

Submission
No 40

**INQUIRY INTO PROCUREMENT PRACTICES OF
GOVERNMENT AGENCIES IN NEW SOUTH WALES AND
ITS IMPACT ON THE SOCIAL DEVELOPMENT OF THE
PEOPLE OF NEW SOUTH WALES**

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

NSW Government Submission to the
Standing Committee on Social Issues

March 2024

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1. Introduction

The NSW Government is one of the largest organisations in the southern hemisphere. In the 2022-23 financial year, the NSW Government expended approximately \$41.6 billion with over 130,000 suppliers on goods, services and construction to deliver public services to the people of NSW.

This submission provides an overview of the current procurement practices within NSW Government and has been prepared in response to the inquiry conducted by the Legislative Council Standing Committee on Social Issues.

The submission is intended to be read in three parts - this core submission, Attachment A (central procurement function submissions) and Attachment B (agency procurement function submissions). The core submission establishes the context and foundation for the accompanying contributions made by agencies in the attachments.

This core submission outlines the current authorising environment within the devolved procurement model and includes the legislative, regulatory and policy settings under which procurement operates within NSW Government.

Procurement in NSW Government is governed by Part 11 of the *Public Works and Procurement Act 1912*¹ (**PWP Act**). Among other provisions, the PWP Act sets out the definition of procurement (Section 162), the powers of the responsible Minister (Section 166, currently the Minister for Domestic Manufacturing and Government Procurement), the establishment, objectives and functions of the NSW Procurement Board (Sections 164, 171 and 172, **Procurement Board**), and procurement arrangements relating to government agencies (Sections 174, 175 and 176). The NSW Procurement Policy Framework² (**Procurement Policy Framework**), approved by the Procurement Board, articulates key objectives of government procurement and the expectations of procuring agencies. The Procurement Board has also implemented several social procurement policies and initiatives that aim to promote economic participation and help deliver social outcomes.

The current NSW Government has made a commitment to reform the NSW Procurement Policy Framework and NSW Government procurement practices, with a particular focus on supporting local manufacturing, small business, local industry and jobs. Recommendations from this inquiry will help inform that procurement reform agenda.

NSW Procurement, on behalf of the NSW Government, has led the coordination with accredited agencies to prepare this WofG submission. We thank the Committee for the opportunity to make this submission.

¹ <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1912-045>

² https://info.buy.nsw.gov.au/_data/assets/pdf_file/0020/1065503/Procurement-Policy-Framework-1.9-April-2022-Full-V1.pdf

2. Current authorising environment – Devolved procurement within the NSW Government

2.1 Legislation, Minister, and the Procurement Board

Legislative framework and ministerial control

The PWP Act, specifically Part 11, provides the legislative framework for government-wide procurement activities by the NSW Government. Section 164 of the PWP Act establishes the Procurement Board to oversee government-wide procurement activities. It also sets out the obligations of NSW Government agencies when exercising their agency procurement functions in compliance with government-wide procurement policies and frameworks.

Under Section 166 of the PWP Act, the Procurement Board is subject to the direction and control of the responsible Minister, currently the Minister for Domestic Manufacturing and Government Procurement.

Definition of procurement

Section 162 of the PWP Act defines procurement to mean the *process* of acquiring goods and services by:

- a) identifying the need to purchase goods and services,
- b) selecting suppliers for goods and services, and
- c) contracting and placing orders for goods and services, and
- d) includes the disposal of goods that are unserviceable or no longer required.

As a result, this means the requirements of the PWP Act apply throughout the procurement lifecycle, rather than to a single decision or point in time such as when a contract is awarded.

Government agencies covered by Part 11 of the PWP Act

Section 162 of the PWP Act applies to the procurement of goods and services, of any kind, by and for a *government agency*. Goods and services *of any kind* is inclusive of all categories of goods or services including construction and infrastructure.

A government agency is defined as:

- a government sector agency within the meaning of the Government Sector Employment Act 2013
- a NSW Government agency
- any other public authority that is constituted by or under an Act or that exercises public functions (other than a State-Owned Corporation (SOC))
- any SOC prescribed by the regulations.

Please note that no SOC has been included by regulation under Part 11 of the PWP Act since government procurement provisions were transferred into the PWP Act in 2013. Also, local councils and other local authorities, and the Parliament of NSW, are explicitly excluded from Part 11 under section 163(2).

Procurement Board – Objectives, functions and membership

The Procurement Board's objectives and functions are defined in sections 171, 172 and 173 of the PWP Act.

Objectives of the Procurement Board

The objectives of the Procurement Board are to:

- develop and implement a government-wide strategic approach to procurement
- ensure best value for money in the procurement of goods and services
- ensure goods and services procured by and for government agencies are not the product of modern slavery
- improve competition and facilitate access to NSW Government procurement business by the private sector, especially by small and medium enterprises (SMEs) and regional enterprises
- simplify procurement processes while ensuring probity and fairness.

Functions of the Procurement Board

The functions of the Procurement Board are to:

- oversee procurement of goods and services by government agencies
- develop and implement procurement policies
- issue directions or policies that apply to government agencies
- monitor compliance with the PWP Act including Procurement Board directions or policies
- investigate and deal with complaints related to procurement activities of government agencies
- develop appropriate procurement and business intelligence systems for use by government agencies
- collect, analyse and publish procurement data and statistics
- ensure compliance by public authorities with competitive neutrality provisions in relation to tender bids made by those public authorities.

Procurement Board Membership

Section 165(2) of the PWP Act also stipulates that the Secretary of NSW Treasury is the Chairperson of the Procurement Board, with membership to consist of the heads of at least six other departments (within the meaning of the *Government Sector Employment Act 2013*) as determined by the Minister. The Minister also has the power to appoint deputies for the Chairperson and all members. In practice, Procurement Board quarterly meetings are attended by appointed deputies. The meetings are chaired by NSW Treasury's Deputy Secretary of Commercial and attended by approved deputies from nine other departments.

