENDER EVALUATION – QUALIFICATIONS & DEPARTURES

Qualifications and departures included in a tender should be considered for their affect on **all** tenders. Even if not appearing to be in contention, a tenderer might have found a problem that the other tenderers did not raise and needs resolution. The qualifications included in any tender may identify problems or document discrepancies that need to be resolved for all. This could justify price or other adjustments, or require clarifications from other tenderers. A small qualification missed or not properly clarified before accepting a tender may lead to problems that would have been avoided had the review correctly covered them.

The following describes the method of assessing tenderer’s qualifications and departures.

For those tenderers in contention, a spreadsheet should be developed as shown in the *Worked Example – Qualifications and Departures* below. The qualifications of the apparent lowest tenderer, the highest scoring Tenderer, should be assessed first.

Note: Unless the TEC is satisfied that the Qualifications/Departures in tenders that are not in contention, do not have a material impact on their ranking, the Qualifications/Departures of all tenderers should be reviewed and assessed.

1. Record each qualification and departure on the spreadsheet exactly as stated by the tenderer and enter it in the “Qualification or Departures” column.
2. In the “Assessment of compliance with RFT” column state whether the qualification or departure complies with the RFT documents.
3. If the qualification does not comply, in the “Assessed Value” column enter the estimated cost of making the item comply with the RFT documents. If the qualification does comply with the RFT documents value the qualification at nil.

Note: If the qualifications involve conditions of the contract (eg the tenderer wants its liability to be limited or different insurance conditions) the Chairperson shall seek advice from HI Director Commercial. Where the Chairperson is the Project Director Procurement then the matter shall be initially referred to the HI Director Commercial.

4. Calculate any loading applicable for:
 - Relative administration costs;
 - Local/Country Industry preference;
 - Currency fluctuation; or
 - Relative annual charges associated with maintenance/operation/recurrent costs, and enter them in the cell labelled *Loadings for other matters*.
5. The *Assessed Tender Amount* is calculated by adding to the *Tender Amount* the total of the *Assessed Value* of the qualifications and departures plus the value of any applicable *Loadings for other matters*.
6. For each qualification and departure in the tender of the *Preferred Tenderer* only:
 - in the *Preferred Tenderer’s Response* column enter the action proposed by the *Preferred Tenderer* to resolve the qualification; and
 - in the *Preferred Tenderer’s Adjustment* column enter the agreed adjustment (if any) to the *Tender Amount*.
7. The *Adjusted Tender Amount* is the amount that would become the Contract Price/Sum if the tender was accepted, including:
 - the *Tender Amount*, and

- the *Adjustments* offered by the *Preferred Tenderer* and accepted by the Principal to resolve and the qualifications and departures.
8. If the *Adjusted Tender Amount* of the Preferred Tenderer changes the relativity of the tenders then the next highest scoring tender becomes the Preferred Tenderer and Steps 6 and 7 are repeated to establish the *Adjusted Tender Amount* of that tender.

Worked Example: - Qualifications and Departures

RFT No: HI 24/2008		Contract Title: Hoptown Community Health Centre		Tender Amount \$2,000,000.00		
Name of Tenderer: Alpha Pty Ltd						
No	Qualifications or departures	Assessment of compliance with RFT	Assessed Value \$	Preferred Tenderer's Response	Preferred Tenderer's Adjustment \$	Response by Ministry of Health
1	We reserve right to change sub-contractors without approval	Does not comply	0 00	Tenderer offers to withdraw the qualification at no additional cost	0 00	Withdrawal to be accepted
2	Our tenderer is based on the XYZ a/c condenser in lieu of the specified ABC condenser	Does not comply	10,500 00	Tenderer offers to withdraw the qualification and comply with the specification at an additional cost of \$13,000	13,000 00	Tenderer has provided information demonstrating that the additional price is reasonable Offer to be accepted
3	We have allowed for bitumen paths, not the reinforced concrete paths specified	Does not comply	24,000 00	Tenderer offers to withdraw the qualification at an additional cost of \$32,000	0 00	Ministry of Health accepts the Tenderer's offer for the provision of bitumen paving Offer to withdraw not to be accepted
4	We have assumed that power to the site will be supplied by others	Complies with RFT	0 00	No response required	0 00	
5	We have allowed for the upgrading of the existing electrical distribution boards	Does not comply	-10,000 00	Tenderer offers to withdraw the qualification and comply with the specification for a price reduction of \$8,500	-8,500 00	This work will be carried out under another contract
Tender Amount		\$ 2,000,000 00		Tender Amount \$ 2,000,000 00		
Assessed Adjustments		\$ 24,500 00		Adjustments \$ 4,500 00		
Sub-total		\$ 2,024,000 00		Adjusted Tender Amount \$ 2,004,500.00		
Loadings for other matters		\$				
Assessed Tender Amount		\$ 2,024,000.00				
Tender Evaluation by: Name: John Brown Signature and date: <i>J. Brown</i> 12/10/2007						

Terminology

Assessed Tender Amount: the Tender Amount plus (or minus) the Assessed Values of the qualifications and departures, and including any applicable Loadings (see below). This amount is to be used only for comparing tenders and identifying the preferred tenderer at the initial stage of the priced tender evaluation.

Adjusted Tender Amount: the amount that would become the Contract Price/Sum should the tender be awarded to the Preferred Tenderer. The *Adjusted Tender Amount* consists of:

- Tender Amount (including corrections to Schedule of Rates item amounts);
- Acceptable Adjustment to Tender amounts for resolution of qualifications and departures; and
- Amounts agreed to in writing with the preferred Tenderer for any changed scope of works.

Loadings: used to adjust the total Final Assessed Tender Amount for the purposes of tender comparison. Loadings that may be applicable include those for:

- Relative administration costs;
- Local/country Industry preference;
- Currency fluctuations; and
- Relative annual charges associated with maintenance/operation/recurrent costs where they are evaluation criteria.

Preferred Tenderer: the tenderer identified as providing the best value tender; initially using the *Assessed Tender Amounts* (and other weighted and scored criteria), and confirmed using the *Adjusted Tender Amount*.

Tenderer in Contention is any tenderer/s that has not explicitly been ruled out of consideration.

APPENDIX 7 REFEREES REPORT

TENDERER: _____

No.	Referee	Company	Project Title & Description
1			
2			

3rd Referee to be contacted in event of significantly different referee's reports given. Discrepancies to be noted in Tender Recommendation Report

Scoring System:

Excellent = 5	Very Good = 4	Good = 3	Acceptable = 2	Unsatisfactory = 1	Poor = 0	Not Applicable = NA
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Appraisal Category	Ref 1	Comments	Ref 2	Comments
Were they responsive to Client needs?				
How did they manage stakeholder relationships including consultants?				
Did the work meet project objectives (time, cost and quality)?				
How do you assess the abilities, experience and qualities of their project team?				
Did they provide solutions to project issues?				
How do you assess their management systems eg WH&S, Environmental, Quality, Industrial Relations?				
Were there any performance issues eg unavailability of project team members, claims history?				
What were their reporting systems like? For example were their reports timely, accurate, etc.				
Total Score				
Maximum Possible Score				
Mean Score				
Final % Score				

Reference check performed by: _____ Date: _____

Form FRM 610B- Tender Evaluation Plan up to \$150k

TENDER EVALUATION PLAN GUIDANCE

Introduction

The attached Document can be used as either a TEMPLATE or WORKED EXAMPLE of a Tender Evaluation Plan for a Construction Contract or Consultant Engagement **up to the limit of \$150,000.**

The Tender Evaluation Plan sets out how the evaluation is to be conducted. The plan must be prepared and agreed at the latest before tenders are opened.

At the time of seeking the proposals, if applicable, consider and include:

- 1) the Price/Non-Price ratio,
- 2) the Non-Price criteria and
- 3) the description of the information to be submitted for assessment by the Tenderers.

A weighting for each Non-Price criterion is developed as part of the Tender Evaluation Plan

The Tender Evaluation Plan describes the specific evaluation criteria to be used and the detailed break-up of the Non-Price scores and weightings against the criteria, and provides for probity, fairness and how value for money will be assessed and achieved.

The Tender Evaluation Plan should relate the information sought from tenderers to each criterion identified, and explain how each criterion will be assessed. It must be explicit about what will be done, how it will be done, when it will be done, and who is responsible for doing it.



Health Infrastructure

Tender Evaluation Plan

[HI_TC Project]

[HI_TC Tender Name]

RFT No: [HI_TC Tender Ref]

» **/2023**»

Issue	Date	Issue to	By

[For review within 3 years of Document Reference Date in footer.]

TENDER EVALUATION PLAN ENDORSEMENT FORM

The Tender Evaluation Committee agrees with and approves the *Tender Evaluation Plan* to evaluate tenders for [HI_TC Tender Ref] [HI_TC Tender Name] of [HI_TC Project].

The following persons declare that they have read the Code of Conduct for a Tender Process as attached in Appendix 3 “Code of Conduct for a Tender Process” and understand what it means and agree to always behave as it directs when performing functions relating to the tender process and other such processes. Any declaration of conflicts are noted below this signature block.

Name / Title	Organisation	Signature	Date
Name: [HI_TC Project Director] Position: Project Director Email: » Phone: »			
Name: Position: (Chairperson) Email: » Phone:			
Name: » Position: » Email: » Phone: »			

Tender Opener (Receiving Tender Responses)			
Name / Title	Organisation	Signature	Date
		[To be signed if the Tender Opener is other than HI Procurement]	
Name: » Position: » Email: » Phone: »			

Declaration of any Conflicts:

Name	Potential Conflict to be addressed
Name: » Position: » Organisation: »	
Name: » Position: » Organisation: »	

The declaration of any conflict of interest may not exclude the evaluation committee member from the process; however the risk will have to be declared, assessed and managed by the TEC in the context of any evaluations.

If during the Tender Evaluation process there are any further Conflicts of Interest identified, the committee member must complete an additional FRM601A Code of Conduct for a Tender Process and declare the conflict to be resolved, where found appropriate.

FRM 610B TENDER EVALUATION PLAN up to \$150k

1. Tender Details

	This Tender Evaluation Plan (“TEP”) is for the evaluation of tender for;	
1.	Project:	[HI_TC Tender Name] of [HI_TC Project]
2.	HI Tender No:	[HI_TC Tender Ref]
3.	Estimated Contract Duration:	»
4.	Pre-Tender Estimate	[HI_TC Tender PTE] excluding GST
5.	Tender Method:	»a) Selective (pre-qualified only) OR b) Selective and Invited (includes selected, restricted, pre-registered)
6.	Prequalification / Panel name:	»For e.g.: Consultants in construction, HI EDSS panel etc.
7.	Local Health District:	»
8.	Managing Organisation:	»
9.	Date Tender Advertised:	[HI_TC Tender Date Advertised]
10.	Tender Closing Date:	[HI_TC Tender Closing Date]

2. Evaluation Committee

The Tender Evaluation Committee (“TEC”) will comprise of members as listed on TEP Endorsement Form (Page 2) of this document.:

The TEC may be advised by experts as appropriate. Expert advisers will be required to sign the Code of Conduct for a Tender Process per FRM601A prior to accessing any tender submissions.

Advisor	Name / Organisation	Email	Phone
Cost Manager			

2.1 Roles and Responsibilities

The role and responsibilities of the TEC are as follows:

- To act at all times in an impartial manner and in accordance with Code of Conduct for a Tender Process.
- Review and endorse the TEP.
- Ensure that the processes and timetable of the TEP are adhered to.

- Thoroughly review and score all the Tenderers' submissions prior to evaluation meetings.
- Undertake a comparative analysis to identify the merits, concerns, issues, benefits, risks and deficiencies of each Tender including alternative tenders, qualifications, rates, capability and resources against both the tendered price and the pre-tender estimate.
- Communicate with the Tenderers only through the Chairperson.
- Identify the Tender which provides the best value for money in accordance with the TEP.

2.2 Chairperson's Responsibilities

The responsibilities of the Chairperson are summarised as follows:

- Develop the draft TEP, including the Non-Price criteria weightings and scoring.
- Manage any conflicts of interest through the Code of Conduct directives and liaise with the Procurement Manager to resolve.
- Present the draft TEP to the TEC for agreement and endorsement.
- Maintain a schedule of all documentation and correspondence issued to and by the Tenderers.
- Identify the Tender Opener in accordance with TEP Endorsement Form (Page 2)
- Tender Opener is a person with HI or HI's Project Manager who is not a member of TEC, (i.e. independent of TEC) who is tasked with the receipt of tenders. The Tender Opener will maintain the probity and confidentiality of the tenders received and only share tender information with the TEC as directed by this Tender Evaluation Plan.
- Receipt of the tender submissions from Tender Opener.
- Distribution of copies of the tender submissions to the TEC.
- Preparation of the Price Assessment initial evaluation and distribution to the TEC.
- Identification and arranging the pricing of qualifications and departures.
- Completion of the draft Merit and Risk Review in accordance with the recommendations of the TEC, and finalisation as applicable.
- Draft and finalisation of the Tender Recommendation Report ("TRR") for endorsement by the TEC
- Calling of TEC meetings as required in accordance with the TEP.
- Organising, chairing and minuting the meetings with the Tenderers and distributing the meeting minutes to the TEC.
- Secure holding of the tenders and other confidential documents.
- Arranging and attending Tenderer debriefings, if requested.
- Tender negotiations with the preferred Tenderer.
- Routine liaison with the Probity Adviser, if engaged.

3. Tendering Process

3.1 Request for Tender (RFT)

The Request for Tender ("RFT") documents were issued on [HI_TC Tender Date Advertised]

Tenders were invited from service providers listed in the appropriate prequalification / panel (in alphabetical order):

Tenderer	ABN	Name of Prequalification / Panel

3.2 Meetings before Close of Tender

Prior to the Close of Tenders on [HI_TC Tender Closing Date] meetings with Tenderers will be / were held with the TEC as per the details of the RFT documentation.

3.3 Receipt and Opening of Tenders

The receipt and opening of tenders will be managed by the Tender Opener.

Late tenders	Late tenders will be managed according to Section 3.6.4: Late Tenders of the Market Approaches Guide. Late tenders shall be referred to the Procurement Manager for a determination.
---------------------	--

After closing of tenders, where the TEP involves scoring of both Price and Non-Price criteria, the Tender Opener will release only the Non-Price submissions to the TEC upon receipt of signed TEP. The Tender Opener may release both the Price and Non-Price submissions to the nominated Cost Manager to carry out their comparative analysis (if applicable).

The Tender Opener will retain the Price submissions. The Tender Opener will be responsible for securing the Price submissions.

The TEC will need to determine whether each tenderer has supplied sufficient information with which to evaluate the tender. Where the information is inadequate it may be prudent to pass over the tender as such a failure demonstrates a lack of commitment and ability.

