

Procurement practices of government agencies in New South Wales and its impact on the social development on the people of New South Wales

Supplementary questions

Question	<p>1. Noting your evidence that the implementation of the Government’s policy commitment to increase tender weightings to 30 per cent to capture local content, job creation, small business and ethical supply chains, can you provide any clarification of the scope of this policy commitment, specifically:</p> <ol style="list-style-type: none"> a. Is it intended to apply to all contracts and at any value, both goods and services and construction? If not, to which contracts and at what value? b. Does the tender weighting of 30% refer to 30% of the total weighting or to 30% of the non-price weighting? Or has this not yet been determined? c. How would the breakdown or balance of the four factors - capture local content, job creation, small business and ethical supply chains – be managed within the 30% requirement? d. Does “small business” mean “small business” or does it mean, as per the current framework, “small and medium enterprises”? e. How does this 30% weighting policy relate to the current SME and Regional policy relating to goods and services contracts under \$3 million? Will it be additional or will it replace, the requirements for a minimum 10% non-price evaluation for SME participation and 10% for “n criterion that allocated to support for the NSW Government's economic, ethical, environmental and social priorities”?
Answer	<p>The Government’s commitment to increase tender weightings to 30% is currently subject to consultation and broader industry-related procurement policy development prior to consideration by Cabinet. Details of how the new policy, including the 30% tender weightings, will function and its interactions with existing procurement policies will be considered as part of this process.</p>
Question	<p>2. If most international suppliers use an ABN and have a registered address in Australia associated with that ABN, how easily is it to identify Australian and New Zealand businesses for the purpose of any “local content” or “local supplier” policy? What are the data quality issues likely to affect implementation of such policies?</p>
Answer	<p>Currently, from a government procurement policy perspective, ‘local’ includes Australian and New Zealand based businesses. Any future reporting definition of 'local content' or 'local supplier' is to be determined (as at the time of this response). Data quality issues may exist with government data (eg. accurate collation and reporting by agencies) Another issue could be availability of verified data from independent third party sources that provide greater insights through additional supplier classification data (eg. the number of ‘jobs’ created per supplier. These potential data issues will need to be assessed as part of any new policy positions.</p>
Question	<p>3. When will the 2024 Aboriginal Procurement Policy for launch?</p>
Answer	<p>It is expected that the revised APP will be developed in 2024.</p>
Question	<p>4. What difficulties, if any, do you see in any implementing the 30% weighting policy arising from Australia’s commitments under the International Procurement Agreements (IPAs), especially the WTO Government Procurement Agreement?</p>
Answer	<p>NSW Procurement is preparing broader industry-related procurement policy options, including the implementation of the 30% weighting policy, that take into account Australia’s commitments under the IPAs. We have conducted analysis of approaches taken by the Australian Government and other States and Territories as part of this work. These approaches primarily focus on local economic benefits arising from the procurement activity, rather than discriminating on the basis of location of ownership or the origin of goods or services.</p>

Question	5. Have you had any discussions with DFAT specifically related to this election commitment to introduce 30% weightings?
Answer	NSW Procurement has not yet had discussions with DFAT in relation to the 30% weighting policy. NSW Procurement is engaging with its Australian Government counterparts in the Department of Finance, and intends to discuss the policy approach with DFAT in the near future.
Question	6. If so, what has been DFAT's response? Have they made clear any limits to NSW's freedom to implement this policy?
Answer	Please refer to answer to question 5.
Question	7. What is your understanding of the timeline for implementing the 30% weighting policy? Are you waiting for this Committee's report – not due now until October 2024 or will the policy be implemented sooner than that, without waiting for our report?
Answer	Broader industry-related procurement policy development incorporating the 30% weighting policy has commenced Recommendations from the committee will help inform the precise timing.
Question	8. Regarding the Government's policy commitment to increase small business share of procurement to 20% by 2026 and 30% in 2030; and noting that according to the NSW Small Business Commissioner's submission spending with small businesses is "currently 12 percent", are these targets achievable and what are the major obstacles to achieving this?
Answer	<p>The Government is considering multiple options to increase the share of procurement spend with small business, including:</p> <ul style="list-style-type: none"> - in 2023, implementing the election commitment to increase the level at which government departments and agencies can purchase goods and services directly from small (and medium) businesses from \$150,000 to \$250,000, and requiring that small businesses are only required to provide proof of insurance at the time of contract award, rather than when tendering - prioritising small businesses in the area nearby government projects during tender processes - simplifying contracts for whole-of-government schemes and key goods and services - simplifying the way small businesses pre-qualify for government work by implementing a single registration form, and - increasing tender weightings to 30% to capture local content, job creation, small business and ethical supply chains. - Development and implementation of initiatives to support small businesses is ongoing as they are embedded into procurement policy and practices.
Question	9. Do you have figures for regional spend in 2021-22 and 2022-23?
Answer	<p>NSW Government agency invoiced expenditure with suppliers in "regional locations" was \$1.64bn for FY 2021-22 and \$2.25bn for FY 2022-23 as per 'SpendCube'. Supplier locations are determined by postcodes provided in supplier invoices or from agency sources which may not always align with the actual location origin of goods and services.</p> <p>More information on Spend Cube is available in response to Question 46.</p>
Question	10. Is there any proposal to increase regional spend?
Answer	<p>The NSW Government has committed to increase local procurement from small businesses by making it easier for small businesses to work with government and prioritising local suppliers in the area nearby the projects they are tendering for.</p> <p>This will build on the existing Small and Medium Enterprise (SME) and Regional Procurement Policy, and supplement any new industry-related procurement policies, to significantly build government procurement spend with small businesses including regional businesses.</p>
Question	11. How many meetings of the Procurement Board have been held since 25 March 2023? How many and which ones were attended by the Minister?