2.2 NSW Government Procurement Policy Framework

The [Procurement Policy Framework](#)³ is a “policy” for the purposes of section 176(1)(a) of the PWP Act and has been approved by the Procurement Board. Government agencies must comply with the mandatory parts of the Procurement Policy Framework for the procurement of goods and services of any kind including construction.

The Procurement Policy Framework incorporates all existing central government policies (links to these policies are in the Procurement Policy Framework) and Procurement Board

³ https://info.buy.nsw.gov.au/_data/assets/pdf_file/0020/1065503/Procurement-Policy-Framework-1.9-April-2022-Full-V1.pdf

requirements for government procurement, and identifies five government procurement objectives:

- value for money
- fair and open competition
- easy to do business
- innovation
- economic development, social outcomes, and sustainability.

The Procurement Policy Framework also sets out a best practice approach to NSW Government agency procurement and includes the links to relevant policies, regulations, and legislation applicable at each stage of:

- planning (analysing the business need)
- sourcing (approaching the market)
- managing (implementing the procured arrangement).

The Procurement Policy Framework is discussed in detail in section 3.

2.3 Procurement Accreditation Programs – Decentralised Decision Making in Compliance with Government-wide Procurement Policy Framework

Under section 174 of the PWP Act, the Procurement Board may:

- establish a scheme which accredits government agencies to conduct procurement for themselves or other government agencies.
- authorise a government agency to carry out specified procurement of goods and services without Procurement Board accreditation.

As a result, the Procurement Board has established two accreditation programs: one for “goods and services” procurement; and one for “construction” procurement. Procurement accreditation gives government agencies the authority to manage their own procurements in compliance with the government-wide Procurement Policy Framework. Ultimately, under the devolved governance structure, the heads of government agencies are responsible for managing their agency’s procurement in compliance with procurement law and government policy and entering into contracts on behalf of their agency.

Both accreditation programs mentioned:

- 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.

On behalf of the Procurement Board, “goods and services” procurement accreditation is managed and administered by NSW Procurement within NSW Treasury, while “construction” procurement accreditation is managed and administered by NSW Public Works within the Department of Regional NSW.

Currently there are 17 accredited agencies⁴ (across Level 1 and Level 2 accreditation) for “goods and services” procurement accreditation and 15 accredited agencies⁵ for “construction” procurement accreditation. Accreditation is granted in perpetuity and accredited agencies are required to complete an annual self-attestation approved by their agency portfolio department Secretary that is reported to the Procurement Board. Reporting comprises attestation that the accredited agency’s procurement activities comply with the PWP Act and the Procurement Policy Framework, and includes standard measures of procurement activity, achievement of procurement outcomes and achievement of social procurement activities.

Accreditation programs have, and are, refined and improved – for example, for “goods and services” accreditation, NSW Procurement, on behalf of the Procurement Board, has developed a preliminary procurement assurance program to complement the agencies’ annual self-attestation process and uplift procurement capability across the sector.

In addition, unaccredited government agencies can manage their own procurement within thresholds set by the Procurement Board as currently set out in [Procurement Board Direction 2021-04 Approved procurement arrangements](#)⁶. For procurements above thresholds, unaccredited government agencies must seek and obtain concurrence from an accredited government agency.

More details on accreditation are set out in [buy.nsw.gov.au – Accreditation](#)⁷.

2.4 Procurement Responsibilities and Obligations of NSW Government Agencies

Section 176 of the PWP Act sets out the obligations of a NSW Government agency in the exercise of its functions in the procurement of goods and services in accordance with:

- any policies and directions of the Procurement Board that apply to the agency
- the terms of its accreditation (if any) by the Procurement Board
- the principles of probity and fairness.

NSW Government agencies must also:

- take reasonable steps to ensure goods and services procured by and for the agency are not the product of modern slavery
- ensure they obtain value for money in the exercise of its functions in relation to procurement
- provide, at the request of the Procurement Board, information about their activities in relation to the procurement of goods and services.

The Procurement Policy Framework provides more information and clarity on NSW Government agency procurement responsibilities, including that:

⁴ <https://info.buy.nsw.gov.au/buyer-guidance/get-started/accreditation/goods-and-services-accreditation>

⁵ <https://info.buy.nsw.gov.au/buyer-guidance/get-started/accreditation/construction-accreditation>

⁶ <https://arp.nsw.gov.au/pbd-2021-04-approved-procurement-arrangements/>

⁷ <https://info.buy.nsw.gov.au/buyer-guidance/get-started/accreditation>

- Heads of NSW Government agencies are ultimately responsible for managing their agency's procurement in compliance with procurement law and government-wide policy and entering into contracts on behalf of their agency.
- If the Procurement Board allocates responsibility for a WofG goods or services category or agreement to an agency, the agency head is also responsible for entering into those agreements on behalf of WofG.

The Procurement Policy Framework also stipulates that:

- it is critical to good procurement governance that agency groups appoint a Chief Procurement Officer.
- NSW Government agencies must regularly test their compliance with the mandatory requirements of the Procurement Policy Framework and other Procurement Board policies and directions. For accredited NSW Government agencies, this informs their annual self-assessment attestations to the Procurement Board confirming that best endeavours have been undertaken to comply with their accreditation requirements.

Ongoing improvements are required and necessary to ensure continuing compliance of NSW Government agencies with procurement laws and government-wide procurement policies, and to ensure readily available access to accurate and consistent agency data in order to report procurement information to the Procurement Board.

2.5 Procurement Board sub-committees and other groups

Under Section 167 of the PWP Act, the Procurement Board may establish sub-committees to assist it in exercising its functions. It may also establish advisory groups, made up of members of the public and private sectors, to advise it on procurement-related matters.

Procurement Leadership Group (PLG)

A sub-committee of the Procurement Board, the PLG includes Chief Procurement Officers (or the most senior procurement official) from each department on behalf of the department and portfolio agencies. The PLG is chaired by NSW Procurement.