On completing the Non-Price scoring the Chairperson will provide the Tender Opener with the Non-Price scores. The Tender Opener will release the Price submissions to the TEC.

Tenderers may submit alternative tenders with their conforming tender, which may be considered but must meet the scope, functional intent and design concept of the tender documents. A separate submission must be provided for each alternative tender and conform to the Conditions of Tendering. The TEC reserves the right to reject any alternative tender.

4. Tender Evaluation Process

Evaluation Criteria:	Weighting (Out of 100)
Non-Price Evaluation Criteria (Appendix 1)	»%
• Insert Non Price Criteria (e.g.): Understanding of the services)	»%
• Insert Non Price Criteria (e.g.): Experience)	»%
• Insert Non Price Criteria (e.g.): Team)	»%

Price (Appendix 2)	»%
--------------------	----

The method shown on the Tender Evaluation Scoring System spreadsheet shown in Appendix-1 will be used to calculate the overall Non-Price scores for each Tenderer.

Price assessment must be carried out in accordance with Health Infrastructure’s procedure PRC 601. Following the determination of the Non-Price scores the Chairperson shall obtain the Price submissions of the Tenderers.

For each tender the Chairperson shall identify and price all qualifications.

Any adjustments to be applied will be agreed by the TEC members as being fair, reasonable and value for money, so that the Chairperson can then prepare a summary of the Assessed Values of the adjustments.

The Assessed Tender Amount will then be reviewed by the TEC for correctness.

The Chairperson shall score the tenders on a price basis in accordance with Appendix – 2.

When both the Non-Price and Price scores are evaluated in accordance with the processes described in this section of the TEP the Combined Score will then be calculated using a ratio of Price Score to Non-Price. See Appendix – 2. TEC has an option to use FRM612 spreadsheet.

On the basis of the combined score analysis, the TEC may nominate the preferred Tenderer.

Alternatively following a review of the combined scores, the TEC may choose to meet with one or more Tenderers in order to clarify aspects of their tenders before nominating the preferred Tenderer.

5. Recommendation and Award

On completion of the TEC’s final assessment, the Chairperson will write a draft Tender Recommendation Report (“TRR”) report for review and endorsement by the TEC.

The TRR will provide the basis for the recommendation of the Preferred Tenderer to be awarded the contract to deliver the project. The TRR will demonstrate that the best value for money in the expenditure of public funds is likely to be achieved, and that the tendering process was fair, ethical and transparent.

APPENDIX 1 – Non-Price Criteria

Weighted scores will be calculated by multiplying the consensus score for each criterion by its weighting. The weighted scores will be totalled for each tender. The totals will be normalised so that the normalised highest total equals the maximum weighting for the Non-Price criteria.

The scoring procedure is illustrated in the following example where the normalised highest total equals the weighting of 80 for the Non-Price criteria:

		Tender 1	Tender 2	Tender 3
Total Criterion A, weight 40	Score	9	9	8
	Weighted score	36	36	32
Total Criterion B, weight 25	Score	9	9	8
	Weighted score	22.5	22.5	20
Total Criterion C, weight 15	Score	9	8	8
	Weighted score	13.5	12	12
Total weighted score (maximum 80)		72	70.5	64
Normalised total Non-Price score		$72 \times (80/72)$	$70.5 \times (80/72)$	$64 \times (80/72)$
		80	78.3	71.1

Score	Description
10 Exceptional	Full achievement of the requirements specified in the documentation, for that criterion. Demonstrated strengths, no errors, risks, weaknesses or omissions.
8-9 Superior	Sound achievement of the requirements specified in the documentation, for that criterion. Some minor errors, risks, weaknesses or omissions which may be acceptable as offered.
6-7 Good	Reasonable achievement of the requirements specified in the documentation, for that criterion. Some errors, risks, weaknesses or omissions which can be corrected/overcome with minimum effort.
5 Adequate	Minimal achievement of the requirements specified in the documentation, for that criterion. Some errors, risks, weaknesses or omissions, which are possible to correct/overcome and make acceptable.
1-4 Poor to deficient	No achievement of the requirements specified in the documentation, for that criterion. Existence of numerous errors, risks, weaknesses or omissions, which are difficult to correct or overcome and make acceptable.
0 Unacceptable	Totally deficient and non-compliant.

The Tender Evaluation Committee may set aside any tender that scores Poor to Deficient or Unacceptable in any criterion.

Any criterion of a tender submission assessed as “poor to deficient” or less may be such that the TEC agrees that the tender may be passed over prior to the opening of the Price submission.

APPENDIX 2 – Scoring

Price Scoring

The Price scoring formula uses the average of all the Assessed Tender Amounts as the basis of comparison and “normalisation” to make the highest total weighted result equal to the weighting for the price criteria.

Price Scoring	Tender 1	Tender 2	Tender 3
P_c = Assessed Tender Amount of each tender.	\$	\$	\$
P_{av} = average of all Assessed Tender Amounts	\$		
P_s = price score = $200 - \left(\frac{100}{1} \times \frac{P_c}{P_{av}}\right)$			
P_n = normalised Price score $P_n = \frac{P_s}{\text{Highest } P_s} \times \frac{100}{1}$			
P_w = weighted Price score $P_w = P_n \times \frac{\text{percentage weighting}}{100}$			

Total Score

	Tender 1	Tender 2	Tender 3
Total Score is the addition of the normalised total Non-Price score and weighted Price score .			

APPENDIX 3 CODE OF CONDUCT FOR A TENDER PROCESS

Introduction

Tender processes should be structured to achieve best value for money in the expenditure of public funds while being fair, ethical and transparent.

In order to achieve outcomes that not only comply with these principles but, importantly, are seen to do so, a variety of people are often involved in a tender process.

This Code is designed to assist these people to behave with probity and fairly, and ensure that service providers (contractors, consultants and others) are selected on the basis of offering best value for money.

Application of the Code

This Code applies to all persons involved in performing functions with the procurement list and prequalification or selection of tenderers or the assessment and acceptance of tenders for service providers engagements and contracts. This includes members of tender evaluation, assessment and review committees, Tenderer Selection Committees, tender opening committees and others handling tenders. It also includes support staff as well as the advisers and decision makers involved. Persons covered by the Code include employees of Government Agencies and other organisations, both government and non-government, and consultants engaged for specific activities associated with tender processes.

The Code is complementary to, not a substitute for provisions of the NSW Procurement Policy Framework or other codes of conduct or ethics with which you may have a responsibility to comply when performing roles and functions.

Personal interests - Declaration and potential conflicts

The need to avoid bias in tender processes cannot be overemphasised. Should you have any potential conflict of interest, such as a personal or financial interest, no matter how remote, in the outcome of the tender process you must immediately declare that interest. If you are chairing a committee or panel on behalf of Health Infrastructure (HI), the declaration should be made to the Senior HI Manager, (or nominated representative), or to the Chair if you are a member of a committee or panel. Depending on the significance of your interest you may be required to take no further part in the tender process concerned, to undertake a reduced role or to continue your involvement with your interest being known to, and managed by, all the others involved.

Use of confidential information

During the tender process you will usually have access to confidential, often commercially sensitive, information. You are only entitled to use that information as part of the tender evaluation or selection process. Use of the information for other purposes may cause harm or provide improper advantage(s), including in areas totally unrelated to the tender process.

Release of confidential information

Information, which you acquire in the course of your involvement in the tender process, must only be released to people entitled to have it in order for them to carry out their functions in the tender process, or under disclosure policy or as may otherwise be required by law. If you are in any doubt as to whether a person is entitled to receive certain information you must first obtain permission from the relevant Senior HI Manager in charge of the tender process, to provide the information.



Performance Report Template

Prequalified Service Provider Performance Report

Prequalification Scheme: Performance and Management Services

Under the Scheme Rules, all engaging agencies are required to submit a Supplier Performance Report for each engagement where the consultancy services fall into the following types:

- total value of the relevant engagement is more than \$150,000 (excluding GST); or
- the performance of, and the services provided by, the Supplier are considered by the agency to be unsatisfactory.

The reports are due at the completion date of the engagement or whenever a critical aspect of performance is unsatisfactory. For further guidance on the requirement, agencies can refer to the Guidelines for Agencies.

Project Details

Supplier's Organisation Name:	
Supplier's Contact Person:	
Supplier's Contact Phone:	
RFT No.:	
Engagement/Project No.:	
Engagement/Project Name:	
Engagement Description:	
Date Engagement Commenced:	
Date Engagement Completed:	
Total Fee for this engagement (excluding GST):	\$

Assessment

As the client who paid for this service, how well did the SUPPLIER meet your expectations?	N/A	Unsatisfactory	Marginal	Acceptable	Good	Superior
1. Time Management <i>E.g., meeting milestones, resourcing, planning, reporting</i>						
2. Management & Suitability of Personnel <i>E.g., skills, experience, sufficient number, appropriate seniority used</i>						
3. Standard of Service <i>E.g., meeting brief, budget, value for money, no rework, supervision, no over servicing or under servicing</i>						
4. Quality Outcomes <i>E.g., accuracy, usability, and effectiveness of results</i>						
5. Cost <i>Actual cost did not exceed cost estimate without prior agreement</i>						
6. Communications <i>Appropriate level of reporting</i>						
7. Information Technology <i>IT used where appropriate to increase efficiency and reduce costs</i>						
8. Cooperative Relationships <i>E.g., Cooperative approach, commitment, resolving issues</i>						
9. Recommendation for Future Work <i>Would you recommend the Service Provider for similar type of work?</i>	Yes ▶			No ▶		

Additional Comments on the Supplier's Performance

<Comments may be extended on next page>

Signature by Referee *e.g., General Manager, Director, Senior Project Manager*

***Please Note:** Referee Reports must be signed and dated or will not be considered

Name:	
Title:	
Date:	
Tel No.:	
E-mail:	
Signature:	
Mobile No.:	

Please email completed form to:

NSW Health Procurement (Goods & Services)

POLICY STATEMENT

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

SUMMARY OF POLICY REQUIREMENTS

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

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

Goods and Services Procurement

NSW Health agencies are responsible for conducting their own procurements (exception see ICT Procurement) by:

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

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

NSW Health agencies must refer ICT-related procurements outside of whole-of-health or whole-of-government contracts valued at more than \$250,000 to eHealth NSW.¹

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

- where a procurement-connected policy exemption is utilised
- where the goods or services are valued at \$10,000 or less
- to the extent of any inconsistency with a decision of Cabinet or any Cabinet Standing Committee, or

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

- where the NSW Health Chief Procurement Officer has approved an exemption.

NSW Health agencies must use whole-of-government prequalification schemes or procurement lists for obtaining goods or services to which those prequalification schemes or procurement lists apply, if they are mandated by the NSW Procurement Board in the *Approved Procurement Arrangements* ([PBD 2021-04](#)). Limited exceptions and exemptions apply.

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

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

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

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

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

ICT Procurement

When procuring ICT goods and services, NSW Health agencies must:

- use whole-of-health or whole-of-government contracts for ICT procurements of any value,
- where the ICT goods or services are valued at less than \$250,000 and are not available on an existing contract, NSW Health agencies must use SCM0020 - ICT Services Scheme.
- where the ICT goods or services are valued at more than \$250,000 and are not available on a whole-of-health or whole-of-government contract, the procurement must be referred to eHealth (even if these goods or services are available on *SCM0020 - ICT Services Scheme*).

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

REVISION HISTORY

Version	Approved By	Amendment Notes
PD2023_XXX Month 2023	Secretary, NSW Health	Updated to amend professional services requirements in section 5 and incorporate eHealth feedback on ICT procurement requirements.

PD2022_020 June 2022	Secretary, NSW Health	Updated to comply with whole-of-government policy changes, clarify legislative requirements and provide additional guidance for NSW Health agencies.
PD2019_028 July-2019	Deputy Secretary, FSAM and CFO	Updated policy and procedures documents, based on user experience during past six months
PD2018_030 August-2018	Acting Chief Financial Officer and Deputy Secretary FSAM	Updated policy, procedures and risk assessment tool
PD2014_005 March-2014	General Governance, Deputy Director Workplace and Corporate	Addition of new clause 4.3.6 Purchasing from Aboriginal Businesses
PD2013_023 August-2013	Deputy Director General Governance, Workplace and Corporate	Sets the latest procurement policy and Introduces the new Goods and Services Procurement Policy Manual. This policy combined with the new Goods and Services Procurement Policy Manual replaces the Supply Procedures, and the Purchasing and Supply manuals and the following associated Policy Directives and Information Bulletins: PD2005_093, PD2005_146, PD2005_260, PD2007_073 PD2009-021, PD 2009_054, PD 2011_017, IB2006_005 IB2006_009, IB2007_002, IB2007_039, IB2009_008 IB2009_022, IB2010_059, IB2011_016

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1. BACKGROUND

1.1. About this document

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

This Policy Directive applies to all NSW Health agencies.

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

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

1.2. Key definitions

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

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

procurement delegate	means the person who has authority to approve specified procurement activities on behalf of a NSW Health agency.
procurement list	means a list of prequalified suppliers that meet minimum experience and qualification standards to supply certain goods or services, including categories covered by the <i>Enforceable Procurement Provisions Direction</i> .

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

1.3. Legal and legislative framework

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

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

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

2. PROCUREMENT FRAMEWORK

2.1. Procurement governance

2.1.1. HealthShare NSW

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

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

2.1.2. eHealth NSW

When procuring ICT goods and services, NSW Health agencies must:

- use whole-of-health or whole-of-government contracts for ICT procurements of any value,
- where the ICT goods or services are valued at less than \$250,000 and are not available on an existing contract, NSW Health agencies must use SCM0020 - ICT Services Scheme.
- where the ICT goods or services are valued at more than \$250,000 and are not available on a whole-of-health or whole-of-government contract, the procurement must be referred to eHealth (even if these goods or services are available on *SCM0020 - ICT Services Scheme*).

For ICT-related procurements valued above \$250,000 eHealth NSW will endorse the:

- Procurement Plan
- Evaluation Plan, and
- Evaluation Report.

Where required, eHealth NSW will provide procurement guidance to NSW Health agencies.

eHealth NSW will approve the Procurement Plan, Evaluation Plan and Evaluation Report for a policy compliant procurement process that is undertaken within eHealth NSW.

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

Where a NSW Health agency does not follow advice provided by eHealth NSW or HealthShare NSW, the NSW Health Chief Procurement Officer must approve an exemption for the agency to proceed contrary to this advice.

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

2.1.3. Health Infrastructure

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

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

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

provided that Health Infrastructure also:

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

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

2.2. Enforceable procurement provisions

The *Enforceable Procurement Provisions Direction* ([PBD 2019-05](#)) (**EPP Direction**) define requirements for procurements conducted by certain government agencies.