Answer	The Procurement Board has met 4 times since 25 th March 2023. <ol style="list-style-type: none"> 1. 31st May 2023 2. 30 August 2023 (Minister Attended) 3. 29th November 2023 (Minister Attended) 4. 28th March 2024
Question	12. When will the Procurement Policy Framework be updated to reflect the new Board directions?
Answer	The Procurement Policy Framework was updated in April 2024 and is available on info.buy.nsw.gov.au .
Question	13. What would be the implications for requiring State Owned Corporations to comply with the Procurement Policy Framework, or at least to adopt similar procurement practices as the NSW Government, as recommended by the Civil Contractors Federation?
Answer	<p>The State Owned Corporation model seeks to utilise private sector commercial discipline within government businesses, requiring them to operate at arm's-length from government.</p> <p>The SOC model aims to drive lower service prices while improving service delivery, resulting in businesses that perform better while contributing more to the State Budget.</p> <p>The Public Works and Procurement Act 1912 (Act) does not apply to State Owned Corporations, except as prescribed by Regulations. Currently, no State Owned Corporation are prescribed by Regulation.</p> <p>State Owned Corporations must comply with the Commercial Policy Framework and develop a procurement policy that aligns with their commercial objectives and meets the requirements of legislation, the Commercial Policy Framework and the Statement of Expectations issued by the Government to the Board of each State Owned Corporation. The Procurement Policy Framework encourages State Owned Corporations to adopt policy requirements that are consistent with their commercial objectives.</p> <p>The Portfolio Minister for a statutory State Owned Corporation can direct a SOC to undertake non-commercial activities which deliver policy objectives. Alternatively, the Government could require a SOC to comply with the Public Works and Procurement Act and, consequently, the Procurement Policy Framework by Regulation. If a SOC is directed to pursue non-commercial activities, it may be entitled to compensation for the net cost of carrying out those activities. The commercial implications of such a change would need to be assessed on a case-by-case basis.</p> <p>Despite the above context, State Owned Corporations are still required to comply with other legislative requirements. These may include laws related to modern slavery, work health and safety and access to government information.</p>
Question	14. Are there any controls or oversight arrangements relating to procurement when agencies renew existing contracts as opposed to holding an open tender process?
Answer	<p>The Procurement Policy Framework states that contracts should only be extended if the contract meets the agency's needs and supplier performance is satisfactory. Extension options must only be exercised where it can be demonstrated the contract will continue to deliver value for money. Routinely exercising extension options or rolling-over contracts reduces competition and limits access to new suppliers, products and services. Agencies should consider using extension options on a case-by-case basis, allowing enough time to conduct a new procurement exercise if the contract is not meeting the agency's needs or delivering value for money.</p> <p>The standard Procurement Strategy Template on buy.nsw guides buyers through the strategic assessment process.</p> <p>For NSW Treasury specifically, its internal procurement guidelines align with the Procurement Policy Framework and suggest conducting a strategic assessment of the market prior to rolling-over or extending a contract, including how the extension will impact competition and create (or continue) barriers to new suppliers. This approach is used for whole-of-government contracts managed by NSW</p>

	<p>Procurement and Treasury contracts.</p> <p>In relation to renewal of a contract with an incumbent supplier, without a competitive process (either open or selective tender), please note the following:</p> <ul style="list-style-type: none"> - A class 2 contract includes contracts over \$150,000 (ex. GST) where there has not been a tender process, the proposed contract has not been made publicly available and the terms and conditions of the contract have been negotiated directly with the contractor. These are required to be disclosed as class 2 via contract disclosure reporting on tenders.nsw.gov.au and have additional fields for reporting. - A class 3 contract is a class 2 contract over \$5 million. Copies of these contracts are required to be published online. This usually resides on the buying agency's website. - In terms of controls centrally, NSW Government works in a devolved procurement operating model and neither NSW Treasury nor the Procurement Board is involved in day-to-day procurement of agencies. Accredited agencies attest compliance with the Procurement Policy Framework through the accreditation scheme. - There are various circumstances where it may be appropriate for an agency to renew existing contracts, for example, based on cost (of exiting or transitioning, vs overall cost), lack of technical interoperability, or lack of other suitable suppliers.
Question	15. Does rolling over and extending existing contracts pose a barrier to new participants and entrants to Government?
Answer	The Procurement Policy Framework states that contracts should only be extended if the contract meets the agency's needs and supplier performance is satisfactory. Extension options must only be exercised where it can be demonstrated the contract will continue to deliver value for money. Agencies should consider using extension options on a case-by-case basis. The standard Procurement Strategy Template on buy.nsw guides buyers through the strategic assessment process.
Question	16. How is probity and fairness considered during the procurement phase?
Answer	<p>Procurement of goods and services by NSW Government agencies is subject to well established principles of governance, transparency probity, that are applied through a range of legislative and administrative obligations on both buyers and suppliers. This includes the Public Works and Procurement Act 1912; the Independent Commission Against Corruption Act 1988; and the NSW Audit Office under the Public Finance and Audit Act 1983.</p> <p>The Procurement Policy Framework also states agencies must:</p> <ul style="list-style-type: none"> - Ensure procurement is fair, ethical, transparent and probity rich and ensure that probity is routinely considered in procurement decisions, - Safeguard confidential supplier information and treat tenders and business information fairly, impartially, and securely, - Be aware of relevant legislation, the agency's code of conduct, gifts and benefits policy and business ethics statement. - Follow the agency's procedures to manage conflicts of interest both real and perceived. <p>For NSW Treasury specifically, the internal procurement team works closely with the business units to complete a probity plan, as well as to assist buyers to clearly set out the general principles of probity which staff and probity advisers/auditors are expected to apply throughout a procurement process. NSW Procurement also follows the Procurement Policy Framework guidelines to ensure probity and fairness in setting up and managing NSW Procurement owned whole-of-government contracts.</p>
Question	17. How are concerns relating to commercial in confidence balanced with transparency relating to the procurement environment?
Answer	<ul style="list-style-type: none"> - The balance between transparency and protecting commercial-in-confidence information is managed in the context of two information access regimes, being the Government Information (Public Access) Act 2009 (NSW) (the GIPA Act) and Standing Order 52.

	<ul style="list-style-type: none"> - The Government Information (Public Access) Act 2009 requires that all Government contracts with a value of \$150,000 or more have certain information disclosed on the NSW Government e-tendering website (www.tenders.nsw.gov.au)
Question	18. How is value for money considered in the government procurement framework? Provide case studies to illustrate if possible.
Answer	<p>The overarching consideration in the Procurement Policy Framework for government procurement is ensuring best value for money in the procurement of goods, services, and construction.</p> <p>Value for money is not necessarily the lowest price, nor the highest quality good or service. It requires a balanced assessment of a range of financial and non-financial factors, such as: quality, cost, fitness for purpose, capability, capacity, risk, total cost of ownership or other relevant factors.</p> <p>Common evaluation criteria adopted by agency buyers should consider the following in assessing value for money:</p> <ul style="list-style-type: none"> - financial and non-financial costs and benefits of making the procurement - the quality and quantity of goods or services - whether the goods or services are fit for purpose - the supplier's relevant experience and performance history - the whole-of-life costs of the goods or services, and - the environmental sustainability of the goods or services. <p>For high-value procurements, agency buyers must include additional criteria that support NSW Government priorities. This includes:</p> <ul style="list-style-type: none"> - supporting small to medium enterprises (SMEs) and regional businesses - providing employment and business opportunities for Aboriginal people - supporting apprenticeships and trainees on construction projects. <p>Different thresholds (or maximum contract values, MCVs) require additional evaluation criterion including:</p> <ul style="list-style-type: none"> - Goods and services contracts under \$3 million can include a non-price evaluation criterion to assess how SME suppliers will support the government's economic, ethical, environmental and social priorities. - Goods and services contracts over \$3 million require buyers to apply a minimum 10% of the non-price evaluation criteria to assess how suppliers will support SME participation. Buyers must also apply a minimum 10% of the non-price evaluation criteria to assess how suppliers will support the government's economic (including local content), ethical, environmental and social priorities. Suppliers are required submit an SME and Local Participation Plan in their tender response and make sure the successful supplier implements their plan. This includes making sure suppliers report quarterly on implementing their plan. - All contracts over \$7.5 million (goods and services contracts and construction contracts) require setting a target to spend 1.5% of the project value on supporting Aboriginal participation. Buyers should also set higher goals where possible. Buyers must require prospective suppliers to submit an Aboriginal Participation Plan in their tender response and make sure the successful supplier implements their plan. This includes making sure suppliers report quarterly on implementing their plan. <p>Samples of evaluation criterion used in the past include:</p> <ul style="list-style-type: none"> - Previous relevant experience and comprehensive understanding of the NSW public sector and their category reporting requirements. - Availability of and commitment to suitability qualified and skilled named resources to provide the ad-hoc support as required. - Ability to be available and to provide suitability qualified and skilled resources at short notice. - Ability to deliver value, high quality advice and support. - Proposed rates and fee structure, time commitments of nominated personnel at all grade levels.