The PLG's primary responsibilities are to:

- oversee categories of goods and services procurement (excluding construction)
- approve and oversee WofG procurement strategies, schemes and contracts including PLG agency membership to WofG category management working groups and communities of practice
- endorse new and amended government-wide procurement policies for approval by the Procurement Board
- develop and promote innovative procurement practices, strategies, and initiatives
- manage goods and services agency accreditation trigger events.

The PLG is a key coordinating mechanism for overall government-wide procurement policy initiatives, relevant goods and services procurement policy initiatives, and other related matters. PLG endorsement is critical for matters that subsequently progress to Cabinet or the Procurement Board for formal policy approvals.

The PLG reports to the Procurement Board on the use of its delegated authority and meet approximately 10 times each year.

Construction Leadership Group (CLG)

The CLG was originally a sub-committee of the Procurement Board focusing on WofG construction policy initiatives. Its remit has evolved over time beyond a procurement focus to encompass broader issues that apply to government construction and infrastructure projects.

The CLG is chaired by Infrastructure NSW with representation from infrastructure delivery agencies, NSW Public Works, NSW Treasury including NSW Procurement and others.

The CLG is a key coordinating mechanism for relevant construction and infrastructure policy initiatives, and other construction matters. Infrastructure policy matters are drafted and consulted on via the CLG. CLG endorsement is critical for matters that subsequently progress to Cabinet or the Procurement Board for formal policy status.

The CLG regularly interacts with industry through its engagement function, supporting joint government and industry activities, along with other state jurisdictions and the Commonwealth Government.

There are three sub-committees supporting the CLG that focus on the three CLG priorities:

1. Culture and Diversity
2. Environmentally Sustainable Infrastructure, and
3. Commercial.

The sub-committees include representatives from all CLG member agencies.

A Work Health and Safety Working Group was also established in October 2023.

The CLG is responsible for the implementation of the NSW Government Action Plan: a 10-point commitment to the construction sector⁸.

The CLG meets monthly (excluding January) and provides industry with updates on the progress of the 10-point commitment through regular industry engagement.

Risk and Compliance Sub-Committee (RCS)

Established in 2023, the RCS assists the Procurement Board by focussing primarily on:

- goods and services accreditation attestation and assurance outcomes
- emergency procurements reported to the Procurement Board
- NSW Independent Commission Against Corruption reports and recommendations
- NSW Audit Office reports and recommendations
- supplier complaints to the Procurement Board
- remedial action for poor supplier performance or behaviour
- goods and services accreditation attestation process assurance.

The RCS membership comprises the Procurement Board Chair, Executive Director of NSW Procurement, and members from the Procurement Board, PLG, CLG, and ICT and Digital Leadership Group (**IDLG**).

The RCS is expected to meet approximately four times each year (or as required).

⁸ <https://www.infrastructure.nsw.gov.au/media/bg0npvoz/10-point-commitment-to-the-construction-industry-final-002.pdf>

Other groups – ICT and Digital Leadership Group (IDLG)

While not a sub-committee of the Procurement Board, the IDLG manages the NSW Digital strategy which includes ICT procurement (as a subset of goods and services).

The IDLG is chaired by the Government Chief Information and Digital Officer from the Department of Customer Service and includes Chief Information Officers of NSW Government agencies.

The IDLG's primary functions include:

- endorsing ICT policies and updates
- ensuring implementation of ICT policies across NSW Government
- reviewing summarised agency/department reports against the policies' mandatory requirements
- providing leadership and resources to advocate organisational commitment to improving cyber security culture.

2.6 Central procurement function responsibilities

Specific WofG procurement policy and category functions are managed by "central" procurement agencies and branches and provide updates to the Procurement Board. Before the 2019 Machinery of Government, NSW Procurement, ICT & Digital Sourcing (**ICTDS**) and NSW Public Works were all part of the previous Department of Finance, Services and Innovation.

NSW Procurement (NSW Treasury)

NSW Procurement's responsibilities include:

- providing advice and support to the Minister responsible for Part 11 of the PWP Act, currently the Minister for Domestic Manufacturing and Government Procurement
- managing and administering certain government-wide procurement functions of the Procurement Board (as directed), such as advising, establishing, implementing and/or managing the Procurement Policy Framework, specific WofG procurement policies, including social impact related policies, procurement data systems and analytics, governance (e.g., developing directions and managing complaints), "goods and services" procurement accreditation and other government-wide procurement functions
- chairing the PLG (focus on goods and services procurement excluding construction), a sub-committee of the Procurement Board
- providing government agencies and suppliers with strategic advice, assistance and/or guidance related to the functions above as well as set out in the Procurement Policy Framework (as required)
- leading government-wide procurement initiatives (such as WofG supply-side savings programs), and the implementation of innovative, outcomes driven approaches to maximise value for money and make it easier to do business with government.

As allocated by the Procurement Board, NSW Procurement is also responsible for specific WofG goods and services (excluding construction and ICT) categories and commercial arrangements – see section 4 below.

ICTDS (Department of Customer Service)

The ICTDS team is responsible for coordinating the NSW Government's ICT and digital strategy, and for delivering WofG digital platforms and services. ICTDS ensures alignment between ICT procurement policies with broader government ICT strategy, assurance, investment and cyber security practices. ICTDS is responsible for:

- developing a strategic, diverse and innovative partnership ecosystem of ICT suppliers
- utilising ICT partner suppliers to collectively grow the capability and capacity of our local technology sector
- optimising commercial outcomes from NSW Government ICT procurement spend
- driving optimal and sustainable economic, social and environmental outcomes from ICT goods and services
- managing the ICT purchasing framework which is mandatory for all ICT procurement⁹, and must be used by all NSW Government agencies when buying ICT-related goods and services.

As allocated by the Procurement Board, ICTDS is also responsible for managing specific WofG ICT categories and commercial arrangements – see section 4 below.