Government agencies listed in Schedule 1 of the EPP Direction are required to comply with the enforceable procurement provisions when conducting covered procurements. The Ministry of Health is the only NSW Health agency listed in Schedule 1 of the EPP Direction and therefore the only NSW Health agency required to comply with the EPP Direction.

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

- on behalf of the Ministry of Health, or any other listed government agency
- that is valued at more than the relevant procurement threshold
- where there are no exemptions applicable to the procurement.

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

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

- an open approach to market
- a procurement panel established by an open approach to market, or
- a procurement list established under the board direction.

ICT Services Scheme

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

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

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

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

3. EFFECTIVE PROCUREMENT, PROBITY AND FAIRNESS

3.1. Ethical and professional conduct

The probity principles of 'fairness', 'impartiality', 'accountability', 'transparency' and 'value for money' must govern procurement decision-making by NSW Health agencies.

The following policy directives must be complied with:

- NSW Health Policy Directive *Code of Conduct* ([PD2015 049](#))
- NSW Health Policy Directive *Conflicts of Interest and Gifts and Benefits* ([PD2015 045](#)).

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

In addition to the requirements of the NSW Health Policy Directive *Conflicts of Interest and Gifts and Benefits Policy* ([PD2015 045](#)), for level 2 and level 3 procurements, each person

involved in the procurement process must complete the *Confidentiality and Conflict of Interest Undertaking* before any involvement in the procurement.

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

3.2. Supplier Code of Conduct

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

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

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

4. GETTING STARTED

4.1. Identify business need

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

4.2. Align with the NSW Health Asset Management Framework

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

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

4.3. Consider sustainability and resource efficiency

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

4.4. Calculate estimated contract value

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

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

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

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

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

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

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

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

4.6. Check for procurement-connected policy exemptions and preferences

The [NSW Government Procurement Policy Framework](#) provides for procurement-connected policy exemptions and preferences.

These include policy exemptions and preferences for Aboriginal businesses, small or medium enterprise and regional suppliers, Australian disability enterprises, ICT/Digital small or medium enterprises and social enterprises, and apply for procurements up to specified dollar values (for example, up to \$250,000 for Aboriginal businesses and up to \$150,000 for small or medium enterprise and regional suppliers).

When utilising these procurement-connected policy exemptions, NSW Health agencies must:

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

In addition to the steps above:

- for procurements valued at more than \$250,000 for Australian disability enterprises, NSW Health agencies must also obtain approval by the NSW Health Chief Procurement Officer to use this exemption

- For professional services engagements, NSW Health agencies must also use the relevant schemes listed at 5.2.2

NSW Health agencies are to consider procuring from certain suppliers for relevant procurements. For example, NSW Health agencies must first consider purchasing from a small or medium enterprise, for procurements valued at up to \$3 million, whenever procurement policies allow agencies to buy directly from one supplier.

5. USING EXISTING PROCUREMENT ARRANGEMENTS

5.1. Whole-of-government and whole-of-health contracts

NSW Health agencies must use whole-of-government or whole-of-health contracts for obtaining goods or services to which those contracts apply in accordance with the *Approved Procurement Arrangements* ([PBD 2021-04](#)).

Limited exceptions and exemptions apply, including:

- where a procurement-connected policy exemption is utilised (see section 4.6)
- where the goods or services are valued at \$10,000 or less (see section 4.5)
- to the extent of any inconsistency with a decision of Cabinet or any Cabinet Standing Committee (see section 8.4)
- where the NSW Health Chief Procurement Officer has approved an exemption (see section 8.9).

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

NSW Health agencies must use the whole-of-government prequalification schemes or procurement lists mandated by the NSW Procurement Board in the *Approved Procurement Arrangements* ([PBD 2021-04](#)) for obtaining goods or services to which those prequalification schemes or procurement lists apply. Limited exceptions and exemptions apply.

5.2.1. Minimum levels of competition

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

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

- for goods or services valued at \$10,000 or less, no written quote is required
- for goods or services valued more than \$10,000 and less than or equal to \$250,000, at least one written quote must be obtained

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- for goods or services valued at more than \$250,000, at least three written quotes must be obtained.

5.2.2. Procurement of Professional Services

When procuring professional services (including ICT and construction related services), NSW Health agencies must take the following steps:

- The use of relevant prequalification schemes is mandatory for professional services engagements of any value. These schemes include:
 - SCM0005 – Performance and Management Services
 - SCM0020 – ICT Services Scheme
 - SCM1191 – Consultants in Construction up to \$9 million
 - SCM10611 – Consultants in Construction above \$9 million
- The NSW Health Secretary must approve any engagement with PriceWaterhouse Coopers or Scyne Advisory of any value.
- The Chief Procurement Officer must approve all professional services engagements valued at or over \$30,000.
- All contract extensions and variations to professional services engagements must also be approved by the Chief Procurement Officer.
- Prior to finalising each engagement, the contract manager must undertake a formal post engagement evaluation.
- All documents related to the engagement, including Chief Procurement Officer approval, approach to market documents, contracts, milestone reporting and a post engagement evaluation must be saved on PROcure, or the NSW Health Professional Services VMS, as directed for each entity by the Chief Procurement Officer.
- Engagements valued at \$150,000 (incl. GST) or above must be disclosed on eTendering, in line with *Government Information (Public Access) Act 2009* (GIPA Act) requirements.

When seeking Chief Procurement Officer approval to proceed with a professional services engagement, NSW Health agencies must:

- justify why the work cannot be undertaken by the entities' existing staff
- undertake a business needs analysis
- indicate the source of funding and
- indicate the commitment of the contracting delegate to ensure that the successful supplier signs the Supplier Code of Conduct

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

A copy of the Supplier Code of Conduct *must* be included with all sourcing documents. Further, successful suppliers *must* sign a copy of the Code prior to commencing work.

5.2.3. ICT Goods and Services Procurement

When procuring ICT goods and services, NSW Health agencies must:

- use whole-of-health or whole-of-government contracts for ICT procurements of any value where available under contract,
- where the ICT goods or services are valued at less than \$250,000 and are not available on an existing contract, NSW Health agencies must use SCM0020 - ICT Services Scheme where goods and services are available.
- where the ICT goods or services are valued at more than \$250,000 and are not available on a whole-of-health or whole-of-government contract, the procurement must be referred to eHealth (even if these goods or services are available on *SCM0020 - ICT Services Scheme*).
- For ICT-related procurements valued above \$250,000 and under \$30 million, eHealth NSW will endorse the:
 - Procurement Plan
 - Evaluation Plan, and
 - Evaluation Report.

Where required, eHealth NSW will provide procurement guidance to NSW Health agencies. Where a NSW Health agency does not follow advice provided by eHealth NSW the NSW Health Chief Procurement Officer must approve an exemption for the agency to proceed contrary to this advice.

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

The NSW Procurement Board has mandated that NSW Government agencies use the ICT Services Scheme for all applicable procurements in the *Approved Procurement Arrangements* ([PBD 2021-04](#)). However, if a whole-of-government contract for supply of specific ICT goods or services exists (for example, Microsoft, Oracle or end-user devices) then ICT buyers must use those whole-of-government contracts in accordance with the *Approved Procurement Arrangements* ([PBD 2021-04](#)).

For engagements under the ICT Services Scheme (except for ICT consulting and telecommunications (see below), NSW Health agencies must:

- for engagements valued up to or equal to \$250,000, obtain one written quote, or
- for engagements valued at more than \$250,000, all Health agencies must seek support from eHealth NSW before proceeding with the procurement.

In all cases NSW Health agencies must use the ICT Purchasing Framework form of contract or seek an exemption from the Department of Customer Services..

ICT consulting commercial framework

The ICT Services Scheme ([SCM0020](#)) includes an ICT consulting commercial framework which applies to ICT consulting engagements. Where the engagement is for ICT consulting services valued over \$30,000, approval of the Chief Procurement Officer must be sought prior to undertaking the engagement.

For engagements that comply with the ICT consulting commercial framework, follow the standard process for engagements under the ICT Services Scheme. Where the engagement exceeds \$250,000, the matter must be referred to eHealth for support.

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

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

Procurement of telecommunications

Telecommunications goods and services valued at more than \$100,000 must be purchased using existing panels and contracts. NSW Health agencies must, when purchasing using this contract:

- purchase the lowest price offer, or
- obtain at least three quotes and conduct a value for money assessment.

6. OUTSIDE EXISTING PROCUREMENT ARRANGEMENTS

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

6.1. Steps to commence procurements

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

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

Estimated contract value	Steps
\$5,000 or less	No written quote required and use a PCard (if permitted).
Less than \$10,000	No written quote required.
\$10,000 to \$30,000	Obtain one written quote.

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

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

When procuring ICT goods and services, NSW Health agencies must:

- use whole-of-health or whole-of-government contracts for ICT procurements of any value,
- where the ICT goods or services are valued at less than \$250,000 and are not available on an existing contract, NSW Health agencies must SCM0020 - ICT Services Scheme where goods and services are available.

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

For procurements valued at more than \$30,000, NSW Health agencies must complete the [Risk Assessment Tool](#). This tool uses the value and level of risk of the procurement to determine a procurement level of either level 1, level 2 or level 3.

Procurements valued at \$250,000 or less

NSW Health agencies are responsible for conducting their own procurements valued at \$250,000 or less.

Procurements valued at more than \$250,000

For procurements valued at more than \$250,000, NSW Health agencies must refer procurements to:

- HealthShare NSW (all procurement except ICT-related procurements)
- eHealth NSW (ICT-related procurements).²

Procurements valued at \$30 million or more

In addition to the requirements for procurements valued at more than \$250,000, the following additional requirements apply to procurements valued at \$30 million or more:

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

Procurements to establish or renew a whole-of-government or whole-of-health contract

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

² This does not apply to the Ministry of Health or Health Professional Councils Authority, which may conduct procurements (except ICT-related procurements) valued at more than \$250,000 on their own behalf. This does not apply to Health Infrastructure (refer to section 2.1.3).

These procurements must follow the process for level 3 procurements.

When establishing or renewing a whole-of-government or whole-of-health contract, HealthShare NSW or eHealth NSW:

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

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

6.2. Prepare Procurement Plan

For level 2 and level 3 procurements valued at over \$250,000, a Procurement Plan must be prepared.

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

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

6.3. Check if Gateway Review Process applies

Certain capital, ICT and major recurrent projects must be registered with the relevant Gateway coordination agency as summarised in the table below:

Estimated contract value	Project type	Gateway coordination agency
≥\$5 million	ICT	Department of Customer Service
≥\$10 million	Capital	Infrastructure NSW
≥\$100 million over 4 years, or ≥\$50 million pa	Major recurrent	NSW Treasury

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

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

Procurement method	Mandatory requirements
Open approach to market	Must use an open approach to market for level 2 procurements valued at more than \$250,000 and level 3 procurements of any value unless a procurement-connected policy exemption applies or the NSW Health Chief Procurement Officer approves an exemption.
Limited approach to market	When using a limited approach to market for level 1 or level 2 procurements valued at \$250,000 or less, NSW Health agencies must obtain a minimum of three quotes unless a procurement-connected policy exemption applies or the NSW Health Chief Procurement Officer approves an exemption.

Procurement method	Mandatory requirements
	Level 2 procurements valued at more than \$250,000 and level 3 procurements, must not use a limited approach to market, unless a procurement-connected policy exemption applies or the NSW Health Chief Procurement Officer approves an exemption.
Direct source and negotiation	NSW Health agencies must obtain an exemption from the NSW Health Chief Procurement Officer before directly sourcing from a supplier, unless a procurement-connected policy exemption applies.

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

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

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

6.5. Consider modern slavery risks

For level 2 and level 3 procurements, NSW Health agencies must conduct a modern slavery risk assessment at the start of the procurement process to identify and understand any modern slavery risks.

The procurement plan must record the outcome of the risk assessment and, if there are high modern slavery risks, identify the risk management actions that will be applied in the procurement process.

6.6. Obtain financial approval

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

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

6.7. Prepare approach to market documentation

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

- a description of the procurement including the nature, scope and quantity (or estimate) of the goods or services being procured
- an explanation of the procurement process that will be followed (e.g. whether there will be a multi-staged process)
- any dates or the period within which the goods or services are to be delivered, or the duration of the proposed contract

- any mandatory criteria or conditions of participation of suppliers, including any specific documents or certifications
- the NSW Health agency's contact details for clarifications or enquiries
- time and date of any supplier briefings (if used)
- time and date that responses are due, and how to lodge the response (e.g. return email or upload to [NSW eTendering](#))
- the evaluation criteria to be used in assessing submissions
- any other terms or conditions relevant to the evaluation of submissions.

If a NSW Health agency is conducting a covered procurement (see section 2.2), approach to market documentation must also include the evaluation criteria to be used in assessing submissions and, if applicable to the evaluation, the relative importance of those criteria.

Formulate any mandatory criteria requirements

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

Decide on evaluation criteria

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

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

NSW Health agencies must include specified evaluation criteria for certain procurements to meet the requirements of procurement connected policies. For example, small and medium enterprises and sustainability criteria apply for procurements valued at more than \$3 million.

NSW Health agencies must not have a mandatory criteria which requires suppliers to have experience in providing goods and services to the NSW Government or any NSW Government agency, including NSW Health agencies, without an exemption from the NSW Health Chief Procurement Officer (see section 8.9).

Include procurement-connected policy requirements

NSW Health agencies must comply with procurement-connected policies, including:

- [Small and Medium Enterprise and Regional Procurement Policy](#)
- [ICT/Digital SME Procurement Commitments](#)
- [Aboriginal Procurement Policy](#)

- [Small Business Shorter Payment Terms Policy](#)
- [NSW Government Resource Efficiency Policy](#).

For example, Aboriginal participation requirements apply for contracts valued at \$7.5 million or more.

Provide minimum time limits

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

For covered procurements, minimum time periods must be assessed against the *Enforceable Procurement Provisions Direction (PBD 2019-05)* which may require minimum time limits of 10 or 25 calendar days depending on factors such as whether the procurement was published in the NSW Health Annual Procurement Plan.

6.8. Prepare evaluation plan

Level 2 and level 3 procurements must prepare an Evaluation Plan.

6.9. Prepare proposed contract

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

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

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

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

6.9.1. ICT-related contracts

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

The ICT Purchasing Framework comprises the:

- Core& contracts
- MICTA/ICTA contracting framework.

Level 2 and level 3 procurements assessed as medium to high risk or valued at \$1 million or more must use the MICTA/ICTA contract templates. The MICTA/ICTA contracting framework is mandated for use by NSW government agencies for all new procurements on and after 1

September 2021. A new procurement does not include a contract extension which is permitted under the terms of an existing contract.

6.9.2. Human Services contracts

All procurement levels (level 1, level 2 and level 3) must use the prescribed template contract, the NSW Government Human Services Agreement when procuring human services from a non-government agency.