	<ul style="list-style-type: none"> - Approach and hourly (or daily) rates in respect of additional work. - Using SMEs in delivering goods and services, such as a subcontractor or a supplier - Using Aboriginal-owned businesses in delivering the product - Using goods and services from a business that provides services of people with disability - Using goods and services from a social enterprise
Question	19. How are local content targets and increasing tender weighting to back local players managed in regional areas?
Answer	<p>Currently, there are no local content targets.</p> <p>Regional businesses are predominantly small businesses (97% of regional businesses in FY22-23¹), and therefore initiatives to support small business also benefit regional businesses.</p> <p>The NSW Government has committed to increase local procurement from small business by making it easier for small businesses to work with government and prioritising local suppliers in the area nearby the projects they are tendering for.</p> <p>The commitment for a 30% weighting addresses local content, but also job creation, small business and ethical supply chains. This will benefit local businesses, including regional businesses.</p> <p>These initiatives will build on the existing Small and Medium Enterprise (SME) and Regional Procurement Policy and supplement any new industry-related procurement policies, to significantly utilise government procurement spend with small business including regional businesses.</p>
Question	20. In reference to the above, how are perceptions of conflicts of interest managed relating to single providers being available to fulfill Government contract work as opposed to multiple providers in a metropolitan setting?
Answer	<p>Every procurement process should commence with anyone involved in the procurement process declaring any conflicts of interest (actual, perceived or potential). This is a fundamental first step in any procurement irrespective of whether the procurement is taking place in regional NSW or a metropolitan city. Throughout the procurement process, procurement officers provide probity advice to ensure the process is fair, ethical, transparent and principled.</p> <p>Actual, perceived or potential conflicts are managed on a case-by-case basis by the agency undertaking the procurement.</p> <p>In addition to conflict of interests declared for a procurement process, all Departmental staff annually disclose conflicts of interests for them to perform their duties as public servants.</p> <p>Suppliers are also required under the 'Supplier Code of Conduct', to declare any real or perceived conflicts of interest when conducting business with NSW Government. Non-compliance with this code could lead to:</p> <ul style="list-style-type: none"> - 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
Question	21. Are guidelines available to help guide agencies in complying with the Procurement Policy Framework and its objectives?
Answer	<p>Additional resources and guidance materials are available on buy.nsw and the NSW Government online procurement training platform, Comperio. The info.buy.nsw.gov.au website has numerous dedicated pages with guidance to support agencies in complying with the Framework.</p> <p>Comperio contains training modules on procurement foundations, procurement objectives, probity and procurement in operation. Specific training modules are also developed for some procurement</p>

¹ ABS 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2019 to June 2023, Released 18 December 2023, accessed 23 April 2024

	<p>policies or directions. There are currently over 3,600 government employees registered as Comperio users with access to these additional training resources to support them in complying with the Framework.</p>
Question	<p>22. What are the checks and supervision arrangements to ensure agencies are complying with the Procurement Policy Framework?</p>
Answer	<p>The NSW Procurement Policy Framework provides a consolidated view of government procurement objectives and the Procurement Board’s requirements as they apply to each step of the procurement process. The NSW Procurement Policy Framework is a “policy” for the purposes of s.176(1)(a) of the <i>Public Works and Procurement Act 1912</i>. Government agencies, as defined in s.162 of the Act, must comply with the mandatory parts of the policy.</p> <p>Accredited agencies are required to provide an annual self-attestation to confirm that their ‘best endeavors’ have been undertaken to ensure that their agency has acted in accordance with the NSW Procurement Policy Framework. Agencies report the results of their annual self-attestation to the Procurement Board for review.</p> <p>For Treasury procurement, the Internal Audit team performs yearly assessments of internal procurement controls to ensure these processes are aligned with the NSW Procurement Policy Framework.</p>
Question	<p>23. What provisions are there for social enterprises in the Procurement Policy Framework and how is value for money managed in this context?</p>
Answer	<p>Under the NSW Procurement Policy Framework, agencies are encouraged to procure from social enterprises to support economic and social change for disadvantaged people. The Framework also notes that social enterprises may be small businesses, SMEs, Aboriginal businesses or Australian Disability Enterprises, and if so, qualify for the purchasing preferences and initiatives under the SME and Regional Procurement Policy, ICT/Digital SME Procurement Commitments, Aboriginal Procurement Policy or Public Works and Procurement Regulation.</p> <p>Value for money is not necessarily the lowest price, nor the highest quality good or service. It requires a balanced assessment of a range of financial and non-financial factors, such as: quality, cost, fitness for purpose, capability, capacity, risk, total cost of ownership or other relevant factors.</p> <p>The term ‘value for money’ means different things to different people and Government buyers should always take a holistic view. This means looking at the total benefit to the community and assessing costs versus benefits in a transparent way supported by evidence.</p>
Question	<p>24. What provisions are there in the Procurement Policy Framework to advance women’s economic reform and the objective of improving the proportion of government spend with gender equitable and women owned businesses, and how is value for money managed in this context?</p>
Answer	<p>There are currently no provisions in the Procurement Policy Framework specifically to advance women’s economic reform and the objective of improving the proportion of government spend with gender equitable and women owned businesses.</p> <p>The NSW Government encourages gender equality within our supply chain and tags ‘verified gender equitable’ suppliers on the buy.nsw website. These suppliers are businesses with at least 100 employees who have registered on the Supplier Hub and have been granted an Employer of Choice for Gender Equality citation by the Commonwealth Workplace Gender Equality Agency for demonstrating an active commitment to workplace gender equality.</p> <p>Economic development, social outcomes and sustainability is an objective of the NSW Procurement Policy Framework that includes a focus on spending public money efficiently, economically, and ethically to deliver value for money on a whole of life basis. The assessment of value for money should be assessed beyond the sourcing process to considering benefits and risks to the organisation, the community, the economy and impacts on the environment.</p>