NSW Public Works (Department of Regional NSW) and Infrastructure NSW (INSW) / Infrastructure and Structured Finance Unit (ISFU) (NSW Treasury)

WofG construction procurement is overseen and managed by multiple “central” agencies and branches including NSW Public Works, INSW and ISFU.

NSW Public Works performs core elements of WofG construction category management, including the management of four WofG construction prequalification schemes (see section 4 below), maintaining the construction procurement system, managing the construction procurement accreditation program, and providing assurance for construction projects under \$10 million.

INSW is responsible, under the *Infrastructure NSW Act 2011*, for preparing and submitting a 20-year State infrastructure strategy, five-year infrastructure plans, and any other plans requested by the Premier. INSW also provides independent advice on infrastructure policies and priorities, chairs the Construction Leadership Group, and provides assurance for construction projects valued above \$10 million.

ISFU provides commercial and financial advice for major construction projects and transactions. It also develops and monitors WofG construction procurement policies and guidance materials in conjunction with INSW.

3. Government-wide economic, social and environmental procurement policies and programs

3.1 Procurement Policy Framework Objectives

The Procurement Policy Framework sets five key objectives for NSW Government procurement:

⁹ <https://info.buy.nsw.gov.au/resources/ICT-Purchasing-Framework>

1. Value for money

The overarching consideration for government procurement is ensuring best value for money in the procurement of goods, services and construction.

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.

2. Fair and open competition

Fair and open competition improves outcomes for NSW by broadening access to government procurement, especially for SMEs and regional businesses.

Transparent, competitive processes build trust in government procurement practices and decisions, drive fair and ethical behaviour, safeguard probity and foster healthy working relationships between government buyers and suppliers. Competition produces tangible outcomes such as cost savings, increased quality and innovation, and supports market sustainability.

3. Easy to do business

Making government procurement simpler, easier and more efficient saves time and money for both agencies and businesses. Streamlined and accessible processes lower barriers to participation and expand opportunities to a broad supply base, especially SMEs.

4. Innovation

The marketplace is a great source of innovation and can assist government to work smarter and deliver better services.

Industry engagement and flexible procurement practices assist agencies to adopt innovative services and solutions and support supplier innovation in government's supply chains.

Innovation can be encouraged at three levels of market engagement:

- at the state economic level – through effective, early, structured, and open communication of needs to the market
- at the sourcing level – by adapting sourcing methods to facilitate innovation and collaboration
- at the contract management level – by focusing on outcomes and developing supplier relationships that deliver value beyond the contract.

5. Economic development, social outcomes and sustainability

Government procurement can help to support economic participation, social outcomes, skill development and jobs creation for the people of NSW.

By building a diverse supply base, government agencies can support businesses of all types to grow and encourage economic development across the state. The government uses procurement to support SMEs, Aboriginal businesses, regional businesses, disability employment organisations and social enterprises. It also uses its substantial infrastructure investments to support jobs and skills development for a range of workers including Aboriginal people, apprentices and young people aged under 25 years.

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. Sustainable procurement:

- considers how procurement impacts society, the economy and the environment
- provides all suppliers with full and fair opportunities to compete
- respects stakeholders' interests, the rule of law and human rights, including modern slavery
- seeks innovative solutions to address sustainability throughout the supply chain
- buys only what is needed or seeks sustainable alternatives
- analyses all procurement costs, including benefits for society, environment and the economy
- integrates sustainability into procurement practices.

Ongoing improvements are required and necessary to the Procurement Policy Framework to ensure the above five key objectives for NSW Government procurement can continue to be met as the economic, technology and procurement landscape evolves and government priorities change.

3.2 Government-wide procurement policies & programs – Economic, social and environmentally sustainable impacts

The scale, scope and complexity of NSW Government procurement requirements to operationalise and deliver services to the people of NSW can be a powerful enabler for further economic, social and environmental objectives.

There is currently a range of government-wide policies and programs that apply to government procurement in NSW that contribute towards these objectives. Compliance with these policies has been integrated into the Procurement Policy Framework with ultimate accountability for such compliance sitting with the heads of government agencies.

Further improvements are required and necessary across the government-wide procurement governance structure, Procurement Policy Framework, procurement policies, central oversight of compliance, accountability of procuring agencies and other core elements to ensure the NSW Government's considerable purchasing power can deliver services to the people of NSW and serve as an instrument for positive and measurable economic, social and environmental change.

The Minister for Domestic Manufacturing and Government Procurement has committed to reforming the Procurement Policy Framework and NSW Government procurement practices, with a particular focus on supporting domestic manufacturing, small business, local industry and jobs.

Key government commitments include:

- establishing a NSW Jobs Commission to rebuild domestic manufacturing and support the growth of local industries and jobs. The Commission will monitor major procurements by NSW Government agencies, identify strategic projects where there are opportunities to

use government procurement to support local industry, and define a WofG approach to assessing local content, domestic manufacturing and local employment

- increasing tender weightings to 30% capturing local content, job creation, small business, and ethical supply chains
- prioritising small businesses near the projects they are tendering for
- increasing the threshold for direct procurement with small businesses to \$250,000 (raised from \$150,000 and implemented by Ministerial Direction in November 2023)
- requiring small businesses to secure relevant insurance only when they are awarded a contract, and not when submitting a tender (implemented by Ministerial Direction issued in November 2023)
- increasing the proportion of government expenditure with small business to 20% by 2026 and 30% in 2030
- simplifying the way small businesses pre-qualify for government work by implementing a single registration form
- simplifying contracts for WofG schemes and key goods and services.

Key government-wide economic, social and environmental procurement policies and programs in NSW:

Key government-wide procurement related policies and programs are set out below, with the policy owner highlighted.