6.10. Obtain approval of Evaluation Plan

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

6.11. Obtain approval to commence procurement

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

6.12. Release approach to market documentation

Depending on the approach to market, NSW Health agencies must give advance notice of a procurement opportunity to all potential suppliers, at the same time, to ensure equal access of opportunity.

NSW Health agencies must publish all open approaches to market (such as requests for tender) electronically on [NSW eTendering](#).

6.13. Conduct approach to market process

The approach to market process must be conducted in accordance with the information provided to suppliers in the approach to market documentation, and the requirements in sections 6.13 to 6.18 must be read in that context. Any changes to the approach to market process must be notified to the procurement delegate.

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

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

In responding to clarification questions, NSW Health agencies:

- must answer by way of approach to market addenda issued to all prospective suppliers via [NSW eTendering](#) (or alternative means if NSW eTendering is not used) if the response is intended to change the approach to market documentation
- must not give information that may give a potential supplier an unfair advantage

- must not discuss or disclose any other potential supplier's confidential or commercial information.

NSW Health agencies must receive responses through [NSW eTendering](#) if the approach to market was published on NSW eTendering.

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

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

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

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

6.14. Evaluate responses and select suppliers

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

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

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

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

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

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

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

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

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

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

Where the procurement is for ICT related goods and services valued at over \$250,000, the Evaluation Report must be endorsed by eHealth.

6.15. Obtain approvals to award contract

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

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

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

6.16. Award contract

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

Issue and execute contract

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

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

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

Disclose contract on NSW eTendering and PROcure

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

- disclose all contracts valued at \$150,000 (incl. GST) or more on [NSW eTendering](#) within 45 working days of becoming effective
- save all contracts valued at \$150,000 (incl. GST) or more, and associated documents on [PROcure](#) or, for whole-of-health contracts, on [Portt Discover](#).

6.17. Notify and debrief unsuccessful suppliers

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

Debriefs must not:

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

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

6.18. Keep records and identify benefits and lessons learnt

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

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

7. CONTRACT MANAGEMENT

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

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

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

7.2. Managing contracts established using existing procurement arrangements

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

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

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

- The engagement must be saved into a whole-of-health system, as prescribed by the Chief Procurement Officer.

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- All documents relating to the procurement must be kept within this system.
 - Achievement of milestones and payments must be recorded.
 - A formal post-engagement evaluation must be undertaken and saved in the system.

7.3. Managing contracts established outside existing procurement arrangements

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

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

7.3.1. Contract set-up

NSW Health agencies must work with HealthShare NSW or eHealth NSW when implementing whole-of-government or whole-of-health contracts at the agency level.

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

- confirm all contractual documents have been received and properly executed
- review and record the expected outcomes of the contract, including contract terms and requirements
- confirm benefits delivered through the sourcing activity and any ongoing activities to ensure full benefits realisation over the life of the contract
- ensure the contract (if valued at \$150,000 (incl. GST) or more) is registered on [PROcure](#) or [Portt Discover](#) as appropriate and that relevant documents are uploaded to the relevant system
- ensure all records are saved to the contract owner's record management system and passed over to the contract management agency (if not the same agency).

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

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

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

- Tactical
- Emerging
- Legacy

- Strategic.

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

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

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

7.3.2. Administer contract

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

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

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

- must comply with the variation regime of the contract
- must not use an extension option to avoid complying with the *Enforceable Procurement Provisions Direction* ([PBD 2019-05](#))
- must seek legal advice prior to agreeing to material variations from the NSW Health agency's local legal team (if the agency has a local legal team) and/or the [NSW Government Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate)
- must keep relevant records related to the contract variation
- must obtain appropriate approval for the variations from the contracting delegate
- must obtain appropriate approvals for the variations from the financial delegate
- must obtain NSW Health Chief Procurement Officer approval to vary the contract if the total tenure will be more than five years, or to extend contracts whose contract terms exceeds five years, on the basis that exceptional circumstances apply
- must obtain NSW Health Chief Procurement Officer approval for variations or extensions of any value for professional services engagements.
- must obtain approval from the NSW Health Chief Procurement Officer if the proposed variation is outside the scope of the original statement of work.

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

- confirmation that the suggested variations are within the scope of the contract's statement of work
- expected benefits to NSW Health or the NSW Health agency directly arising from the prospective variations

- any likely detrimental effects from accepting the variations (for example, additional cost to NSW Health).

NSW Health agencies must record contract variations on [PROcure](#) or [Portt Discover](#), and, for contracts valued at more than \$150,000 (inc. GST), disclose them on [NSW eTendering](#) if there is a material change to the contract term or price.

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

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

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

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

7.3.3. Monitor contract

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

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

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

If the supplier is in breach of their obligations and a NSW Health agency is considering invoking dispute resolution mechanisms (e.g. to issue a formal notice of dispute or to commence third party mediation), NSW Health agencies must seek legal advice before proceeding by contacting the local legal team (if the agency has a local legal team) and/or seeking external legal expertise from the [NSW Government Legal Services Panel](#) or the [Regional and Rural Legal Services Panel](#) (as appropriate).

NSW Health agencies must comply with Policy Directive *Significant Legal Matters and Management of Legal Services* ([PD2017 003](#)), including complying with requirements to notify the Ministry of Health General Counsel if a significant legal matter arises.

Manage financial administration and track expenditure

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

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

- obtain approval from the financial delegate for the increased contract spend

- update [PROcure](#) and the GIPA contract register on [NSW eTendering](#) if the contract is valued at \$150,000 (incl. GST) or more.

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

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

Continuously monitor and manage risks

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

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

7.3.4. Manage and monitor supplier performance and relationship

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

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

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

Any ongoing risks or issues that arise with a supplier contracted using the ICT Procurement Framework where a formal dispute may arise must be escalated to eHealth for their advice and support.

Contracts valued at \$3 million or more may have supplier and/or agency reporting requirements arising from procurement-connected policies. For these contracts, NSW Health agencies must check for procurement-connected policy reporting requirements.

Any incident of modern slavery identified in a NSW Health supplier's supply chain must be reported to the NSW Chief Procurement Officer.

7.3.5. Close contract

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

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

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

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

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

NSW Health agencies must check that any end-of-contract procurement-connected reporting requirements are met.

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

These records must cover:

- contract planning documents
- sourcing documents including the request for quotation or request for tender, clarifications, supplier responses, Evaluation Report and any supporting documentation
- conflict of interest declarations and any other probity-related documentation
- signed and executed contracts and variations
- performance management records and supplier reports
- financial records and reconciliation of contract expenditure
- post-engagement evaluations for professional services engagements.

8. OTHER RELEVANT CONSIDERATIONS

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

8.1. Legal

NSW Health agencies must comply with Policy Directive *Significant Legal Matters and Management of Legal Services* ([PD2017 003](#)), including complying with requirements to notify the Ministry of Health General Counsel when a significant legal matter arises.

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

8.2. Unsolicited proposals

All unsolicited proposals must be referred to the Department of Premier and Cabinet for assessment and ongoing liaison. Such proposals must not be used as a substitute for routine competitive procurement actions.

8.3. Public-private partnership arrangements

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

8.4. Procurements approved by Cabinet or a Cabinet Standing Committee

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

If the procurement is covered by the *Enforceable Procurement Provisions Direction (PBD 2019-05)*, the NSW Health agency must comply with the enforceable procurement provisions when undertaking the procurement.

8.5. Emergency procurements

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

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

Written confirmation of the emergency procurement approval must be arranged as soon as practicable following the emergency procurement, if it cannot be provided beforehand. Where an emergency procurement is authorised, the NSW Health Chief Procurement Officer must be notified as soon as possible. NSW Health agencies must not procure goods or services in excess of those necessary to meet the immediate needs of the emergency.

8.6. Foreign exchange risks

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

- buy or sell, or intend to buy or sell, goods or services in foreign currency

- buy or sell, or intend to buy or sell, goods that are ultimately sourced from overseas or foreign companies/suppliers
- have actual or budgeted income, expenses, assets or liabilities that are affected by changes in the value of foreign currencies.

Any procurements valued at \$500,000 or more that meet any of the above criteria must be reported to the Ministry of Health [Financial Systems Performance Branch](#) and the [Strategic Procurement Branch](#).

8.7. Disposals and donations

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

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

- that the goods are suitable for disposal
- the estimated present value of the goods is acceptable.

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

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

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

The disposal of assets to charitable bodies must be approved by the relevant delegate in line with the NSW Health agency's delegations manual.

8.8. Modern slavery

From 1 January 2022, amendments to the *Public Works and Procurement Act 1912* require that NSW Government agencies and other entities must take reasonable steps to ensure that the goods and services they procure are not the product of modern slavery.

8.9. Exemptions to this document

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

When seeking an exemption, NSW Health agencies must:

- demonstrate how value for money will be achieved through the non-compliant process

- when seeking to buy alternatives to contracted goods or services, provide a comparative assessment of the alternate products or approach that addresses whole-of-life costs, interoperability, risks and benefits
- confirm a funding source with approval from the financial delegate
- obtain endorsement of the approach from the procurement delegate
- obtain endorsement of the approach from the relevant category manager (if applicable)
- obtain endorsement from HealthShare NSW or eHealth NSW prior to approaching the NSW Health Chief Procurement Officer,

Memo



Health

Financial Services and Asset Management H23/49184

TO	Chief Executives (LHDs, SHNs, Agencies, Pillars)
CC	Deputy Secretaries Office of the Secretary
FROM	Michael Gendy, Chief Procurement Officer
DATE	30/06/2023
SUBJECT	Professional Services Engagements

Dear Chief Executives

As a result of the March Audit Office Report into Government agencies' use of consultants, the following requirements are effective immediately:

- Use of [SCM0005 Professional and Management Services](#) prequalification scheme is **now mandatory** for all professional services engagements.
- [SCM0020 ICT Services Scheme](#) **must** be used for all ICT services covered by that scheme. This includes use of the [ICT Consulting Commercial Framework](#) .
- All professional services engagements (including ICT consultancies) **valued at or over \$30K** must be approved by the Chief Procurement Officer.
- **All contract extensions and variations** to professional services engagements must also be approved by the CPO, including extensions and variations to existing engagements.
- All contract documents related to the engagement of Professional Services valued at or over \$30k **must be saved into PROcure**. This includes approach to market documentation, evaluation plan, approval brief, contract and post-engagement evaluation.
- All engagements of Professional Services valued at or over \$150k (incl. GST) **must also be disclosed on eTenders**, per the requirements of the Government Information Public Access Act 2009, as is the requirement for any contract or purchase order valued over \$150k.

These new requirements effect a change to the requirements of the current *PD2022_020 NSW Health (Goods and Services) Procurement Policy* and Procurement Procedures. These documents will be updated in due course, the above requirements must be complied with in the interim.

Definition: Consultant versus Professional Services

These changes will be applied across all Professional Services engagements, regardless of whether the services being provided are strictly defined as a 'consultant'. Agencies are required to report consultant expenditure in accordance with the Annual Report Regulation 2015, so ensuring these engagements are categorised correctly is important. The NSW Procurement Board Direction [PBD2021-03](#) defines a consultant as 'a person or organisation engaged under contract on a temporary basis to provide recommendations or professional advice to assist decision-making by management. Generally, it is the advisory nature of the work that differentiates a consultant from other contractors.'

Buying Professional Services

Memo



Health

An updated Briefing Note template has been **attached** for use when seeking CPO approval to engage a Professional Services provider over \$30k. You will note that the template has an additional section requiring you to undertake a Business Needs Analysis. In this section you should include:

- Resourcing requirements: justify why the work cannot be undertaken by the entities' existing staff, or by hiring a contingent worker. You will also need to demonstrate how knowledge and skills will be transferred to your existing workforce as a result of the engagement.
- Business needs analysis: you will be required to demonstrate why the engagement is necessary. This includes assessing why the spend is critical for your agency, the objective of the engagement and the outcomes or benefits the engagement will achieve.
- Financial approval: funding has been approved for this particular engagement (even where this engagement sits within a broader project). Indicate the source of the funding approved.
- Confidentiality and Conflict of Interest undertaking: you are required to indicate the commitment of the contracting delegate (the person that will sign the contract) to ensure that the successful supplier signs a Confidentiality and Conflict of Interest Undertaking, and that any breaches of confidentiality and actual or perceived conflicts of interest are recorded and managed in line with the *PD2015_045 NSW Health Conflicts of Interest and Gifts and Benefits Policy*.

Record keeping

We are working with NSW Treasury to implement a record keeping interface, similar to that used for contingent labour, with specialised additions to allow record keeping in line with the *State Records Act* and the expectations of NSW Treasury and internally. Until then, as mentioned above, all documentation for all professional services engagements (from approach to market through to the post-engagement evaluation) must be saved into PROcure.

As always, contracts and purchase orders of any type valued at or over \$150,000 (incl. GST) must *also* be disclosed on eTenders.

Use of procurement connected policies

- In line with the requirements of the Whole-of-Government [SME and Regional Procurement Policy](#) (s2.2), you *must first* consider an SME for goods and services procurements up to \$3m. When you are undertaking a procurement for professional services, the SME must be prequalified on SCM0005 Professional and Management Services. Procurements of this nature valued at or over \$30k **still require CPO approval**.
- The SME and Regional Procurement Policy exemption (s2.1) '*NSW Government agencies may negotiate directly with and engage an SME or regional supplier for goods and services up to \$150k, including where there is a WofG arrangement in place*' is now no longer required as the NSW Health Procurement Policy allows you to directly approach suppliers that are on an existing arrangement.
- The [Aboriginal Procurement Policy](#) permission (3.3) '*Agencies may negotiate directly with an Aboriginal business for all procurements up to \$250,000, even if there is a mandated prequalification scheme or panel in place*' remains unchanged. Aboriginal businesses must be recognised by Supply Nation, NSW Indigenous Chamber of Commerce or ORIC. Procurements of this nature valued at or over \$30k **still require CPO approval**.

Additional guidance and support

To support financial governance, Health entities will have budgets for consultants (A190950 – A91350), contractors (A191380) and other management services (A193550) centrally defined based on prior year spend less a reduction target that will be informed by Whole of Government savings and the outcomes of the Comprehensive Expenditure Review. A similar

Memo



Health

approach to budgeting should be expected for other Whole of Government savings areas of advertising, legal and travel. Budget at these account levels will be defined in the coming weeks.

The Strategic Procurement Branch has updated the [Procurement Portal](#) with a separate tab for Professional Services and it contains initial information at this stage. Further information will be uploaded to the portal within coming days. Should you need additional support or have any questions, then please reach out to your Relationship Manager in Strategic Procurement Branch or to the shared mailbox

Yours sincerely

Michael Gendy
Chief Procurement Officer

Confidentiality and Conflict of Interest Undertaking

Confidentiality

I _____ (print full name) may have access to Confidential Information* that relates to the _____ (Project).