Question	25. What provisions are there in the Procurement Policy Framework in reference to environmentally sustainable procurement/ Net Zero and how are issues relating to value for money managed in this context?
Answer	<p>The NSW Procurement Policy Framework (the Framework) includes “<i>Economic development, social outcomes and sustainability</i>” among its five objectives.</p> <p>Specifically, the Framework includes the following environmental-related provisions addressing resource efficiency, waste reduction, and circular economy. Government buyers:</p> <ul style="list-style-type: none"> - must comply with the Government Resource Efficiency Policy (GREP) by ensuring goods, services and construction projects meet minimum energy, water use and air emissions standards. GREP also includes requirement for purchasing a minimum of 6% GreenPower. - must ensure any disposal or repurposing is consistent with environmental and waste management legislation, regulations and policies. - should purchase construction materials with recycled content; copy, stationery and print publication paper with post-consumer recycled content, and non-recycled paper from sustainable sources. - should consider, in line with the NSW Circular Economy Policy Statement, the product lifecycle when conducting needs analysis and developing product specifications, including taking account of circular economy principles, so that use of recycled materials and disposal or repurposing of goods or assets is planned into the procurement process - must use E10 and biodiesel blends where possible, unless there is a clear operational requirement that precludes the use of biofuels. <p>For procurement of construction, Government buyers:</p> <ul style="list-style-type: none"> - must comply with the <i>Protection of the Environment Operations Act 1997</i>. - must comply with the provisions of the Environmental Management Guidelines for Construction, such as: requirement to include in tender documentation all known environmental management requirements and to assess potential contractors’ environmental management capability - must ensure construction and demolition waste is disposed of using a facility that complies with the Standards for Managing Construction Waste in NSW. - should refer to the Construction and Demolition Waste Management Toolkit prepared by the Environmental Protection Authority for guidance on engaging contractors and working on contracts that involve construction and demolition. <p>Additionally, Section 2 “<i>The Plan, Source, Manage approach</i>” of the Framework identifies how Government buyers are expected to consider environmental matters as part of the value for money assessment:</p> <ul style="list-style-type: none"> - for procurement of goods and service greater than \$0.68 million, and for construction procurements greater than \$9.584 million, Government buyers should consider, if relevant, the environmental sustainability of the goods or services among the evaluation criteria to assess value for money. - for procurement of good and service greater than \$3 million, Government buyers must include in a non-price evaluation criteria with a minimum 10 percent weighting to support for the NSW Government’s economic, ethical, environmental and social priorities. - for procurement of construction, Government buyers must incorporate a weighting for air emission standards, in conjunction with other environmental considerations, during the tender selection process for contracts valued \$10 million or more. <p>Further, Infrastructure NSW published <i>The Decarbonising Infrastructure Delivery Policy</i> in April 2024, which sets expectations for NSW Government infrastructure delivery agencies on managing embodied carbon in public infrastructure projects. The Policy will ensure embodied carbon is a key consideration in early project stages and that carbon information is collected consistently across Government projects. The Policy will be included in the next update of the Procurement Policy</p>

	Framework.
Question	26. In the interest of streamlining the procurement process to assist SMEs are standard procurement contracts utilised across government in NSW?
Answer	<p>Goods and services contracts (excluding ICT)</p> <p>There are no standard procurement contracts for goods and services across government in NSW however standard procurement templates have been developed by NSW Treasury and are available for agency use.</p> <p>See https://www.info.buy.nsw.gov.au/resources/goods-and-services-sourcing-and-contract-templates</p> <p>ICT contracts</p> <p>PBD 2021-02 Mandated use of the ICT Purchasing Framework requires agencies to use contract templates in the ICT Purchasing Framework for all ICT and digital procurement. This Framework includes the Core& Contracting Framework for procurement of low-risk goods/services valued up to \$1 million. The MICTA/ICTA Contracting Framework must be used for procurements of high-risk goods/services or contracts valued \$1 million or more. Agencies can make beneficial variations to the templates that clearly improve the their customer’s contractual position. Non-beneficial variations must be approved by the Department of Customer Service. See https://www.info.buy.nsw.gov.au/resources/ICT-Purchasing-Framework</p> <p>Construction contracts</p> <p>Construction procurement has its own set of processes, guides, templates and support materials and has frameworks designed to support agencies to prepare tender documents and contracts based on standard forms. Standard contract templates are available for “Mini minor works” (low-risk contracts valued up to \$250,000), “Minor Works” and “Minor Works Local Government” (MW21 & MW21-LG – low-risk contracts valued up to \$2 million), and GC21 edition 2 for contracts valued over \$2 million, and use on complex and high-risk contracts valued over \$1 million.</p> <p>See https://www.info.buy.nsw.gov.au/categories/construction</p> <p>Infrastructure Advisory Services</p> <p>Infrastructure advisory services are consulting services for infrastructure projects</p> <p>The Infrastructure Advisory Services contract framework includes contract templates and tools for a standardised approach to risk allocation when buying infrastructure advisory services.</p> <p>NSW Government agencies are recommended to use the contract framework when buying infrastructure advisory services.</p> <p>Additionally, some prequalification schemes include a standardised contracting framework that is developed to mitigate additional risk to government within a specific supply category</p> <p>Agencies may also develop their own standard templates for use by procuring officers.</p>
Question	27. Do we have data on the uptake of any standard procurement contracts across government?
Answer	<p>There is currently no data available on the uptake of standard procurement contracts. However, data indirectly indicating the use of some contracts such as number of times a contract was downloaded from buy.nsw can be accessed.</p> <p>-</p>
Question	28. Are there guidelines or recommendations that support the uptake of this contract by procurement officers across NSW Government?
Answer	The NSW Procurement Policy Framework sets out overarching guidelines for government procurement, including the use of standard contracts. Agencies may also have their own local procurement policies that may also include a suite of standard contracts.
Question	29. What are the known cost savings to both suppliers and NSW Government with a standard contract in place?

Answer	<p>There is no data available on known cost savings relating to the use of standard contracts.</p> <p>The use of standard contracts would logically reduce effort for both agencies and suppliers. Use of standard contracts minimises the need for repeated external legal review, removes the need to negotiate bespoke contracts and reduces the risk of inconsistencies, ultimately leading to more efficient procurement and cost savings.</p> <p>Prequalification schemes with contractual frameworks can create cost savings through mechanisms such as price caps and standard discounts as well as streamlined purchasing, as the ordering processes, pricing, and terms and conditions are pre-negotiated. An example is the standard commercial framework for business advisory services within the Performance and Management Services Scheme (SCM0005).</p>
Question	30. What are the risk and liability terms in the standard government contract? Are these terms mandated?
Answer	<p>Whilst the use of standard contracts is not mandated, the NSW Procurement Policy Framework does contain several provisions relating to liability. The NSW Procurement Policy Framework states that agencies should minimise insurances and indemnities imposed on suppliers, with risk allocated to the party best placed to mitigate or manage those risks.</p> <p>The SME and Regional Procurement Policy requires that agencies ensure that the minimum levels of public liability and professional indemnity insurance are imposed on SMEs, and that professional indemnity insurance must only apply if the agency is procuring professional services or expert advice.</p>
Question	31. Is there provision to contract out of proportionate liability in NSW? What data is available on how this is occurring?
Answer	<p>The NSW Procurement Policy Framework includes specific provisions related to insurance that are designed to be reasonable and support small and medium enterprises (SMEs).</p> <p>Proportionate liability on construction contracts</p> <ul style="list-style-type: none"> - PBD 2017-03 Civil Liability Act 2002 – proportionate liability states that government agencies should only contract out of Part 4 of the Civil Liability Act 2002 in a construction contract when an assessment clearly demonstrates that this action is justified. Part 4 of the Civil Liability Act 2002 creates the proportionate regime. <p>PBD 2017-03 requires agencies to notify NSW Public Works advising the circumstances for exclusion of proportionate liability, however in the last 5 years there have been no notifications to NSW Public Works in this regard. As such, there is no data available on this matter. Compliance with is not proactively monitored.</p>
Question	32. Is there recognition of professional standards concerning liability provision in NSW standard contracts?
Answer	<p>By way of example, the NSW Government’s recommended contract framework for the buying of infrastructure advisory services (IA Contract Framework) includes standard clauses requiring contractors to exercise the standard of skill, diligence, care and expertise in the performance of their works that would be expected of a professional who regularly acts in such a capacity, as well as requirements to ensure that suppliers act in accordance with all relevant standards, codes and guidelines.</p> <p>The IA Contract Framework also includes a standard limitation of liability regime that limits a supplier’s total liability in certain circumstances. The limitation of liability does not extend to any liability arising from wilful or reckless misconduct, fraud or criminal conduct.</p> <p>The NSW Government also utilises the GC21 suite of documents for construction procurement (GC21). The GC21 contract stipulates that contractors breach their contract if they fail to carry out the works with professional skill, care and competence.</p> <p>The GC21 standard contract also includes a standard limitation of liability regime. This limitation of liability does not extend to any conduct that is wilful, reckless, fraudulent or criminal. The GC21 contract provides that contractors’ liability may be further limited to the extent provided for under</p>