- **Aboriginal Procurement Policy¹⁰ (Policy Owner – NSW Procurement):** This policy is focused on increasing the participation of Aboriginal businesses in government procurement and to support employment opportunities for Aboriginal and Torres Strait Islander peoples. It supports the government's commitment to First Nations economic development. Data on NSW Government procurement spend and contracts (targets and actual) with externally verified Aboriginal businesses is available on [buy.nsw](https://buy.nsw.gov.au).
- **Small and Medium Enterprise (SME) and Regional Procurement Policy¹¹ (Policy Owner – NSW Procurement):** This policy aims to increase SME participation in NSW Government procurement opportunities, particularly those in regional areas, by ensuring they have access to government procurement opportunities. The policy includes a requirement that suppliers provide an SME and local participation plan with all tenders for contracts valued \$3 million or more, that references SME and NSW specific content.

In November 2023, the Minister for Domestic Manufacturing and Government Procurement issued a Ministerial Direction to the Procurement Board to allow agencies to purchase goods and services (excluding construction) valued up to \$250,000 directly from an SME. The Ministerial Direction also required the Procurement Board to ensure agencies only request SMEs to provide confirmation of relevant insurance coverage at the time of contract award rather than during the tender submission phase.

- **SMEs in Construction¹² (Policy Owner – Procurement Board):** [Procurement Board Direction PBD 2019-03 Access to government construction procurement opportunities for SMEs](#) contains provisions to increase participation of SMEs in construction procurement.

¹⁰ <https://info.buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy>

¹¹ <https://info.buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>

¹² <https://info.buy.nsw.gov.au/supplier-guidance/supply-to-government/smes>

Agencies are required to make reasonable efforts to obtain a quote from a SME when conducting a competitive process for procurement of construction services valued up to \$1 million. The Procurement Board Direction also allows agencies to purchase construction services valued up to \$50,000 directly from a small business, and to engage a SME supplier through direct negotiation for short term contracts valued up to \$1 million to conduct proof-of-concept trials.

- **Small Business Shorter Payment Terms Policy¹³ (Policy Owner – NSW Procurement):** Recognising that cash flow is a significant issue for small businesses, this policy requires large businesses with goods and services (excluding construction) contracts with NSW Government to pay small business subcontractors within 20 business days, if they are subcontracted to support delivery of the NSW Government contract. The policy does not apply to construction work or the provision of goods or services under a construction contract, which is subject to the *Building and Construction Industry Security of Payment Act 1999* (NSW).
- **ICT-specific procurement programs¹⁴ (Policy Owner – ICTDS):** ICTDS is responsible for several ICT-specific programs to support SMEs. Key initiatives include the [ICT/Digital SME procurement commitments](#), which allow agencies to directly purchase ICT goods and services value up to \$250,000 from an SME, regardless of whether a WofG contract is in place. These commitments also set targets for 30% of total addressable ICT spend to be spent directly with SMEs, and 25% of subcontracted or supply chain spend to be spent with SMEs for ICT contracts valued above \$3 million.
- **Infrastructure Skills Legacy Program¹⁵ (ISLP) (Policy Owner – INSW and the Department of Education):** The ISLP aims to address skills shortages and increase workforce diversity in the construction sector. Implemented via [Procurement Board Direction PBD 2023-01 Skills Training, and diversity in construction](#), the program requires head contractors on NSW Government infrastructure contracts to meet minimum targets for apprentices, women in trades and in non-traditional roles, learning workers and young people. They must also report employment outcomes for the local area where the project is located.
- **Social enterprises¹⁶ (Policy Owner – NSW Procurement):** Social enterprises are businesses that trade to intentionally drive social or environmental change. Procurement from social enterprises provides significant opportunities for social change for disadvantaged people. The Procurement Policy Framework encourages agencies to actively consider procuring from social enterprises.
- **Disability employment organisations¹⁷ (Policy Owner – NSW Procurement):** The [Public Works and Procurement Regulation 2019](#) allows government agencies to procure goods and services, of any value, from a disability employment organisation. These organisations exist for the principal purpose to provide employment to persons with a disability.
- **Modern Slavery Act 2018¹⁸ (NSW) (Policy Owner – Department of Communities and Justice and the NSW Anti-slavery Commissioner, with support from NSW**

¹³ <https://info.buy.nsw.gov.au/policy-library/policies/small-business-shorter-payment-terms-policy>

¹⁴ <https://info.buy.nsw.gov.au/resources/ictdigital-sovereign-procurement-commitments>

¹⁵ <https://www.nsw.gov.au/education-and-training/vocational/vet-programs/infrastructure-skills>

¹⁶ <https://info.buy.nsw.gov.au/buyer-guidance/source/select-suppliers/social-enterprises>

¹⁷ <https://info.buy.nsw.gov.au/buyer-guidance/source/select-suppliers/australian-disability-enterprises>

¹⁸ <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2018-030>

Procurement): NSW was the first state or territory in Australia to introduce standalone legislation to address modern slavery. The *Modern Slavery Act 2018*¹⁹ (NSW) and the PWP Act (see sections 171(b1), 175(3)(a1), 176(1A)) contain due diligence and reporting obligations that apply to government agencies²⁰. Agencies have an obligation to take reasonable steps to ensure the goods and services they procure are not the product of modern slavery²¹, and to report annually on the steps they have taken to meet this obligation²².

- **Women’s economic reform**²³ (**Policy Owner – NSW Procurement**): The 2023-24 Gender Equality Budget Statement outlines how the Government’s first budget will progress gender equality across three key themes: economic opportunity, participation and empowerment, and health and wellbeing. There are opportunities to leverage the Government’s purchasing power to encourage large government suppliers to adopt gender equitable practices and support women in their workforces, and to improve the proportion of government spend with gender equitable and women-owned businesses.
- **Environmentally sustainable procurement (see policy owners below)**: The NSW Government has several policies to address the transition to net zero and environmental sustainability, many of which include procurement actions. There is an opportunity to improve coordination and align approaches to ensure greater consistency, reporting and impact of environmentally sustainable procurement interventions.