My involvement in the Project is as a _____ (describe role).

I:

- Agree to ensure that Confidential Information is kept confidential
- Understand that improper use or disclosure of Confidential Information may cause harm to NSW Health
- Will take all reasonable steps to ensure that any Confidential Information is kept confidential
- Will not discuss any aspect of this Project with any existing or potential supplier without the approval of _____ (name and position).

* The following items are to be maintained as confidential:

- Any information related to the Project that is not publicly available
- Contents of submissions from existing and potential suppliers
- Clarification questions and responses
- Information produced as part of the tender review/evaluation process (e.g. pricing analyses, meeting minutes and evaluation reports).

Conflicts of Interest

I am not aware of any related interest, pecuniary or non-pecuniary, that may create, or appear to create, a conflict of interest. I will immediately bring to the attention of _____ (name and position) any change in circumstances.

OR

I have the following related interest/s to declare.

Interest: _____

Agreed Management Strategy: _____

Signature

Date

I hereby declare that I:

- Have noted this Declaration and confirm the agreed management strategy.
- Agree to the additional terms of the NSW Government Supplier Code of Conduct

Signature

Date

Title



Supplier Code of Conduct

The NSW Government strives to conduct sustainable and inclusive government procurement. Our suppliers are our partners in delivering the best social and commercial outcomes for the state of NSW and its citizens. This Supplier Code of Conduct (the 'Code') outlines the ethical standards and behaviours we expect from ourselves and our suppliers.

We are committed to the highest ethical standards

When conducting business with NSW Government you can expect that we will:

- comply with applicable laws, regulations, policies and procedures
- act with integrity and openness
- demonstrate fairness and transparency in our dealings with individuals and organisations
- disclose any perceived or real conflicts of interest
- encourage fair and open competition while seeking value for money and innovative solutions
- adopt procurement processes to make it easy to do business
- publish details of contracts awarded as required by legislation
- protect and prevent the release of commercial-in-confidence information
- not seek, or accept, any financial or non-financial benefits from potential, current or past suppliers
- respond to reasonable requests for advice and information, including tender debriefings
- investigate complaints.

We expect our suppliers and their supply chains to commit to the highest ethical standards

When conducting business with NSW Government we expect that you will:

- comply with applicable laws, regulations, policies, procedures and good business practices
- ensure third parties acting on your behalf comply with this Code
- act with integrity and openness
- conduct business in an ethical and safe manner
- disclose any perceived or real conflicts of interest
- not discuss or disclose dealings with NSW Government to the media without approval
- pay your suppliers / contractors on time
- protect and prevent the release of commercial-in-confidence information
- ensure the security and proper use of government information, assets and materials
- not offer NSW Government employees/contractors any financial or non-financial benefits
- respond to reasonable requests for advice and information
- report breaches of this Code to NSW Government.

Implications of non-compliance with this Code

Suppliers should be aware that non-compliance with this Code when doing business with the NSW Government, or demonstrated corrupt or unethical conduct, could lead to:

- termination of contracts
- loss of future work
- loss of reputation
- investigation for corruption
- matter referred for criminal investigation
- suspension or removal from prequalification schemes and panel arrangements

More information

Gifts, hospitality and other benefits

Suppliers must not at any time offer or provide any financial or non-financial benefits to NSW Government employees/contractors. NSW Government employees/contractors are not permitted to request financial or non-financial benefits and are expected to decline such offers.

Conflicts of interest

Conflicts of interest, whether real or perceived, must be immediately reported to the relevant NSW Government department or agency. A conflict of interests can arise when a person's business and private interests intersect. Private interests can include a person's own professional and financial interests, as well as past and present associations with other individuals, groups or family.

Confidentiality and intellectual property rights

Information provided by or collected from the NSW Government is provided on a confidential basis, unless otherwise explicitly indicated, or the information is already in the public domain. The NSW Government and our suppliers will respect and honour each other's confidentiality and intellectual property rights.

Environmental sustainability

We expect our suppliers to minimise the environmental impact of their operations and maintain environmentally responsible policies and practices.

Sponsorship

Any sponsorship arrangement must be open and transparent and should not create any perception that it will improperly influence the decision making of the NSW Government.

Labour and human rights

We expect our suppliers to provide a fair and ethical workplace free from workplace bullying, harassment, victimisation and abuse. Our suppliers are expected to make all reasonable efforts to ensure that businesses within their supply chain are not engaged in, or complicit with, human rights abuses, such as forced or child labour.

Workplace health and safety

We expect our suppliers to provide a safe work environment and integrate sound health and safety management practices into their business. Suppliers must comply with all applicable laws and regulations relating to workplace, health and safety.

How do I report wrongdoing?

If you are concerned about a possible breach of this Code, you should report this directly to the relevant NSW Government agency.

If you are concerned about any conduct that could involve fraud, corrupt conduct, maladministration, or serious and substantial waste of public funds, this can be reported via one of these external channels:

Corrupt conduct – [Independent Commission Against Corruption \(ICAC\)](#)

Maladministration – [NSW Ombudsman](#)

Serious and substantial waste – [NSW Audit Office](#)

Access to government information (GIPA) – [Information and Privacy Commission NSW](#)

Guidance Note

Consultants and Professional Services

What is a consultant?

The NSW Procurement Board Direction PBD-2021-03 defines a consultant *'as a person or organisation engaged under contract on a temporary basis to provide recommendations or professional advice to assist decision-making by management. Generally, it is the advisory nature of the work that differentiates a consultant from other contractors.'*

Services provided under the NSW Government Legal Services Panel are excluded from the definition of a consultant for annual reporting purposes.'

While only consultant spend is required to be reported in the NSW Health Annual Report, all professional services engagements must now be treated according to the guidelines below.

What are 'professional services'?

The Performance and Management Services (P&MS) Scheme (SCM0005) has a pool of over 3500 diverse suppliers prequalified to supply professional services, including consultancy, to NSW Government. Professional services covered by the P&MS Scheme are categorised into the following engagement types:

1. Government and business strategy
2. Business processes
3. Project management
4. Change management
5. Financial services
6. Audit, quality assurance and risk
7. Taxation
8. Human resources
9. Procurement and supply chain
10. Marketing and customer
11. Actuarial service
12. Transaction services
13. (not in use)
14. Specialised services
15. Infrastructure services

There are a range of other schemes covering construction-related consultants, contingent workers, ICT goods and services, and legal services.

Scheme mandates

Use of the P&MS Scheme is now mandatory for **all** professional services engagements.

SCM0020 ICT Services Scheme **must** be used for all ICT services covered by that scheme.



Until further advice is received, all professional services engagements (including ICT consultancies) valued at or over \$30K must be approved by the Chief Procurement Officer. This includes all variations and extensions to professional services engagements.

What needs to be saved into PROcure?

All contract documents related to the engagement of Professional Services valued at or over \$30k must be saved into PROcure. This includes:

- Briefing note and approvals
- Quotes
- Approach to market documentation
- Confidentiality and conflict of interest undertaking
- Executed contract
- Variations
- Milestone reporting
- Performance report

Extensions and variations

Agencies should anticipate the potential for extensions prior to seeking initial quotations and include this scope in the initial tender and contract.

All contract extensions and variations to professional services engagements must also be approved by the CPO, including extensions and variations to existing engagements.

Additional Resources

[PBD 2021-03 Engagement of professional services suppliers](#)

[Performance and Management Services Scheme ICT Services Scheme](#)

[NSW Health Procurement Portal](#)

[NSW Health Procurement Policy and Procedures](#)

Definition of a consultant

UPDATED: 1 JAN 2022

[Contact owner](#) ▶

Guidance for buyers on the definition of consultant and other types of external labour such as contractors.

Definition of a consultant

Procurement Board Direction [PBD-2021-03](#) defines a consultant as follows:

“A consultant is defined as a person or organisation engaged under contract on a temporary basis to provide recommendations or professional advice to assist decision-making by management.

Generally, it is the advisory nature of the work that differentiates a consultant from other contractors.

Services provided under the [NSW Government Legal Services Panel](#) are excluded from the definition of a consultant for annual reporting purposes.”

Suppliers may call themselves ‘consultants’, but unless they meet the above conditions, they may actually be defined as professional services or contingent labour for annual reporting purposes.

Other types of external labour

The below are **not consultants**:

Contingent labour (or contractors) refers to people employed by a contingent labour supplier and hired from that supplier by an NSW Government agency to provide labour or services. Contingent labour does not refer to consultants or companies engaged under a contract or statement of work to provide services to a client.

Recurring services are predefined in a contract and delivered on an ongoing basis for more than one year. Examples include repairs and maintenance, technical support, managed services and other outsourcing arrangements.

Statutory appointments are where an individual has been appointed to fulfil a role defined in legislation or other regulatory instruments. Examples include board members, tribunal members and Audit and Risk Committee members.

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Volunteers are individuals that provide support to the community on a voluntary basis, for example volunteers of the Rural Fire Service and State Emergency Service.

Consulting engagements

Consultancies provide agencies with recommendations or professional advice that often have one or more of the following characteristics:

is developed without direct supervision from the agency

represents an independent view

is the sole or majority element of the contract in terms of relative value or importance.



Consultant spend must be disclosed in annual reports

Annual reports provide transparency for topics of public interest, including:

which government initiatives were supported by external advice to assist government decision making (for example, legislation, asset sales and others)

which suppliers provided that advice

what was the cost of the advice for each project and cumulatively for all projects

how often does the government seek external advice to assist decision making each year.

This requirement comes from the [Annual Reports \(Departments\) Regulation 2015](#) and [Annual Reports \(Statutory Bodies\) Regulation 2014](#).

Examples of consulting engagements

Area	Consultant	Not a consultant
Finance and accounting	Engaged to advise on the financial viability of a government business enterprise	Engaged to provide routine auditing or routine accounting services, even though that includes professional advice
Geotechnical or cadastral surveying	Engaged to advise on the viability of a government decision based on geotechnical or cadastral survey information	Engaged to provide routine geotechnical or cadastral surveying services, even though that includes professional advice
Information technology	Engaged to assist with the development of an information technology strategic plan, to assist with the development of system specifications or to provide advice on implementation	Engaged to undertake implementation in accordance with the specifications, for example, supplying or writing the software and constructing the systems
Legal	Engaged to advise on legal issues relating to a proposed innovation or amendments to legislation (excluding engagements under the Legal Services	Engaged to provide routine legal services such as conveyancing, advocacy or drafting documents, even though that includes

Area	Consultant	Not a consultant
Program evaluations	Engaged to provide independent high-level policy advice on outcomes of a government program and make recommendations	Engaged to collect and analyse data regarding a program under the direction of an agency
Training	Engaged to advise on training needs and to develop training programs	Engaged to provide the actual training

International procurement agreements (IPA) definitions

International procurement agreements use Central Product Classification (CPC) codes to define consulting services.

Follow the links to view a detailed description for each category on the United Nations Statistics Division (UNSD) website:

[83111 Strategic management consulting services](#)

[83112 Financial management consulting services](#)

[83113 Human resources management consulting services](#)

[83114 Marketing management consulting services](#)

[83115 Operations management consulting services](#)

[83116 Supply chain and other management consulting services](#)

[83121 Public relations services](#)

[83131 IT consulting services](#)

[83211 Architectural advisory services](#)

[83231 Landscape architectural advisory services](#)

[83310 Engineering advisory services](#)

[83411 Geological and geophysical consulting services](#)

[83931 Environmental consulting services](#)

[85220 Security consulting services](#)

Related content

[Professional services category](#)

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[Supplier Hub](#)

[catalogues.buy.nsw](#)

We pay respect to the Traditional Custodians and First Peoples of NSW, and acknowledge their continued connection to their country and culture.

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Prequalification Scheme: Performance and Management Services (SCM0005)

Agency Guidelines



Acknowledgement of Country

NSW Treasury acknowledges that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to Country and acknowledge their continuing custodianship of the land, seas and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices, and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes.

Artwork: 'Regeneration' by Josie Rose 2020

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SCHEDULE OF DOCUMENT AMENDMENTS

Revision Number	Date	Update Description
1	July 2016	General Reformat and removal of Legal Services from Scheme.
2	December 2016	Policy Direction updates: Agency engagements outside Scheme.
3	February 2017	Rollover of scheme for two years to 19 February 2019.
4.	February 2018	Revising the EARL close date until further notice
5	June 2018	Amalgamation of Agency Guidelines in line with scheme update for new engagement types revised Scheme Rules and addition of new Engagement Type definitions.
6	August 2019	Minor formatting, updating Scheme extension date, new Procurement Board Direction and policy links. Threshold GST change to exclusive, Department name change
7	October 2019	In accordance with recommendations made from the NSW Audit Office Report on Probity Services the following changes have been made - See Clause 9.
8	November 2019	Further engagement types added to Clause 9 regarding probity services provider requirements
9	February 2020	Rollover of Scheme for 12 months to 19 February 2021
10	February 2021	Rollover of scheme for 12 months to 19 February 2022
11	December 2021	Updated according to the new branding guide and links to buy.nsw.
12	February 2022	Rollover of scheme for 12 months to 19 February 2023
13	November 2022	Inclusion of the recommended Infrastructure Advisory Standard Commercial Framework for engagement type 15 – Advisory services only

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1. Introduction

In 2008, the NSW Department of Premier and Cabinet (DPC), in conjunction with the NSW Department of Finance and Services (DFS), established the Prequalification Scheme: Performance and Management Services (the Scheme). The full responsibility for the Scheme was transferred to DFS (now Department of Finance, Services & Innovation (DFSI)) in April 2012. The Scheme creates a framework for the prequalification of organisations that provide performance and management services to NSW Government agencies and statutory corporations.

In 2018 the scheme was changed to enable the extension of the current engagement types and to streamline documentation and search capability.

In July 2019 NSW Procurement moved into NSW Treasury cluster.

Treasury maintains a list of individuals and companies with a demonstrated track record in one or more engagement types.

The Scheme has 15 engagement types as follows:

1 - Government and Business Strategy – including Strategy Development and Planning, Strategic Business Case, Business Performance Reviews, Organisational Design/Transformation, Business Intelligence, Cost Management, Governance and Policy Review/Development.

2 - Business Processes - advice and/or assistance regarding Business process mapping/re-engineering

3 - Project Management – leading and managing, best practice, planning and facilitations services

4 - Change Management – advice and/or assistance for significant change including communication planning and project management.

5 - Financial Services – including accounting services, accounting standards, finance process reviews, asset management, Valuations, financial/economic advisory and forensic accounting.