	the <i>Professional Standards Act 1994</i> (NSW) or equivalent statutory provisions in other states or territories.
Question	33. Are there any measures in place relating to standardise these contracts across States and territories in hope of making the procurement process more accessible to SMEs across Government?
Answer	There are no cross-jurisdictional plans to standardise contracts across States and Territories. Differences in procurement systems, risk appetite, policy priorities and State and Territory statutory regimes make standard contracts challenging.
Question	34. Could you please provide the outcomes and any related documentation of the last Strategic offsite meeting, that you referred to in your evidence, as they relate to the objectives of the procurement board?
Answer	The most recent Procurement Board Strategic Offsite was 16 th May 2023. The outcomes of the offsite were: <ul style="list-style-type: none"> - The board identified some opportunities to further uplift sector-wide procurement capability given the limited availability of quality procurement candidates in the market. - Changes to goods and services accreditation to strengthen the accreditation function and provide the board with improved visibility of procurement activity in the devolved model.
Question	35. How do you ensure goods and services are not the product of modern slavery? <ol style="list-style-type: none"> a. What compliance mechanisms do you have in place? b. Who is in charge of this? c. Is this also a devolved responsibility and if so how is this tracked and reported on? d. Could we please have any such reports?
Answer	Under the <i>Public Works and Procurement Act 1912</i> (NSW), NSW Government agencies have a statutory duty to take reasonable steps to ensure they are not procuring goods and services that are the product of modern slavery. In December 2023, the NSW Anti-slavery Commissioner published his Guidance on Reasonable Steps to Manage Modern Slavery Risk in Operation and Supply Chains (<i>GRS</i>). The <i>GRS</i> outlines the seven steps agencies must take to manage modern slavery risk. The <i>GRS</i> contains model tender and contract clauses that agencies can use as well as an Inherent Risk Identification Tool to guide agencies on their due diligence activities. The <i>GRS</i> and <i>IRIT</i> are available on the Commissioner’s website at: https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner.html Under the <i>Modern Slavery Act 2018</i> (NSW) (<i>the MS Act</i>) and the <i>Public Works and Procurement Act 1912</i> , agency heads are responsible for ensuring compliance with statutory duties and obligations. Agencies are required to report on the steps they have taken to ensure their supply chains do not contain products of modern slavery and other matters required by the Commissioner from time to time. This is reported in agencies annual reports, which are tabled in NSW Parliament and are available on agency websites. The 2022-2023 NSW Treasury Annual Report was published on 21 December 2023 and is available on the NSW Treasury website at: https://www.treasury.nsw.gov.au/documents/2022-23-nsw-treasury-annual-report . The Commissioner tracks compliance with reporting requirements and under the <i>MS Act</i> , must maintain a register of agencies that are failing to comply with their statutory obligations. Work is underway to incorporate a tag in public contract disclosures, to identify disclosed contracts that are high-risk based on the Commissioner’s Inherent Risk Identification Tool methodology. The NSW Anti-slavery Commissioner is responsible for monitoring reporting and compliance with the <i>MS Act</i> .
Question	36. How has the procurement board interpreted ‘value for money’ and how has this been conveyed to the agencies?
Answer	The Procurement Policy Framework is the key procurement policy document that addresses value-for-money. The Framework has 5 policy objectives, two of them relate to value-for-money.

	<p>Objective 1 states that value for money is “the overarching consideration for government procurement”. The Framework explains that value for money is not necessarily lowest price, nor the highest quality good or service and requires “a balanced assessment of a range of financial and non-financial factors such as: quality, cost, fitness for purpose, capability, capacity, risk, total cost of ownership or other factors.”</p> <p>Objective 5. Economic development, social outcome and sustainability makes explicit “sustainable procurement focuses on spending public money efficiently, economically, and ethically to deliver value for money on a whole of life basis. Sustainable procurement extends the assessment of value for money beyond the sourcing process, considering benefits and risks to the organisation, the community, the economy and impacts on the environment”.</p> <p>This information is also communicated on buyer guidance on the buy.NSW website. The guidance contains some additional information to assist buyers to assess value for money, apply a monetary value, consult potential customers, consider innovation and collaboration opportunities, and also has related resources.</p> <p>Updates to the Procurement Policy Framework, and other policy and guidance information, are notified to agencies via email distribution list (‘Procurement Alerts’), news items on the buy.nsw website, communication to Chief Procurement Officers and via the Board member that represents the lead agency on the Procurement Board.</p> <p>Refer Answer to Q18 above for details on the Value for Money objective and guidance to buyers.</p>
Question	37. Given that many of the submissions note that the current process makes it difficult for small businesses to participate in the procurement process – what has the procurement board done to act in accordance with their objectives, i.e. facilitate access for small and medium businesses?
Answer	<p>The Procurement Policy Framework incorporates all existing central government policies and Procurement Board requirements for government procurement in one place. -Ongoing improvements are required and necessary to the Procurement Policy Framework to continuously improve and streamline government procurement as the economic, technology and procurement landscape evolves and government priorities change.</p> <p>On 5 November 2023, the Minister for Domestic Manufacturing and Government Procurement, Courtney Houssos MLC, directed the Procurement Board to issue a direction to promote access to procurement for small businesses. The Procurement Board issued that direction (PBD 2023-03-Procurement opportunities for small (and medium) business) on 7 December 2023, which:</p> <ul style="list-style-type: none"> - increased the level at which government departments and agencies can purchase goods and services directly from small and medium businesses from \$150,000 to \$250,000; and - ensured that small businesses are no longer required to submit proof of insurance when they tender. Instead, proof of insurance will only be required when a contract is awarded. <p>The existing SME and Regional Procurement Policy requires agencies to make it easy for small and medium enterprises (SMEs) to participate in government procurement, including by:</p> <ul style="list-style-type: none"> - first considering purchasing from an SME for all procurements valued up to \$3 million where the agency is able to directly purchase goods or services from a supplier, including from prequalification schemes and panels - providing a length limit for tender responses - using plain English - simplifying tender requirements as much as possible - minimizing insurance requirements - providing pre- and post-tender briefings when reasonable requested by SME and regional suppliers - providing suppliers with as much notice as possible of upcoming and open procurements.
Question	38. In your evidence you referred to ‘trigger events’ can you explain further what these are?
Answer	A trigger event is a situation that could impact an accredited agency’s procurement capability and