The Department of Climate Change, Energy, the Environment and Water administers the following strategies and plans:

- **Government Resource Efficiency Policy**²⁴ sets minimum energy, water use and air emission standards when procuring certain goods and construction projects and encourages use of recycled content in construction materials and print publication paper.
- **Waste and Sustainable Materials Strategy**²⁵ commits NSW Government agencies to procure products that contain recycled content on an ‘if not, why not’ basis. It also requires all NSW Government-owned and leased buildings over 1,000 square metres obtain and publish NABERS Waste Rating by 2026, to drive waste avoidance and recycling in operations.
- **Net Zero Plan Stage 1 2020-2030**²⁶ commits to purchase electricity from low emissions sources of generation, increase electric vehicles targets, replace Sydney’s bus fleet with electric buses and roll out a new fleet of hybrid diesel-electric passenger trains for regional lines.

Developed by **INSW** in consultation with infrastructure delivery agencies and industry, the “**Decarbonising Infrastructure Delivery**²⁷” policy (in development) will set a clear

¹⁹ <https://legislation.nsw.gov.au/view/html/inforce/current/act-2018-030>

²⁰ <https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner.html>

²¹ <https://info.buy.nsw.gov.au/resources/modern-slavery-and-procurement>

²² <https://www.nsw.gov.au/nsw-government/projects-and-initiatives/modern-slavery>

²³ <https://www.treasury.nsw.gov.au/women-opportunities-review>

²⁴ <https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/sustainability-government/government-resource>

²⁵ <https://www.dpie.nsw.gov.au/our-work/environment-energy-and-science/waste-and-sustainable-materials-strategy>

²⁶ <https://www.energy.nsw.gov.au/nsw-plans-and-progress/government-strategies-and-frameworks/reaching-net-zero-emissions/net-zero>

²⁷ <https://www.infrastructure.nsw.gov.au/expert-advice/decarbonising-infrastructure-delivery/>

mandate and provide guidance to agencies on how to consider and reduce embodied carbon throughout infrastructure project development and delivery.

- **International procurement obligations and the enforceable procurement provisions²⁸ (Policy Owner – Premier’s Department and NSW Procurement):**

Australia is party to the Australia-New Zealand Government Procurement Agreement (ANZGPA), the World Trade Organisation Agreement on Government Procurement (WTO GPA) and nine free trade agreements (FTA) that contain government procurement provisions. Collectively referred to as “international procurement agreements” (IPA), these agreements require covered NSW Government agencies to comply with procurement procedures and conventions that guarantee equal treatment to suppliers from trade partner countries.

The IPA define value for money to explicitly include:

- the environmental sustainability of the goods and services being procured (such as energy efficiency, environmental impact and use of recycled products)
- the whole-of-life costs of the goods and services.

This means environmental impact and all contractual costs, including maintenance, operations, disposal and transition-out, are to be considered when assessing if a procurement represents value for money.

With the exception of the ANZGPA, which aligns to the Australia and New Zealand Free Trade Area established by the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) of 1983, the FTAs and WTO GPA allow further social and environmental procurement outcomes, and support local suppliers through SME-specific provisions. The FTAs and WTO GPA contain exemptions for certain types of procurement, preferences and measures negotiated by the Australian and NSW Governments, including:

- procurement of health and welfare services, education services, motor vehicles, transport infrastructure, blood products and plasma fractionation services, government advertising services and research and development services
- procurement of goods or services from a business that primarily exists to provide the services of persons with a disability
- measures to protect public morals, order or safety
- measures necessary to protect human, animal or plant life or health, including environmental measures
- measures relating to the goods or services of a person with disabilities, or philanthropic or not-for profit institutions, or of prison labour
- preferences to benefit SMEs
- measures for the health or welfare, or for the economic and social advancement, of Indigenous people.

The NSW Government can use these provisions to implement procurement policies that ensure SMEs (defined as Australian or New Zealand firm with fewer than 200 full time equivalent employees, in compliance with the ANZGPA), Aboriginal businesses, social

²⁸ <https://arp.nsw.gov.au/pbd-2019-05-enforceable-procurement-provisions>

enterprises and disability employment organisations have access to and benefit from the government's significant procurement spend.

The FTAs and WTO GPA only apply to government procurement conducted by a subset of NSW Government agencies²⁹. As discussed above, the FTA and WTO GPA also exempt procurement of certain goods or services³⁰, and allow specified measures and preferences³¹. These provisions have been agreed by successive NSW Governments with the Australian Government in their negotiations with the relevant FTA trade partner or the WTO (for the WTO GPA).

Any amendment to the covered agencies, exemptions, or preferences and measures listed in each FTA would require renegotiation by the Australian Government (in consultation and agreement with the NSW Government) with the relevant counterparty. By way of example, agencies and functions of NSW Government excluded from the FTAs and WTO GPA include all health agencies except the Ministry of Health, NSW Police, health infrastructure and the transport infrastructure function of Transport for NSW. This means, for example, that the government's infrastructure pipeline can be leveraged to support local manufacturers, industries, and suppliers.

4. Whole of government arrangements – Contracts and Prequalification schemes

The main way for suppliers to supply to NSW Government is through contracts or schemes. These can either be specific to one agency, or they can be for WofG. A WofG contract or scheme means all NSW Government agencies can buy using the arrangement.

WofG contracts are established where one or more suppliers of similar goods or services are appointed to sell to NSW Government for a specified period, under agreed terms and conditions including price. Contracts have start and end dates, and sometimes they can be extended. Unlike WofG contracts, most WofG prequalification schemes allow suppliers to apply for inclusion to the scheme at any time. Each WofG scheme has its own set of rules outlining the terms and conditions of using the scheme for both buyers and suppliers. Generally, agreement to these terms and conditions up front eliminates the contract negotiation phase of a traditional tender process. Buyers engage suppliers through a request for quote or proposal. There are also circumstances where buyers can negotiate directly with suppliers (such as when procuring from a small or medium sized enterprise or from Aboriginal owned businesses).

Under the devolved governance model, the Procurement Board may allocate responsibility for a WofG contracts and schemes to a central agency or branch, or to a delivery agency if such an agency is the predominant procurer or specialist of such goods or services including construction. A list of WofG contracts and schemes are available on www.buy.nsw.gov.au³² and is summarised below.