6 - Audit, Quality Assurance and Risk – including Internal/External Audits, Risk management and probity services. (6c Probity Services are only available to fully prequalified applicants)

7 - Taxation – including Goods and services tax (GST) and other tax services

8 - Human Resources – including Human Capital Management, Culture, Work Health and Safety, remuneration, retention and diversity.

9 - Procurement and Supply Chain – including Procurement/Sourcing, category management, procurement accreditation and supply chain.

10 - Marketing and Customer – including Market Research, Customer/Customer Experience and pricing.

11 - Actuarial Services – advice and assistance on financial risk modelling, assessing and planning.

12 - Transaction Services – advice and assistance on Mergers and Acquisitions

13 – (not in use) – Telecommunications used to be covered by the PMS Scheme under engagement type 13. It has now transferred over to the ICT Services Scheme.

14 - Specialised Services – including Crisis Management, Environmental Impact Assessment, Fraud and Corruption Investigations, Training and Development, Internal communications, External Communications, Event Management and service delivery.

15 - Infrastructure – including strategy and planning, risk, major project procurement/delivery and project management, contracting and communication.

Each of these has associated sub engagement types, the full list and descriptions are located on the Performance and Management Services webpage within the buy.nsw website.

These types of services are typically regarded as a ‘consultancy’, the Scheme, however, can be used by agencies regardless of whether suppliers are engaged as ‘consultants’ or as ‘professional or specialist contractors’.

In July 2012, the NSW Department of Finance, Services and Innovation (now NSW Treasury) established the Easy Access Registration List (EARL) to enable Applicants to register as EARL Suppliers for the provision of low-risk performance and management services valued at up to \$50,000 (exclusive of GST), to NSW Government Agencies (Agencies). EARL Suppliers are not required to submit referee reports during the application process.

In 2018 the EARL Scheme Rules were withdrawn and combined into a single Scheme Rules document for all suppliers. The EARL classification of suppliers has been changed to Base level prequalification.

The Base prequalification aims to:

- provide a list of Suppliers that Agencies can use for low-risk engagements for listed capability services up to \$50,000 excluding GST (and in certain limited circumstances through flow-on engagements up to \$75,000 excluding GST)
- enabling opportunity of access to government work and experience.
- Encourage agencies to engage with base suppliers where appropriate and provide opportunity for industry development.
- encouraging agencies to provide opportunity to new Small to Medium business through the Base listing for services that are low risk and low value.
- enabling supplier development and transition to Full qualification.

Agencies are responsible for selecting the appropriate supplier, taking into account the potential business impact and the level of risk associated with the work to be undertaken by the Supplier.

2. How does the Scheme operate?

The Scheme aims to:

- streamline the competitive tendering process by pre-qualifying suppliers with demonstrated track records in the provision of certain performance and management services; and
- enhance probity standards and quality assurance by allowing for third party assessment of suppliers.
- provides a standard commercial framework where applicable

The NSW Treasury (Treasury) maintains a list of approved suppliers which offer services in one or more engagement types. Agencies may engage Suppliers in the capability areas listed and subject to the level of pre-qualification approved for each supplier. Please note the list of suppliers is updated on a regular basis.

The current list of approved suppliers on the PMS Scheme is available online via the buy.nsw website at:

The eQuote system allows agencies to undertake an electronic request for quotation / information / proposal (eRFx) process. The eQuote system enables agencies using the system to select supplier, upload an engagement brief or specification, assess responses and award approved quotations online.

Training documents on the eQuote system are available on the buy.nsw website.

Agencies can provide feedback to Treasury on the use and operations of the Scheme through the form included in Attachment A.

3. How do Applicants become qualified or listed?

Applicants must complete and submit an application using the online application form accessed by clicking the "Supplier Application Form" on the buy.nsw website.

Information submitted with an application will be treated as confidential by Treasury unless otherwise required by law, but will be made available to NSW Government Agencies when seeking suppliers for services.

4. Procurement Policy Framework

The NSW Government Goods and Services Procurement Policy Framework for NSW Government Agencies ('Procurement Policy') outline's how the NSW Government will conduct its procurement activities when interacting with the private sector. The Procurement Policy establishes standards of behaviour expected from government agencies and suppliers.

These guidelines have been prepared to assist agencies and statutory corporations seeking to use the Scheme and should be read in conjunction with the Scheme Rules available on the buy.nsw website.

5. What services does the Scheme cover?

The Scheme has 53 engagement and sub engagement types. Please refer to PMS Scheme Engagement Types on the buy.nsw website.

6. What the Scheme does not cover?

The Scheme will not cover areas of procurement already addressed by other prequalification schemes or panel contracts, including but not limited to:

- NSW Procurement (period) contracts
- Construction-related consultant See Consultants in Construction SCM1191
- Contingent Workforce Prequalification Scheme SCM007
- ICT goods and services See ICT Services Prequalification Scheme SCM0020
- Legal Services – See Legal Services Panel (no legal services to be provided through this scheme)
- Other NSW Prequalification schemes
- The PMS Scheme is for services only, and not for the provision of goods.

7. Agency obligations under the standard commercial frameworks

7.1 Obligations

Agencies are responsible for ensuring that they follow the Procurement Board Directions and Guidelines for the standard commercial frameworks where applicable, in particular:

- [PBD 2021-03 Engagement of professional services suppliers](#) (for engagement types 1-12)
- [PBD 2022-02 Engagement of Infrastructure Advisory Services suppliers](#) (for engagement type 15).

8. Number of quotations required

8.1 Fully Qualified Suppliers - engagement types 14 and 15

The following minimum levels of competition apply for engagement types 14 and 15 which are not in scope for the mandated Standard Commercial Framework:

- Where the estimated cost of a project is less than or equal to \$150,000 (Excl. GST), an engagement can be made directly from the Scheme by inviting one (1) written quotation from a supplier prequalified under the Scheme.
- Where the estimated cost of a project is more than \$150,000 (Excl. GST), an engagement can be made from the Scheme by inviting a minimum of three (3) suppliers, prequalified under the Scheme, to submit written quotations. Open invitations to tender are not required.

8.2 Fully Qualified Suppliers that have accepted the mandated Standard Commercial Framework - engagement types 1 to 12 only

The minimum number of quotations required for suppliers that have accepted the mandated Standard Commercial Framework is as follows:

- Where the estimated cost of a project is less than or equal to \$250,000 (excl. GST), an engagement can be made directly from the Scheme by inviting one (1) written quotation from a supplier prequalified under the Scheme.
- Where the estimated cost of a project is more than \$250,000 (excl. GST), an engagement can be made from the Scheme by inviting a minimum of three (3) suppliers, prequalified under the Scheme, to submit written quotations. Open invitations to tender are not required.

8.3 Fully Qualified Suppliers that have not accepted the mandated Standard Commercial Framework

A more stringent approval process is required for suppliers that have not accepted the standard commercial framework, as specified in Procurement Board Direction 2021-03.

8.4 Suppliers with base level prequalification

Where the estimated cost of a project is less than or equal to \$50,000 excluding GST, an engagement can be made directly from the Scheme by inviting one (1) written quotation from a supplier with base level prequalification under the Scheme.

Engagements of Base Suppliers should be undertaken for the provision of services that do not expose Agencies to a high level of risk, including the risk of exceeding an engagement cost of \$50,000 excluding GST. Agencies should use their discretion and consider risk when determining the suitability of engaging a Base Supplier for work, as these Suppliers have not been assessed as rigorously as Suppliers with Full Prequalification.

9. Engagement of Probity Services

In accordance with recommendations from the NSW Audit Office Review of Probity Services under the PMS Scheme some changes have been implemented.

Engagement type 6c Probity Services is restricted to Full Prequalification Service Providers with Specified Personnel for Engagement Type 6c Probity Services. Employment screening checks are required for all Specified Personnel and are performed by NSW Procurement using NSW Government contract C0011.

Suppliers approved for Engagement Type 6c Probity Services are limited to providing services in the following assurance-related engagement types:

- 1g Governance
- 5b Accounting standards
- 5g Forensic advisory
- 6a Internal/external audit
- 6b Risk management
- 6c Probity services
- 7a Goods and Services Tax
- 7b Other Tax services
- 9a Procurement/Sourcing
- 9b Category Management
- 9c Procurement Accreditation
- 14a Crisis Management
- 14c Fraud and corruption investigation
- 15b Risk
- 15c Major Project Procurement/Delivery and Project Management

All Probity suppliers will be required to report to NSW Procurement on engagements with agencies.

Details of the changes are noted in the Scheme Rules.

10. What if an Agency is unable to obtain the required number of quotations?

The requirement to obtain three quotations/proposals may not always be achievable. If an agency anticipates that this may be an issue at the time of seeking quotations, they should invite the number of quotations most likely to result in the minimum number of quotations being received. Agencies may also confirm with potential tenderers prior to quotations being sought, that the suppliers are willing to submit a quotation. Exemption from this requirement will only be allowed in circumstances when an

agency has applied their best endeavours' to obtain the minimum number of quotations required but the industry has not responded favourably.

In these cases, the course of action taken by the agency and the justification for obtaining less than the required number of quotations should be documented. Record keeping requirements should include details on the number of quotations sought, the number of responses received and an indication as to why the suppliers have declined to participate. Further, the requirement for determining how value for money has been established must be fully documented for consideration by the approving officer.

The engagement must be approved by the Minister, the Board, Chief Executive Officer or authorised person at the agency in line with delegations for this particular purpose. Please note that these are not necessarily the same as the financial delegations at the agency. The agencies must comply with their own internal authorities and delegations in relation to the engagement of consultants.

11. Terms of Engagement

11.1 On what terms are Suppliers to be engaged?

During the application process to join the Scheme, applicants agree that, if prequalified under the Scheme, the terms and conditions of any engagement made under the Scheme will be those of the Standard Form of Agreement – Terms and Conditions contained within the “Scheme Rules” applicable to the level of registration and agree that it is not necessary to sign the Standard Form of Agreement – Terms and Conditions for each or any engagement; instead, parties will complete a form of Agreement Details in respect of each engagement.

The details of scope of work, fees and other requirements for the engagement will be set out within Standard Form of Agreement - Agreement Details between the parties. Where the parties want to sign a document, the parties may sign the Agreement Details.

Agencies should not modify the terms of the agreement unless there are exceptional circumstances which warrant modification and should seek the approval of their respective Legal Services divisions. An editable version of the Standard Form of Agreement– Agreement Details is available on the buy.nsw.gov.au website for both full and base prequalified suppliers.

12. Can an Agency engage consultancy services outside the Scheme?

Yes. The use of the Scheme is not mandatory in all Clusters. All NSW Government agencies and statutory corporations may refer work to suppliers outside the Scheme in circumstances where they consider specialist advice can be provided more efficiently and effectively. Agencies who seek to engage consultants outside the Scheme will be required to comply with the Goods and Services Procurement Policy Framework for NSW Government Agencies and other relevant Policies and Board Directions

The NSW Government Small and Medium Enterprise and Regional Procurement Policy was adopted on 1 February 2019 and sets out the methods by which procurement must be undertaken to improve access for Small and Medium Enterprises (SME) to government goods and services procurement via Whole of Government contracts and prequalification schemes.

13. Insurances

Suppliers approved on the scheme are to have policies of insurance that are required by law. Minimum levels for public liability are noted within the terms and conditions of engagement. Professional Indemnity is not mandated for the scheme however as default minimum levels have been noted in the terms and conditions of engagement. Agencies are responsible for determining the appropriate types and levels of insurance by completing a risk assessment. Once determined the types and levels of insurance should be noted within the quote issued to selected supplier/s.

The standard form of agreement should be completed to ensure the determined levels and types of insurance are noted. Agencies should evidence prior to execution of engagement that these required insurances are in place.

Applicants are to maintain insurance policies for Public Liability and Workers' Compensation in accordance with the Scheme Rules and otherwise where required by law. Professional Indemnity Insurance is not mandatory but may be required for some engagements. The adequacy of the insurance coverage to meet the risk and any monetary limit that is set for the nature of an engagement will be determined by agencies at the time the service provider is engaged. Prior to engagement, agencies should request that suppliers provide proof of insurance.

14. Indemnity

14.1 Full Prequalified Indemnity

Clause 10 of the Full Standard Form of Agreement – Terms and Conditions within the “Scheme Rules” provides that the Supplier agrees to indemnify agencies against any losses caused by, among other things, the negligence of the Supplier.

Agencies are given the option of limiting or ‘capping’ the Supplier’s liability under Clause 10.4 to a monetary amount, which has to be specified within the Standard Form of Agreement - Agreement Details.

The appropriateness of any cap on the Supplier’s liability under Clause 10 of the agreement is a risk management matter for the agency to consider. Any such cap should comply with the Treasury Managed Fund’s contract of coverage. If there is any doubt, the advice of the Fund Manager should be sought by the agency.

When an agency engages a supplier, it must check that (where required) the supplier has valid Professional Indemnity insurance and that the level is adequate to meet any monetary limit that is set for that type of engagement (see Clause 4.18 of the Standard Form of Agreement – Terms and Conditions within the “Scheme Rules”).

14.2 Base Prequalified Indemnity

Clause 10 of the Base Standard Form of Agreement – Terms and Conditions within the “Scheme Rules” provides that the Supplier agrees to indemnify agencies against any losses caused by, among other things, the negligence of the Supplier.

Agencies are given the option of limiting or ‘capping’ the Supplier’s liability under Clause 10.3 to a monetary amount, which has to be specified within the Base - Agreement Details.

The appropriateness of any cap on the Supplier's liability under Clause 10 of the agreement is a risk management matter for the agency to consider. Any such cap should comply with the Treasury Managed Fund's contract of coverage. If there is any doubt, the advice of the Fund Manager should be sought by the agency.

When an agency engages a supplier, it must check that (where required) the supplier has valid Professional Indemnity insurance and that the level is adequate to meet any monetary limit that is set for that type of engagement (see Clause 14 of the Base Standard Form of Agreement – Terms and Conditions within the "Scheme Rules").

15. Does the Scheme allow for additional or 'flow-on' engagement?

15.1 Engagement value and flow on arrangements for Base level prequalified suppliers

Base suppliers are not to be engaged for work with a value exceeding \$50,000 (excl. GST). Flow on engagements should be avoided and Agencies should seek to accurately estimate the value of work before engaging under Base. However, if there is a flow on engagement, the total payable to the Base Supplier is not to exceed \$75,000 (excl. GST). On reaching \$75,000 (unless it is a necessary flow-on engagement) the Government Agency must seek a quote for work from another Supplier.

15.2 Engagement value and flow on arrangements for Full prequalified suppliers.

A supplier's engagement may result in the need for related 'flow-on' work. Agencies should anticipate the potential for further engagements prior to seeking initial quotations.

Whether or not advance notice is given, a supplier who has undertaken an initial engagement may be invited by the agency to submit a proposal for further work, provided the following criteria are met:

- satisfactory performance;
- demonstrated knowledge and expertise developed during the first engagement; and value for money for additional related engagements.