	<p>capacity. When a trigger event happens, accredited agencies produce a plan for managing or resolving it and submit that plan to the Procurement Leadership Group (PLG, for goods and services accreditation) or Construction Leadership Group (CLG, for construction accreditation). The PLG or CLG will determine if the event should be escalated to the NSW Procurement Board. The NSW Procurement Board will determine if further action is needed to manage the trigger event. They will also decide if they need to review, alter or withdraw an agency's accreditation status.</p> <p>A trigger event can be because of:</p> <ul style="list-style-type: none"> - Performance against standards (under or over performance) - Machinery of government - Organisational change - Capability changes - Non-compliance - Failure to submit an annual self-attestation <p>For more information, please refer to the Accreditation Trigger Event page on buy.nsw</p>
Question	39. In regards to the review of self-attestations, can you please provide more information on this process and how it occurs?
Answer	<p>There are two types of accreditations requiring agency self-attestation - Goods & Services, and Construction.</p> <p>Goods & Services:</p> <p>Self-Attestations are part of the annual accreditation process and are the responsibility of accredited agencies.</p> <p>Accredited agencies are required to provide the following documents to NSW Procurement for submission to the Procurement Board by 31 August each year:</p> <ol style="list-style-type: none"> 1. Agency procurement plan for the next 12 or 24 months depending on accreditation level. 2. Annual outcomes report for the previous financial year. 3. Self-assessment attestation for the previous financial year. 4. Improvement plan progress report for the previous financial year if there are outstanding improvement actions carried over from the legacy accreditation scheme. <p>A Self-assessment Attestation is to be signed annually by each accredited agency's secretary to confirm that 'best endeavors' have been undertaken by their agency or agencies to comply with their accreditation requirements.</p> <p>Each accredited agency is to determine that they meet the requirements of their accreditation using a pragmatic level of assurance. Secretaries may decide to obtain assurance from reviews conducted by their respective procurement units or other sources that they deem appropriate (e.g., internal audit and risk committees). Accredited agencies sitting within a lead agency group should follow the lead agency's approach regarding Secretary's approval.</p> <p>NSW Procurement collates self-attestations and provides the information to the Procurement Board.</p> <p>For Construction:</p> <p>Each year, Agencies accredited for construction procurement are required to submit the following reports:</p> <ul style="list-style-type: none"> - <u>Annual Outcomes Report</u> which tracks the Agency's year on year procurement performance - <u>Annual Procurement Plan</u> to capture procurement activities planned for the next 12 months - A <u>Self Attestation</u>, signed by the Agency's Secretary to confirm that best endeavours have been undertaken to ensure the Agency complies with the minimum standards for accreditation. - Any <u>Trigger Event Management Plans</u> currently in place <p>NSW Public Works consolidates the reports for submission to the NSW Procurement Board. The NSW Procurement Board monitors Agencies' outcome target(s), their compliance against the accreditation</p>

	<p>obligations and their year-on-year performance.</p> <p>The Construction Procurement Accreditation Assessment Tool, used during the initial accreditation assessment to determine an unaccredited Agency's competency for Accreditation, is not required to be submitted as part of the Annual Reporting requirements.</p> <p>Accredited Agencies may choose to use the Accreditation Assessment Tool to test their compliance against the minimum standards for Accreditation, however this is not mandatory for the annual reporting submissions. The Self Attestation, signed by the Agency Secretary, confirms the Agency's compliance with these requirements.</p> <p>Note: unaccredited agencies are not currently required to provide a self-attestation.</p>
Question	40. Who handles external complaints received by the Procurement Board? How many complaints have been received per year since 2013?
Answer	<p>Complaints received by an agency follow the complaints handling process outlined on buy.nsw.</p> <p>When complaints are escalated to the NSW Procurement Board, they are investigated by the Board Secretariat in consultation with the relevant agency through the collection of data and reports on the complaint investigation. It is then reported to the Board for their consideration.</p> <p>Since February 2023 complaint management has been delegated to the Board's Risk and Compliance sub-committee. There have been 16 complaints received by the Procurement Board since 2019 (when consistent collection of data commenced).</p>
Question	<p>41. It is stated that the self-attestation "includes standard measures of procurement activity, achievement of procurement outcomes and achievement of social procurement activities."</p> <ol style="list-style-type: none"> What are the standard measures for each of these three areas? Are there gaps in the current reporting and how these align with the government's stated commitments for procurement?
Answer	<p>Goods and Services and Construction self-attestation processes have their own sets of metrics.</p> <p>Good and Services:</p> <p>The 2018 accreditation reform introduced metrics for each accredited agency to measure. The current list of the metrics is:</p> <ul style="list-style-type: none"> - Cost reduction savings - Cost reduction savings enabled by the procurement function from, but not limited to, price or rate reduction; demand management; and/or process optimization. - Cost avoidance savings - Cost avoidance savings enabled by the procurement function from, but not limited to those from eliminating budgeted cost i.e. in budget cost avoidance; e.g. from refining a scope of work; and/or from eliminating a probable future expense i.e. out of budget cost avoidance. - Total savings enabled from procurement addressable spend - Total cost reduction and cost avoidance savings enabled as a proportion of procurement addressable spend. - Procurement returns on investment (ROI) - Proportion of savings enabled by the procurement function against the cost of the function - Spend under contract- Proportion of procurement addressable spend covered by a contract. - Agency defined metric – (Minimum of one sustainability metric required) - Proportion of <metric/topic> in agency supplier base / spend / contracts. <p>Construction:</p> <p>Procurement activity, outcomes and social procurement are reported via the Annual Outcomes Report, which focusses on 5 key outcomes:</p> <p>Capability Uplift:</p> <ul style="list-style-type: none"> - Capability Uplift Score: Measures the percentage change in overall capability of the procurement team using a Construction Procurement Capability Assessment Tool approved