²⁹ Schedule 1, [Procurement \(Enforceable Procurement Provisions\) Direction 2019](#)

³⁰ Schedule 2, [Procurement \(Enforceable Procurement Provisions\) Direction 2019](#)

³¹ Schedule 3, [Procurement \(Enforceable Procurement Provisions\) Direction 2019](#)

³² <https://info.buy.nsw.gov.au/supplier-guidance/supply-to-government/contracts-and-schemes>

Agency	Whole of Government Contract	Whole of Government Scheme	Grand Total
Customer Service (ICT)	17	3	20
NSW Procurement, Treasury (Goods & Services)	13	6	19
NSW Public Works, Regional NSW (Construction)	2	6	8
Education	4		4
Health	3		3
Communities and Justice	2		2
Premier's Department	1	1	2
Transport		2	2
Planning, Housing & Infrastructure		1	1
Property NSW		1	1
Subsidence Advisory Board		1	1
NSW Treasury		1	1
Grand Total	42	22	64

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

Appendix A

Submissions from Central Procurement Function Agencies

March 2024

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Note:

Each submission is based on the submitting agency’s own point of view and experience including an outline of their respective agency’s procurement functions and practices as well as their perspective on the operation of the current procurement model. Submissions therefore should be read independently of each other.

Where figures have been provided, reasonable efforts have been made to qualify them against NSW Procurement’s Spend Cube database. Where there are material differences, this may be due to differing reporting definitions, parameters, sources and systems.

Appendix A1 - NSW Procurement

NSW Treasury



1. Executive Summary

In the 2022-23 financial year, the NSW Government expended approximately \$41.6 billion on goods, services and construction to deliver public services to the people of NSW. As one of the largest procurers in the southern hemisphere, it is critical that robust policies and governance are in place to ensure responsible, effective, and efficient use of taxpayer funds.

As set out in more detail under Section 2, NSW Procurement (**NSWP**) is a central agency that advises and supports the Minister responsible for Domestic Manufacturing and Government Procurement and the NSW Procurement Board (**Procurement Board**), as well as collaborating and partnering with other central procurement function agencies, the various delivery agencies that procure for themselves and the external supply market.

This submission provides an overview of NSWP and how its key functions have both a direct and indirect impact on NSW residents and the economy.

As a central procurement agency, NSWP takes a WofG view of government procurement activities to drive alignment with the government's strategic objectives. While the current devolved procurement model is complex, this reflects the size, complexity, and multifaceted nature of the NSW Government. By way of comparison, devolved procurement models exist in other Westminster systems in jurisdictions like the United Kingdom, Canada, New Zealand as well as within Australia – some more advanced than others. NSWP believes in continuous improvement, acknowledging that evolution and adaptation are key to enabling the NSW Government to deliver world class public services and welcome the opportunity to provide a submission to this inquiry.

2. Responsibilities of NSW Procurement

NSWP, within the Commercial Group of NSW Treasury, has responsibility for:

- providing advice and support to the Minister responsible for Part 11 of the *Public Works and Procurement Act 1912 (PWP Act)*, currently the Minister for Domestic Manufacturing and Government Procurement.
- managing and administering certain government-wide procurement functions of the Procurement Board (as directed) including:
 - advising, establishing, implementing and / or managing the NSW Procurement Policy Framework (**Procurement Policy Framework**),
 - developing and maintaining specific WofG procurement policies and providing guidance on how to implement them including social impact related policies,
 - procurement data systems and analytics, including collecting and analysing sector wide supplier invoice data (submitted to NSWP by agencies) to provide insights into government expenditure to inform decision making and, where appropriate, identify procurement measures that leverage the government's spend to promote social, economic or sustainable outcomes to support the NSW Government's priorities,
 - procurement governance (e.g., developing directions and managing complaints),
 - "goods and services" procurement accreditation and other government-wide procurement functions.

- chairing the Procurement Leadership Group (focussing on goods & services procurement excluding construction), a sub-committee of the Procurement Board.
- providing government agencies and suppliers with strategic advice, assistance and/or guidance related to the functions above as well as set out in the Policy Framework (as required).
- maintaining systems and technologies that connect government suppliers and buyers.
- leading government-wide procurement initiatives (such as WofG supply side savings programs), and the implementation of innovative, outcomes driven approaches to maximise value for money and make it easier to do business with government.
- specific WofG goods and services (excluding construction and ICT) categories and commercial arrangements as allocated by the Procurement Board – see below.

3. NSW Procurement Policy Framework and Government-wide Procurement Policies

NSWP manages the Procurement Policy Framework, provides guidance to agencies on procurement policy requirements and is responsible for implementing procurement reform to support the government’s strategic priorities.

NSWP administers overarching WofG procurement policies that apply across all categories of procurement (goods, services and construction) as well as specific policies that apply to goods and services only (excluding construction). Separately, ICT procurement policy is administered by the ICT & Digital Sourcing team in the Department of Customer Service, while construction and infrastructure procurement policy is administered jointly by NSW Public Works (Department of Regional NSW), Infrastructure NSW and the Infrastructure and Structured Finance Unit (NSW Treasury).

This section addresses the WofG procurement policies and strategic priorities administered by NSWP – though each accredited agency may have its own procurement practices in place in compliance with any WofG policies.

Value for money underpins all procurement policy and processes

The overarching consideration for government procurement is ensuring best value for money in the procurement of goods, services, and construction. Any measures that pursue broader social, economic and environmental procurement operate with this consideration in mind.

Social procurement policy development is underpinned by data driven strategic monitoring, for example procurement spend and contracts with Aboriginal businesses, disability employment organisations and social enterprises, and with small and medium businesses. This is achieved jointly through various central agency data teams in Treasury and the Department of Customer Service, in partnership with delivery agencies across NSW Government.