The total value of the first and related flow-on engagements for fully prequalified suppliers is not to exceed the lesser of:

- three times the value of the first engagement; or
- \$500,000 (excl GST).

Where flow-on engagements are likely to exceed the applicable limit, a minimum of three suppliers from the Scheme should be invited to provide written quotations unless exceptional circumstances can be demonstrated. Where there are exceptional circumstances, these must be approved by the Minister, Chief Executive Officer or authorised person at the agency in line with delegations for this particular purpose. Please note that these are not necessarily the same as the financial delegations at the agency.

The following examples are provided to help agencies comply with the Scheme Rules on flow-on work. All fees in the examples are exclusive of GST.

15.2.1 Scenario 1

Agency X has engaged Supplier A for a complete review of its operations, functions and reporting, including all of its controlled entities, and the possible implementation of a new corporate structure with a total fee of \$500,000. As a result of this review, several options have been identified and Agency X now requires a review on the most efficient and effective structure to be implemented. The estimated total fee for this additional review is \$100,000.

Can Agency X offer the flow-on work directly to Supplier A provided that the three mandatory criteria on satisfactory performance, demonstrated knowledge and expertise and value for money have been met?

No. The fee for the initial engagement is already \$500,000.

The flow-on work may only be given to Supplier A if:

- an exemption was sought for this engagement and this has been approved by the Minister, the Board, Chief Executive Officer or the authorised person at Agency X in line with delegations for this particular purpose; or
- Agency X has applied the minimum level of competition and invited at least three (3) suppliers prequalified under the Scheme, to submit written quotations for the flow-on engagement. Quotations/proposals received must be assessed against the evaluation criteria including the quotations/proposals received from Supplier A.

15.2.2 Scenario 2

Agency X has engaged Supplier A for an internal audit on its payroll process with fees totalling \$60,000. As a result of this review, weaknesses were noted on the payroll system and Agency X now requires a review on general computer controls including system security to be conducted. The estimated total fee for this additional review is \$40,000.

Can Agency X offer the flow-on work directly to Supplier A provided that the three mandatory criteria on satisfactory performance, demonstrated knowledge and expertise and value for money have been met?

Yes. The fees for the initial engagement and the flow-on engagement total \$100,000 which is:

- less than \$500,000 and less than \$180,000 or
- three times the value of the first engagement.

15.2.3 Scenario 3

Agency X has engaged Supplier A for an internal audit on its payroll process with fees totalling \$80,000. As a result of this review, weaknesses were noted on the payroll system and Agency X further engaged Supplier A (after meeting all the generic flow on criteria) to conduct a review on general computer controls including system security with total fees of \$100,000.

As a result of the findings from the two previous reviews, Agency X now decided to have a fraud control review performed across the entire agency. The estimated fee for this review is \$75,000.

Can Agency X offer the work directly to Supplier A provided that the three mandatory criteria on satisfactory performance, demonstrated knowledge and expertise and value for money have been met?

No. The total fees for the initial engagement and the two flow-on engagements are \$255,000 which is less than \$500,000 however greater than \$240,000 or three times the value of the first engagement.

Agency X therefore needs to obtain three (3) written quotations from fully prequalified suppliers to perform the fraud control review.

15.2.4 Scenario 4

Agency X has engaged Supplier A for an internal audit on its payroll process with fees totalling \$300,000. As a result of this review, weaknesses were noted on the payroll system and Agency X now requires a review on general computer controls including system security to be conducted. The estimated total fee for the additional review is \$220,000.

Can Agency X offer the work directly to Supplier A provided that the three mandatory criteria on satisfactory performance, demonstrated knowledge and expertise and value for money have been met?

No. The total fees for the initial engagement and the flow-on engagement are \$520,000 which is:

- less than \$900,000 or
- three times the value of the first engagement however greater than \$500,000.

Agency X therefore needs to obtain three (3) written quotations from fully prequalified suppliers to perform the review on general computer controls.

Please Note: Successive engagements constitute a form of direct negotiation between an agency and a supplier. For further guidance, agencies should refer to the Independent Commission Against Corruption publication [Direct Negotiations: Guidelines for Managing Risks in Direct Negotiations August 2018](#).

16. How is performance monitored and reported on?

Quality assurance, value for money, and performance improvement are key objectives of the Scheme. To help meet these objectives, agencies are required to submit a Performance Report in circumstances where:

- a supplier's performance is considered unsatisfactory; or
- the total cost of the engagement (and any related flow-on engagements) is more than \$150,000 (excl GST)

A Performance Report template is set out at Attachment B of the Scheme Rules. Performance Reports are required to be submitted at the completion or termination of the relevant engagement, or whenever a critical aspect of performance is unsatisfactory. A copy of the performance report should be provided by the agency to the supplier.

Where an agency considers that a supplier's performance has been unsatisfactory, the supplier must be kept informed and afforded an opportunity to show cause as to why it should not be rated 'unsatisfactory'.

Agencies should follow the steps outlined in the “Scheme Rules” (Performance Reporting Behaviour) to ensure that they observe procedural fairness during performance reporting.

At the close of an engagement with a Base supplier, where appropriate, a referee report should be provided to the supplier to support the suppliers’ development and future upgrade to Full Qualification. See Attachment C.

17. Are there compliance requirements for engagements made under the Scheme?

Agencies utilising the Scheme are required to understand and comply not only with the “Scheme Rules” but also with the requirements of the following:

- Goods and Services Procurement Policy Framework for NSW Government Agencies
- NSW Government Small and Medium Enterprise and Regional Procurement Policy
- Aboriginal Procurement Policy
- Board Directions:
 1. PBD – 2013-05 – Engagement of probity advisors and auditors.
 2. PBD – 2019-01 – Engagement of professional services suppliers.
 3. PBD – 2022-02 – Engagement of Infrastructure Advisory Services suppliers

18. Are there any additional reporting requirements?

Additional reporting and disclosure requirements apply to NSW Government agencies who engage suppliers under:

- the Government Information (Public Access) Act 2009 (the “GIPA Act”); and
- NSW annual reporting legislation.

19. Disclosure obligations under the Government Information (Public Access) Act 2009 (GIPA Act).

Under section 27 of the GIPA Act, agencies entering into a contract with an estimated value of \$150,000 or more (known as a “Class 1 contract”) are required to disclose certain information, including:

- the name and business address of the contractor
- the date on which the contract became effective and its duration
- the particulars of the project to be undertaken
- the estimated amount payable to the contractor.

Additional information is required to be disclosed by agencies entering into Class 2 and Class 3 contracts. Details of what constitutes a Class 2 and Class 3 contract are set out in sections 30 and 31 of the GIPA Act.

Under the GIPA Act, agencies must maintain a Government contracts register on which the relevant information is published. A copy of an agency’s Government Contracts register is to be published on the Government tenders website at <https://tenders.nsw.gov.au>.

Nothing in the GIPA Act requires the disclosure of:

- the commercial-in-confidence provisions of a contract;

- or details of any unsuccessful tender;
- or any matter that could reasonably be expected to affect public safety or security; or
- a copy of a contract, a provision of a contract or any other information in relation to a contract that is of such a nature that its inclusion in a record would result in there being an overriding public interest against disclosure of the record.

Detailed information about the disclosure obligations of agencies is also set out in the guidelines published by the Office of the Information Commissioner. These guidelines can be accessed at the Office of Information and Privacy Commission website at:

http://www.ipc.nsw.gov.au/privacy/ipc_index.html

20. Disclosure obligations under NSW annual reporting legislation

Agencies are required to report consultant expenditure in accordance with the Annual Report Regulation 2015 including the following information:

For consultancies costing equal to or more than \$50,000 ex GST:

- the name of the consultant the title of the project (shown in a way that identifies the nature of the work)
- the actual costs of engaging the consultant.

For consultancies costing less than \$50,000 ex GST:

- the total number of engagements costing less than \$50,000 ex GST; and
- the total cost of all such engagements.

Procurement Board Direction 2021-03 includes the definition of a consultant for annual reporting purposes.

21. How long will the Scheme operate for?

The PMS Scheme commenced in 2008. The NSW Treasury approved the continuation of the Scheme to 19 February 2021. Modifications to the Scheme may be made at the discretion of Treasury whilst the Scheme remains in operation.

Attachment A - Agency Feedback: Continuous Improvement

The feedback of Agencies is sought on the guidance provided by the NSW Treasury for the use of the - Performance and Management Services Scheme. Feedback may be provided by an Agency at any time as well as following each engagement.

< Poor-Good-Excellent >					
1. How do you rate the following aspects of the Scheme:					
(a) Adequacy of Scheme Guidelines and documentation.	1	2	3	4	5
(b) Adequacy of guidance documentation from buy.nsw website: <ul style="list-style-type: none"> • PMS Scheme • Buying – Professional Services 	1	2	3	4	5
(c) Ability to download a list of suppliers from the eQuote system	1	2	3	4	5
(d) Usefulness and relevance of the list to the procurement need	1	2	3	4	5
(e) Ability to run an RFX on the eQuote system.	1	2	3	4	5
2. How do you rate the value for money provided by the suppliers engaged under the Scheme.	1	2	3	4	5
3. How do you rate the quality of the outcomes of the engagements with suppliers engaged under the Scheme.	1	2	3	4	5
4. Do you think that using the Scheme has saved you time in the procurement process: Yes / No Comments:					
5. Will you continue to use the Scheme for future procurement needs for performance and management services: Yes / No Comments:					
6. Do you use the eQuote system to run RFX's, if not, why not? If using the eQuote system to run an RFX do you provide a performance report for the engagement, if not, why not? Comments:					
7. What made you decide to select the suppliers from the Scheme's prequalified list: a) agency policy b) reduced tender time / ease of use c) quality of suppliers d) information on eQuote Other, please specify:					
8. Are there other services that you think should be included in this Scheme. Please specify (include average spend on this category).					
9. How do you think the Scheme process can be further improved. Comments:					
10. Overall, how would you rate the operations of the Scheme?	1	2	3	4	5
Agency Name: Contact: Date:					

Upon completion, this Form should be e-mailed to

Attachment B - Performance Report Template

Pregualified Supplier Performance Report

PREQUALIFICATION SCHEME: PERFORMANCE AND MANAGEMENT SERVICES

Under the Scheme Rules, all engaging agencies are required to submit a Supplier Performance Report for each engagement where the consultancy services where:

- the total value of the relevant engagement is more than \$150,000 (excluding GST); or
- the performance of, and the services provided by, the Supplier are considered by the agency to be unsatisfactory.

The reports are due at the completion date of the engagement or whenever a critical aspect of performance is unsatisfactory. For further guidance on the requirement, agencies can refer to the Guidelines for Agencies.

Project Details

Supplier's Organisation Name:	
Supplier's Contact Person:	
Supplier's Contact Phone:	
RFT No.:	
Engagement/Project No.:	
Engagement/Project Name:	
Engagement Description:	
Date Engagement Commenced:	
Date Engagement Completed:	
Total Fee for this engagement (excluding GST):	\$

Assessment

As the client who paid for this service, how well did the SUPPLIER meet your expectations?	N/A	Unsatisfactory	Marginal	Acceptable	Good	Superior
1. Time Management <i>E.g., meeting milestones, resourcing, planning, reporting</i>						
2. Management & Suitability of Personnel <i>E.g., skills, experience, sufficient number, appropriate seniority used</i>						
3. Standard of Service <i>E.g., meeting brief, budget, value for money, no rework, supervision, no over servicing or under servicing</i>						
4. Quality Outcomes <i>E.g., accuracy, usability, and effectiveness of results</i>						
5. Cost <i>Actual cost did not exceed cost estimate without prior agreement</i>						
6. Communications <i>Appropriate level of reporting</i>						
7. Information Technology <i>IT used where appropriate to increase efficiency and reduce costs</i>						
8. Cooperative Relationships <i>E.g., Cooperative approach, commitment, resolving issues</i>						
9. Recommendation for Future Work <i>Would you recommend the Service Provider for similar type of work?</i>	Yes ▶			No ▶		

Additional Comments on the Supplier's Performance

<Comments may be extended on next page>

Signature by Referee *e.g., General Manager, Director, Senior Project Manager*

***Please Note:** Referee Reports must be signed and dated or will not be considered

Name:		
Title:		
Date:		
Tel No.:	Mobile No.:	
E-mail:		
Signature:		

Delivery Instructions: The Applicant Referee Report is to be forwarded by the Referee to the Applicant. The Applicant is to include all Applicant Referee Reports in their application to form a single and complete submission.

Attachment C - Referee Report for Suppliers

Referee Report - Performance and Management Services Scheme.

Referee reports are used to assess whether the Applicant has demonstrated experience in the Engagement Types they have applied for within their application to join the Scheme.

Section 1: To be completed by the Applicant.

1.0 – Applied for Engagement Types Table

“Applied for Engagement Types” are the Engagement Types that the applicant has applied for during the application process to join the Scheme and that are relevant to the referee. Descriptions of Engagement Types are available on the buy.nsw website.

Complete the following:

ID: (e.g. 1a)	Engagement Type Title: (e.g. Strategy Development and Planning)
	<i>Add further rows as required</i>

Section 2: To be completed by the Referee (2.0 to 2.4)

***Please Note:**

- Referee Reports must be signed and dated or will not be considered.
- Engagements should have been completed in the last three years, ongoing engagements will be considered on a case by case basis.
- The Referee Report comments should relate to the engagement types that the applicant has applied for and that are specified within the Applied for Engagement Types Table above.
- The Referee Report can relate to the Referee’s experience with the Applicant or with its principal consultants and may include more than one engagement. Where the Applicant was employed as a public servant in the last 24 months, relevant work-related Referees can be provided to satisfy this requirement.
- The NSW Treasury may contact the Referee to verify or clarify aspects of this Report.

2.0: REFEREE DETAILS

Please type in the following:

Referee’s Organisation Name:	
Address:	
ABN:	

2.1: ENGAGEMENT DETAILS

* Please Note: The Applicant is the Supplier which undertook the engagement.

Applicant’s Organisation Name:	
Engagement / Project Name:	
Engagement Description:	<i>(Briefly outline the nature of the engagement and the applicant’s role)</i>
Date Engagement Commenced:	
Date Engagement Completed:	
Total Fee for this engagement (excl. GST):	\$

2.2: REFEREE COMMENTS

Referee comments are necessary to determine whether the applicant has demonstrated experience in the Engagement Type they have applied for. Applicants specify the type they have applied for within the **Applied for Engagement Types Table on page 1**. (Descriptions of Engagement Types are available via the link on page 1).