	<p>by the agency.</p> <ul style="list-style-type: none"> - Employee Satisfaction Score: Measures the proportion of staff satisfied with their job role, communication, relationships, learning and development opportunities, and work environment. <p>Benefits:</p> <ul style="list-style-type: none"> - Construction Projects Delivered on Time: Measures the total number of construction projects that were delivered on time during the reporting period. - Variation Between Pre-Tender Estimate and Contract Award Value: Measures the total percentage variance between the agency's pre-tender estimate value and contract award value for all construction contracts awarded during the reporting period. <p>Efficiency:</p> <ul style="list-style-type: none"> - Procurement Activity Delivered to Plan: Measures the proportion of completed procurement events against the Agency Procurement Plan. - Time to Award: Measures the percentage of construction contracts that were awarded within agency-defined timeframes after tender close. <p>Quality:</p> <ul style="list-style-type: none"> - Building and Construction Industry Security of Payment Act 1999 Disputes: Measures the total number of disputes that contractors lodge against the agency. - Market Engagement: Measures the number of market or industry engagements that the agency holds or participates in over the reporting period. <p>Sustainability:</p> <ul style="list-style-type: none"> - Minimum of one sustainability metric required, measuring the proportion of a specified metric/topic in agency supplier base, spend, or contracts. <p>As outlined in the identified measures for both goods and services and construction, agencies self-identify sustainability measures, which may include the government's stated commitments for procurement.</p>
Question	42. I note that on page 8 of your submission: "NSW government must regularly test their compliance with the mandatory requirements of the procurement policy framework and other policies and directions: How do they do this? How do you know that they do this?"
Answer	It is a requirement of agency accreditation to regularly assess compliance with the Procurement Policy Framework. As an example, NSW Treasury utilises the Internal Audit team who performs annual assessments of NSW Treasury internal procurement controls to ensure these processes are aligned with the NSW Procurement Policy Framework. Other agencies may have different approaches to ensure their compliance.
Question	43. Your submission notes that: Both accreditation programs mentioned: <ul style="list-style-type: none"> • establish minimum standards for managing procurement activities • manage risk • promote the delivery of outcomes towards strategic priorities • drive continuous improvement and capability development across the sector. <p>a. In practice how do the accreditation programs do this? Particularly the continuous improvement if once granted Accreditation cannot be revoked.</p>
Answer	<p>The Construction Procurement Accreditation Assessment Tool tests an agency against 7 focus areas and is attested to via the Self Attestation signed by the Agency Secretary:</p> <p>Strategy - The Agency's procurement function has a clear, well-defined strategy that supports delivery of its pipeline and NSW Government's strategic priorities and objectives.</p> <p>People and Governance - The Agency has resources with sufficient procurement capability and skills and seeks to leverage opportunities both internally and externally to further develop.</p> <p>Processes and Systems - The Agency has efficient and robust processes and systems in place and actively used to support the procurement function and direct more effort towards value-add activities.</p> <p>Supplier and Market Management - The Agency works with the market and key suppliers to build</p>

	<p>effective and mutually beneficial relationships.</p> <p>Risk Management - The Agency is aware of procurement risks and applies appropriate risk management to ensure their mitigation.</p> <p>Performance and Contract Management - The Agency works effectively with its suppliers to ensure they deliver results for the Agency and achieve value for money.</p> <p>Continuous Improvement - The Procurement function has a sound approach to measuring and demonstrating its contribution to the Agency and has actions in place to improve.</p> <p>The NSW Procurement Board is responsible for granting accreditation, monitoring Agency compliance against accreditation obligations and year-on-year performance, reviewing an Agency's outcomes target(s) and varying or withdrawing accreditation from accredited Agencies that no longer meet the minimum standard for accreditation.</p>
Question	44. How do you understand that the Procurement Policy Framework Objectives are implemented by agencies – particularly number 5 -Economic Development, Social Outcomes and Sustainability?
Answer	<p>The Procurement Policy Framework contains legislation, directions, policies and circulars that support small and medium sized businesses, Aboriginal businesses, regional businesses, disability employment organisations and social enterprises. These policies help government to build a diverse supplier base to encourage economic development across the state.</p> <p>Each agency is responsible for their own compliance and implementation of the Procurement Policy Framework, including the above policies and directions. NSW Government works in a devolved procurement operating model and NSW Treasury is not involved in the day-to-day procurement activities of agencies. However, accredited agencies annually attest compliance with the Procurement Policy Framework through the accreditation scheme.</p> <p>As an example, NSW Treasury agency procurement policy requires buyers to give priority to Aboriginal owned businesses, SMEs and/or regional businesses where possible. Treasury has also developed guidance to assist buyers on how to buy from an Aboriginal owned business..</p>
Question	45. Aside from composition, how does the Procurement Leadership Group differ from the Procurement board?
Answer	<p>The Procurement Leadership Group (PLG) is a sub-committee of the Procurement Board and serves as its primary advisory group. The PLG is responsible for the procurement of goods and services, excluding construction.</p> <p>The PLG is distinct from the Procurement Board, which is a statutory body established by the Public Works and Procurement Act 1912. The Board is ultimately accountable for all procurement, including construction. The PLG, on the other hand, has been delegated the following responsibilities:</p> <ul style="list-style-type: none"> - Overseeing categories of goods and services procurement. - Approving and overseeing whole-of-government (WofG) procurement strategies, schemes, and contracts. This includes managing PLG agency membership to WofG category management working groups and communities of practice. - Endorsing new and amended government-wide procurement policies for approval by the Procurement Board. - Developing and promoting innovative procurement practices, strategies, and initiatives. - Managing goods and services agency accreditation trigger events.
Question	46. What data and statistics does NSW Procurement have oversight of and/or what does Prime collect and what can it report on? Does this include information collected by individual agencies?
Answer	<p>The <i>Public Works and Procurement Act 1912</i> allows the Procurement Board to request information from NSW Government agencies and suppliers. NSW Procurement (part of NSW Treasury) consolidates agency submitted invoice expenditure and transactional supplier submitted data in 'Spend Cube'. Spend Cube is a comprehensive spend analytics database and dashboard product covering over 150 agencies, 100,000+ suppliers and key whole-of-government category portfolios managed by NSW Procurement. The data is further enriched with third-party information for insights</p>

	on commercial and social outcomes. To improve visibility on contracts, NSW Procurement uses GIPA contract disclosures from Department of Customer Service managed sources (Buy.NSW, Etendering) for contracts over \$150,000 value. PRIME is a web-based application suite for statutory state budgeting purposes and is operated by NSW Treasury. It collects General Government Sector (GGS), public non-financial corporation (PNFC) and public financial corporation (PFC) data on budgets, actuals and forecasts. NSW Procurement is exploring triangulation opportunities with PRIME (accounting) data with the Spend Cube (management) data.
Question	47. What gaps currently exist in the collection of data surrounding procurement across government agencies?
Answer	<p>NSW Procurement (part of NSW Treasury) consolidates agency submitted invoice expenditure data from the majority of General Government Sector (GGS) agencies aside from the following entities: Sydney Opera House, Art Gallery NSW, State Records Authority NSW, Museum of Applied Arts and Sciences (PowerHouse), Library Council of NSW, Australian Museum.</p> <p>In addition, central procurement visibility is further limited as follows:</p> <ul style="list-style-type: none"> - Variations and spend per contract: Many agencies' accounts systems currently do not indicate if the expenditure originated from a direct engagement, tender, WofG contract or scheme - Tenders and contracts below \$150K thresholds are not disclosed on the Department of Customer Services managed eTenders/Buy.NSW portal. - Independently verified supplier lists do not exist for key social priorities such as Small and Medium Enterprises and regional businesses. - Spend Cube does not track metrics such as jobs creation, local content, savings, comparisons to agency budgets and other operating data as these are not available within the invoiced data set. - No distinction is currently made between capital and operational expenditure to reconcile directly with agency financial reporting.
Question	48. What information is provided to you by the various Government Departments/Agencies that are required to report on their Procurement activities to you? <ul style="list-style-type: none"> a. In what form do you receive this information? b. How often? Is that the same for every department/agency?
Answer	<p>The NSW Procurement Board issued directives for all agencies to report on:</p> <ul style="list-style-type: none"> - obligations under Goods and Services Procurement and Construction Procurement agency accreditation program (annually) - consultant expenditure in accordance with the requirements of the Government Sector Finance Act 2018 (quarterly) - opportunities for Small and Medium Enterprises (annually) and Aboriginal businesses (quarterly) - enforceable provisions and legal requirements under Australia's international procurement agreements (annually) <p>Agency procurement expenditure reporting is through quarterly invoice data submission to Spend Cube or through bespoke reporting templates.</p> <p>Refer Answer to Question 47, for further information on data collected by NSW Procurement.</p>
Question	49. What does the Procurement Board do with the information that is provided to it by the various Government Departments/Agencies? Does it get used in Prime (State's financial consolidation system) or Spend Cube (Prime). Can you briefly describe what these systems collect and are used for?
Answer	<p>The Procurement Board uses the information provided to it by Government Departments/Agencies to support the delivery of the objectives and functions of the Board, as defined in sections 171 and 172 of the <i>Public Works and Procurement Act 1912</i>.</p> <p>As noted in the answer to Q46 above, Spend Cube consolidates agency submitted invoice expenditure and transactional supplier submitted data to support the Procurement Board and procuring agencies. Separately, Prime is NSW Treasury's budgeting tool that supports the preparation of whole of government financial reporting, including whole of government and general government sector financial</p>

	<p>reporting prepared to accounting standards.</p> <p>Agencies separately input data into Prime and Spend Cube according to the particular information specifications of those data bases.</p> <p>Generally, data provided to the Procurement Board will be tailored to support delivery of the objectives and functions of the Board and therefore complementary to the whole of government data within Prime or Spend Cube.</p> <p>As noted in Q46, triangulation opportunities between data sets are also being explored.</p> <p>Further information regarding Prime and Spend Cube is outlined in Q46.</p>
Question	<p>50. I note that Spend Cube collates data provided by agencies on their spending. How representative is the data in that system of whole of government spending?</p> <p>a. Are there agencies that are not accounted for?</p> <p>b. Are there difficulties in obtaining the data?</p>
Answer	Refer Answer to question 47
Question	51. What is the Future roadmap noted in your submission? Can we please get a copy?
Answer	<p>The future direction of procurement data and reporting (or roadmap) focuses on the following design principles; centre led data stewardship initiatives and instruments to improve procurement data coverage, consistency and timeliness across the sector. This includes creating measurable and standardised social supplier reporting, wider contract data collection and upstream interventions in agency source systems. The continued investment in artificial intelligence, machine learning, business intelligence software and data enrichment services will progressively solve for challenges relating to data capture, scope, verification, consistency, and the lack of supplier classification datasets. These design principles and key initiatives are at various stages of scoping and implementation. Further input, including the upcoming conclusions of the Inquiry committee itself, is required to obtain Procurement Board endorsement of the roadmap.</p>
Question	52. Does NSW Procurement assign different groups/individuals to oversight procurement of particular government agencies? If so how does this oversight process work?
Answer	<p>Under the devolved model for government procurement, NSW Procurement undertakes a risk based approach to oversight of individual agency procurement. This includes a concurrence process to provide oversight of high-value Goods and Service procurements (over \$680,000) undertaken by unaccredited agencies and a Procurement Board approved assurance program that undertakes strategic reviews of specific individual agency procurement.</p>
Question	<p>53. Who manages whole of government contracts?</p> <p>a. How does the management of these contracts differ to the management of single agency contracts?</p>
Answer	<p>Whole-of-Government Goods and Services schemes and contracts are owned and managed across key agencies including:</p> <ul style="list-style-type: none"> - NSW Procurement - 19 schemes/contracts - Transport - 2 - Legal Services (2 panels- with one for Regional legal services) - DCJ – 2- Removalist services, and Deceased persons - Treasury -1 - Audit and Risk Committee Chairs and Members Scheme - Education – 4 - Stationary, office furniture, multimedia solutions and janitorial - Premiers Dept - 2 - Media monitoring, employment related medical services - Public Works – 8 - Constructions schemes and panels. - DCS – 20 - ICT schemes or contracts for ICT. - Dept Planning - 1 - Government Architects - Health – 3 - Home oxygen, food services and Medical and Industrial Bulk and Compressed Gas Supply Services Contracts - Property NSW - 1 - Land and Asset valuation - Subsidence Advisory Board - 1 - Subsidence Advisory NSW Independent Assessment Scheme

	<p>Whole-of-Government schemes and contracts differ from single agency contracts in the following ways:</p> <ul style="list-style-type: none"> - WofG category management working groups (CMWG) exist for each WofG Scheme/contract - WofG schemes and contracts require PLG/CLG or Procurement Board governance. - In accordance with Procurement Board Direction 2021/04, the lead agency managing the WofG scheme or contract must seek ministerial approval.
Question	<p>54. How are whole of government panels or schemes set-up? Can these be set up by an agency? Who approves them?</p> <ol style="list-style-type: none"> a. Once set-up who manages the panel/scheme including which suppliers are included on the panel/scheme and who can access the panel/scheme? b. How are suppliers removed from a panel/scheme? In what situations would they be removed? Do you have any examples of where this has occurred? c. If the panel/scheme is set up with an expiry date, how is the panel/scheme operation extended?
Answer	<p>Whole of Government Panels and Schemes are established when agencies have a common need, or when there are opportunities to achieve value for money or a social outcome. A Category Management Working Groups (CMWG) comprised of representatives from across government is established by the lead agency who collaborate to develop the Procurement Strategy which may recommend a Whole of Government Panel contract or Scheme.</p> <p>In accordance with Procurement Board Direction 2021/04, the lead agency is responsible for seeking ministerial, PLG and Procurement Board approval. Following approval, it is also responsible for sourcing suppliers and managing the Panel or Scheme.</p> <p>For Schemes, the lead agency is responsible for establishing the scheme's terms and conditions (scheme rules). This includes the scheme's supplier assessment criteria, which are used to assess supplier applications to the scheme. Scheme rules outline the terms and conditions under which a supplier's prequalification is managed. This includes provisions that allow suppliers to be suspended or removed from the scheme for breaches of these terms and conditions. Each buyer is encouraged to escalate examples of non-compliance to the lead agency who manages the scheme. The lead agency would then consider appropriate actions under these terms and conditions. Prior to expiration the CMWG reviews the need and operation of the scheme to ensure they are still fit for purpose.</p> <p>Applications and assessments are completed within buy.nsw.gov.au which has a set of minimum standard questions that apply to all suppliers. This makes it easier to do business with Government as suppliers only need to provide this information once. Additional scheme questions may be required to demonstrate capability for individual schemes.</p>
Question	<p>55. The Auditor General's TAHE report also recommended that NSW Treasury should review their record keeping practices, systems and policies to ensure compliance. Has this review been completed, and how?</p>
Answer	<p>NSW Treasury has implemented the Information Management Program that aims to uplift information management maturity and embed best practice across Treasury. This program is focused on improving all record-keeping requirements, including procurement related documentation.</p>
Question	<p>56. Does the Procurement Board consider there to be potentially broader financial benefits in the procurement of local content including, but not limited to: the payment of local payroll taxes; investment in training and apprenticeships; expenditure on local property, plant and equipment; and research and development.</p> <ol style="list-style-type: none"> a. If so, how are these benefits currently quantified, weighted in assessments and how is this conveyed to agencies? b. If not, why not?
Answer	<p>The local content procurement provisions have not been finalised. These costs and benefits are likely to be both financial and non-market.</p>