Applicant's Applied for Engagement Type ID: (e.g. 1a)	Referee Comments: Please comment on the Applicant's role in relation to the engagement types the Applicant has applied for. (comments may be extended as required. Details needs to cover the role and responsibilities of the applicant within the engagement as specified in 2.1 in line to the applied engagement type/s).
	Add further rows as required

2.3: GENERAL CRITERIA

* **Please Note:** General Criteria 1-8 are for the performance of the role in relation to the engagement noted in section 2.1.

As the client who paid for this service, how well did the SUPPLIER meet your expectations?	N/A	Unsatisfactory	Marginal	Acceptable	Good	Superior
1. Time Management <i>E.g., meeting milestones, resourcing, planning, reporting</i>						
2. Management & Suitability of Personnel <i>E.g., skills, experience, sufficient number, appropriate seniority used</i>						
3. Standard of Service <i>E.g., meeting brief, budget, value for money, no rework, supervision, no over servicing or under servicing</i>						
4. Quality Outcomes <i>E.g., accuracy, usability, and effectiveness of results</i>						
5. Cost <i>Actual cost did not exceed cost estimate without prior agreement</i>						
6. Communications <i>Appropriate level of reporting</i>						
7. Information Technology <i>IT used where appropriate to increase efficiency and reduce costs</i>						
8. Cooperative Relationships <i>E.g., Cooperative approach, commitment, resolving issues</i>						

2.4: SIGNATURE (by Referee) e.g., General Manager, Director, Senior Project Manager

***Please Note:** Referee Reports must be signed and dated or will not be considered

Name:	
Title:	
Date:	
Tel No.:	Mobile No.:
E-mail:	
Signature:	

Delivery Instructions: The Applicant Referee Report is to be forwarded by the Referee to the Applicant. The Applicant is to include all Applicant Referee Reports in their application to form a single and complete submission



Health



Mr Greg Piper MP
Chair, Public Accounts Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Our ref H20/52237

Dear Mr Piper

Implementation of Audit Recommendations - Governance of Local Health Districts

I am writing in response to your request for a submission from NSW Health to outline our progress toward implementing the recommendations made by the Auditor-General in their performance audit report *Governance of Local Health Districts*, which was tabled in April 2019.

NSW Health operates within a complex governance and performance framework, which is established through a layering of legislation, policy and practice. As was outlined in the performance audit report tabled in 2019, our governance model is robust and fit-for-purpose, providing clarity of functions, enabling effective decision making and giving transparency on performance expectations and outcomes.

The recommendations which were made in the report reflect the evolving nature of our governance framework and a significant amount of work has been completed in the past 12 months to further enhance our performance in the specified areas. This has included:

1. Delivery of the Tuning Governance and Accountability Project, which sought to build on the different perspectives and capability within the NSW Health System to enhance our governance model;
2. Implementation of a comprehensive reporting dashboard for our Local Health District Boards, providing greater transparency on the performance and priorities of our Districts; and
3. Commencement of reviews of our NSW Health Performance Framework and accompanying Recovery Framework designed to provide further clarity on the roles and accountabilities of the Ministry of Health, Local Health Districts and our Boards.

Further detail on these initiatives and on the additional work completed to implement each audit recommendation is provided in the attachment to this letter. Should you require additional information, please contact Mr Paul Giunta, Director, Corporate Governance and Risk Management, NSW Ministry of Health at

Yours sincerely

Elizabeth Koff
Secretary, NSW Health

26/6/21

NSW Ministry of Health
ABN 92 697 899 630
100 Christie Street, St Leonards NSW 2065
Locked Mail Bag 961, North Sydney NSW 2059
Tel (02) 9391 9000 Fax (02) 9391 9101
Website. www.health.nsw.gov.au

IMPLEMENTATION OF RECOMMENDATIONS

NSW Health – Governance of Local Health Districts

RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD	
1	By December 2019, the Ministry of Health should:					
1a	Work with LHDs to identify and overcome the barriers that are limiting the appropriate engagement of clinicians in decision making in LHDs	Accepted	The Ministry of Health is currently implementing the Tuning Governance and Accountability project, with the objective of engaging Local Health Districts and other NSW Health Organisations in identifying and strengthening core areas of governance. The topic of effective engagement with clinicians is highlighted in the project as the next topic area for delivery.	December 2019	<p>Complete</p> <p>Through the Tuning Governance and Accountability Project, the Ministry of Health has led a focused review of the engagement mechanisms linking LHD Boards, Executive and clinicians, giving reference to external models and the legislative and policy context of the NSW Health System.</p> <p>The outcomes of the work are outlined in the attached <i>Issue Paper: Engagement between Boards, Management and Clinicians (Attachment 1)</i>, which also includes a listing of the priorities for action by NSW Health.</p> <p>In summary, the review sought to identify opportunities to ensure:</p> <ol style="list-style-type: none"> 1. LHD management and boards demonstrate a collaborative culture which prioritises meaningful relationships and constructive engagement; 2. Clear, fit for purpose, functioning engagement structures exist at local, LHD and system levels which enable positive and productive relationships between boards, management and clinicians; 3. Boards, management and clinicians have the capabilities 	Legal and Regulatory Services Branch, Ministry of Health

RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD
				<p>required to support relationship building and collaborative decision making; and</p> <p>4. Structures and processes are in place to enable clinicians to provide input to system-wide policy development in a way that is appropriate, relevant and effective.</p> <p>As part of its delivery, the review included extensive engagement with:</p> <ul style="list-style-type: none"> - representatives of NSW Health Organisations including the Ministry of Health, the Agency for Clinical Innovation (ACI), the Clinical Excellence Commission (CEC) and the Health Education and Training Institute (HETI); - a selection of LHD Board Chairs; - a selection of LHD Chief Executives; - practicing clinicians; and - representatives of the Australian Salaried Medical Officers Federation (ASMOF), Australian Medical Association (AMA), the Australian Doctors' Federation (ADF) and the NSW Medical Staff Executive Council (NSW MSEC). <p>Actions for delivery and ongoing support for the outcomes of the review will be managed through the Ministry of Health, in partnership with all LHDs.</p>	

	RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD
1b	Develop a statement of principles to guide decision making in a devolved system	Accepted	As for 1a, the Tuning Governance and Accountability project will also be seeking to define a core set of governance principles for application across the NSW Health System, complementing the existing resources currently available to all NSW Health Organisations.	December 2019	<p>Complete</p> <p>The Ministry's <i>Tuning Governance and Accountability Project</i> established a core set of principles for decision making, applicable to the devolved governance environment of NSW Health. These principles established a process of assigning guidance for decision making based on the application of one of three governing contexts:</p> <ol style="list-style-type: none"> 1. The existence of mandatory processes to guarantee system-wide, consistent outcomes; 2. A negotiated approach in context of practice, policy and state-wide priorities; and 3. Local approaches to achieve agreed outcomes within established strategy and values. <p>These principles were used as the basis for considering governance priorities impacting on the NSW Health System and, through the broader project, sought to identify opportunities for action.</p> <p>The implementation of these principles is evidenced in the Issue Papers provided as attachments to this submission and in the outcomes of the project delivered to date.</p>	Legal and Regulatory Services Branch, Ministry of Health

	RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD
1c	Provide clarity on the relationship of the Agency for Clinical Innovation and the Clinical Excellence Commission to the roles and responsibilities of LHDs.	Accepted	As for 1a and 1b, the Tuning Governance and Accountability project is currently focussed on clarifying the roles of NSW Health Organisations, Executive and Boards and the relationships they share in delivering high performance services to patients.	December 2019	<p>In Progress</p> <p>The roles of the Agency for Clinical Innovation (ACI) and the Clinical Excellence Commission (CEC) and the relationship of the two organisations with the LHDs and the Ministry of Health has been a topic of focus within the broader work completed in revisiting the NSW Health governance model. As highlighted in the response to 1a, the ACI and CEC were both involved in delivery of the <i>Tuning Governance and Accountability Project</i> and work is ongoing in further clarifying their respective roles.</p> <p>The COVID-19 pandemic has provided additional insight into the role of the ACI and the CEC in the NSW Health System and it is planned to use these learnings to further refine their governing accountabilities.</p>	People, Culture and Governance Division, Ministry of Health
2	By June 2020, LHD boards, supported where appropriate by the Ministry of Health, should address the findings of this performance audit to ensure that local practices and processes support good governance, including:					
2a	Providing timely and consistent induction; training; and reviews of boards, members and charters	Accepted	In addition to clarifying the role of Boards in 1a, 1b and 1c, a renewed Board orientation program and complimentary resources for all Board members are currently being developed and will be implemented within the specified timeframe.	June 2020	<p>Complete</p> <p>A new LHD Board Member Orientation Program was developed in 2019, with a focus on clarifying the role of Board members within the NSW Health governance model. The new program was implemented in June 2019, with a total of 68 new LHD Board members taking part and highly positive feedback received from attendees on the structure, content and delivery of the program.</p> <p>In context of the COVID-19 pandemic and the inability to host a second series of the</p>	Legal and Regulatory Services Branch, Ministry of Health

	RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD
					<p>orientation in early 2020, the program is to be reviewed to incorporate online-learning opportunities and the development of additional supporting resources for new LHD Board members.</p> <p>Reviewing the effectiveness of LHD boards was included as a topic in the <i>Tuning Governance and Accountability Project</i> in 2019 and resulted in the following activities:</p> <ul style="list-style-type: none"> – facilitation of a working group comprising LHD Board Chairs and Ministry Executive to identify priorities for action; – authoring of an Issue Paper on the topic to guide review; and – creation of resources for use by LHD Boards. <p>A copy of the document <i>Issue Paper: Board Performance Evaluation (Attachment 2)</i> is provided for reference of the PAC. This document outlines the review process, participants and outcomes of the topic.</p>	
2b	Ensuring that each board's governance and oversight of service agreements is consistent with their legislative functions	Accepted	The role of Local Health District Boards in reviewing Service Agreement content and their accountabilities with regard to oversight of performance will be considered as part of the regular review of the NSW Health Performance Framework and the delivery of the objectives of the Tuning Governance and Accountability project.	June 2020	<p>In Progress</p> <p>LHD Boards have a defined role in the development of and oversight of performance against annual service agreements.</p> <p>Pending the final outcomes of the review activity outlined in the response to 3a, the process for engaging with Boards regarding the development of service agreements and the support for the role in overseeing performance will be reviewed.</p>	<p>Legal and Regulatory Services Branch, Ministry of Health</p> <p>System Management Branch, Ministry of Health</p>

	RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD
2c	Improving the use of performance information to support decision making by boards and executive managers.	Accepted	The Ministry is currently piloting a performance dashboard for Local Health District Boards with the objective of strengthening the use of performance data to inform oversight of activity. This recommendation will be considered as part of the review of the outcomes of the pilot program before progressing to full implementation.	June 2020	<p>Complete</p> <p>Development of Board Reports has been a key priority for NSW Health in attempts to standardise Board reporting across the state which identifies the key performance indicators within the service level agreement.</p> <p>A working group was established including LHD Chief Executives and Board Chairs to develop appropriate measures and agree on the format for presentation of data. Since implementation in 2019, reports are prepared and distributed quarterly for tabling and discussion at Board meetings.</p> <p>A sample report is provided for reference of the PAC (Attachment 3), noting that this is a generic report using sample data. A complete report containing actual data can be provided to the PAC on request and in confidence.</p>	System Information and Analytics Branch, Ministry of Health
3	By June 2020, the Ministry of Health should improve accountability and oversight mechanisms by:					
3a	Revising the Health Performance Framework to ensure it is cohesive, clear and comprehensive	Accepted	The Ministry of Health regularly reviews the application of the NSW Health Performance Framework to ensure that it continues to drive safety and quality outcomes, aligns with the purchasing model and provides a robust, transparent and supportive framework for the delivery of services. The points raised will be included as part of the review process.	June 2020	<p>In Progress</p> <p>The scoping process for the review of the NSW Health Performance Framework has been completed, with an objective of ensuring that the framework adheres to the requirements of providing a clear, cohesive, and comprehensive governance framework.</p> <p>Pricewaterhouse Coopers (PwC) have been engaged to complete a thorough needs analysis with an output of a literature review and discussion paper for further discussions at the NSW Health</p>	System Management Branch, Ministry of Health

	RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD
					<p>Performance Framework Review Executive Steering Committee. This is in its final stages and is due to be completed by June 2020.</p> <p>Due to the unprecedented events of COVID-19 the Ministry of Health has had to delay the completion date of this action. The finalised framework is anticipated to be developed and implemented by June 2021.</p>	
3b	Clarifying processes and decision making for managing performance concerns	Accepted	As for 3a.	June 2020	<p>In Progress</p> <p>The framework for managing performance concerns is outline in the NSW Health Recovery Framework. This Framework is being reviewed in parallel with the above review of the NSW Health Performance Framework, to ensure that any developments are reflected across both mechanisms.</p> <p>The review of the Recovery Framework will also ensure that processes around performance decision making are transparent and clearly defined, in keeping with the recommendations of the performance audit.</p>	System Management Branch, Ministry of Health
3c	Developing a mechanism to adequately hold LHDs accountable for non-service activity functions	Accepted	The Ministry of Health will consider opportunities to identify and define additional non-service functions for oversight, with the recognition that variation currently exists within the NSW health Performance Framework in order to ensure local services can be tailored to meet local demands.	June 2020	<p>In Progress</p> <p>The Ministry has identified several opportunities to strengthen the oversight of non-activity service functions across Health Organisations. Examples of opportunities identified include:</p> <ul style="list-style-type: none"> - Embedding patient experience key performance indicators as part of the service agreements - Including consumer engagement as part of accreditation standards 	System Management Branch, Ministry of Health

RECOMMENDATION	RESPONSE	INITIAL COMMENT	DUE DATE	STATUS	LEAD	
				<p>These opportunities will be included in the deliverables of the review of the NSW Health Performance Framework (see response to 3a) and this review will also be used to identify additional opportunities for enhancing oversight of non-activity service functions.</p>		
3d	Reconciling performance monitoring and intervention) with the policy intent of devolution.	Accepted	As for 3a.	June 2020	<p>In Progress</p> <p>The intention of the NSW Health Performance Framework and the NSW Health Recovery Framework is to ensure that collectively as a health system we are achieving excellence in delivering safe quality patient care.</p> <p>State-wide monitoring enables strategic oversight and allows for areas for improvement to be identified and high-level processes and policies to be streamlined for consistency in performance governance across Health Agencies. This provides a structure for Health Organisations to implement strategies that is fit for purpose and in line with devolution.</p> <p>As an initial action, the Ministry has rescheduled the previous weekly recovery teleconferences with identified LHDs to now occur monthly. This has been one to ensure that these discussions maintain a strategic perspective and to provide the LHD with appropriate time to manage operational matters.</p> <p>The completion of the review of the NSW Health Performance Framework will further support the policy intent of devolution and will highlight additional opportunities for action.</p>	System Management Branch, Ministry of Health