Implementation mechanisms

Procurement policy has historically been implemented through a variety of mechanisms including:

- WofG policies developed within various Ministerial portfolios and approved by Cabinet, that address strategic portfolio priorities and include procurement requirements

- WofG procurement-specific policies developed by the Minister for Domestic Manufacturing and Government Procurement and approved by Cabinet
- A direction from the Minister for Domestic Manufacturing and Government Procurement to the Procurement Board to issue a policy or direction under section 175 of the PWP Act
- Policies issued by the Procurement Board under section 175 of the PWP Act
- Directions to NSW Government agencies issued by the Procurement Board under section 175 of the PWP Act
- Premier's Memoranda and Premier's Department Circulars.

Issues relevant to procurement processes or policies that sit outside the scope of Part 11 of the PWP Act may be addressed through other government administrative mechanisms including:

- NSW Treasury Circulars
- NSW Treasury Policy and Guidelines Papers
- Department of Customer Service Circulars.

For example, policies applying to the payment of invoices for contracted work fall outside the PWP Act's definition of 'procurement', therefore the Procurement Board cannot issue policies or directions in relation to payment of invoices.

3.1 NSW Government Procurement Policy Framework¹

The Procurement Policy Framework provides a consolidated view of government procurement objectives and policy requirements as they apply to each step of the procurement process: planning, sourcing and managing contracts.

Procurement has a broad end-to-end definition under section 162 of the PWP Act, from 'needs identification' to 'contracting and placing orders', managing contracts and supplier relationships, and disposing of government assets when they no longer meet the government's needs.

The NSW Government procurement objectives currently identified in the Procurement Policy Framework are:

- value for money
- fair and open competition
- easy to do business
- innovation
- economic development, social outcomes, and sustainability.

These objectives are addressed in detail in the body of the core WofG inquiry submission.

The Procurement Policy Framework is comprehensive but lengthy and complex. It details how procurement practices interact with various legislative instruments, government policies and guidelines, and provides a complete guide for government buyers on policy requirements throughout the procurement process.

¹ <https://info.buy.nsw.gov.au/policy-library/policies/procurement-policy-framework>

The proliferation of government policy mechanisms used to implement procurement policy, or that use procurement as a policy lever, adds to the complexity of the Procurement Policy Framework. Procurement requirements may be used as an implementation mechanism embedded in WofG policies that address broad strategic priorities unrelated to procurement, or within other policy instruments issued without oversight by the Minister for Domestic Manufacturing and Government Procurement or the Procurement Board. In the case of such broad strategic priorities or government-wide policy instruments, the Procurement Board and NSWG currently have limited influence to restrict the proliferation of procurement requirements.

3.2 Aboriginal Procurement Policy²

Government procurement provides a significant opportunity to increase skills and economic participation within the state's Aboriginal and Torres Strait Islander communities. The Aboriginal Procurement Policy (**APP**) encourages NSW Government agencies and suppliers to create economic opportunities for APP-verified Aboriginal businesses and communities through government procurement.

This policy contributes to growing NSW's First Nations economy and supports the National Agreement on Closing the Gap.

APP-verified Aboriginal businesses

An APP-verified Aboriginal business is one that has at least 50% Aboriginal ownership and is recognised by an organisation approved by the Procurement Board and listed in the Aboriginal Procurement Policy. The Board currently recognises all the relevant bodies that verify NSW-based Aboriginal businesses and corporations: Supply Nation, the NSW Indigenous Chamber of Commerce (**NSWICC**), and the Office of the Registrar of Indigenous Corporations (**ORIC**). Suppliers on large projects that sub-contract to Aboriginal businesses are also required to ensure the Aboriginal sub-contractors are recognised by Supply Nation, NSWICC or ORIC. The NSW Government does not directly verify Aboriginal businesses, but instead relies on these trusted third parties. These organisations have rigorous verification and complaints mechanisms to manage allegations of 'black cladding' and conduct regular audits to ensure verified businesses are Aboriginal owned.

While concerns have been raised to NSWG that non-Aboriginal businesses may be benefitting from the policy, the Procurement Board has not been notified of, nor found, any substantiated instances of businesses falsely claiming to be Aboriginal businesses ('black cladding') amongst APP-verified Aboriginal businesses contracted by NSW Government agencies under the APP. NSWG continues to consider ways to increase assurance, for example by auditing 5% of contracts annually that contain Aboriginal participation commitments, and has committed to work with Aboriginal Affairs NSW to develop guidelines for agencies to identify and manage black cladding in procurement.

NSWG is able to identify Aboriginal businesses seeking to supply the NSW Government under the APP through access to data from the verification organisations. NSWG funds an agreement with Supply Nation for provision of its Aboriginal business listings, including an application programming interface (API), to identify Supply Nation-registered and certified business in [the NSW Government Supplier Hub business directory](#), the WofG Spend Cube (see below), and for use by agency groups in agency-maintained catalogues and systems.

² <https://info.buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy>

NSWICC also provides its “Assured businesses” list for use in the Supplier Hub and Spend Cube. ORIC maintains a public register of Indigenous Corporations and publishes monthly data on data.gov.au under the Australian Government’s public data policy.

Procurement spend and contracts with Aboriginal businesses are increasing

Since being introduced in 2021, the current version of the APP has driven growth in government spending with verified Aboriginal businesses and supports employment opportunities for First Nations peoples.

NSW Government procurement spend with APP-verified Aboriginal businesses averaged \$55 million per financial year in the 5 years prior to the introduction of the current APP in 2021. During the financial year 2021-22, the annual procurement spend with APP-verified Aboriginal businesses significantly increased to \$479.7 million. The full annualised figure for financial year 2022-23 is currently undergoing verification by agencies and will be tabled at the Procurement Board for approval and publication following that verification process.

The government awarded 694³ goods and services contracts to verified Aboriginal businesses in the 2021-22 financial year. 389⁴ goods and services contracts were awarded to verified Aboriginal businesses to 31 March 2023 in the 2022-23 financial year. These figures exclude construction contracts. From 2018 to the end of 2021, NSW Government procurement supported approximately 3,995⁵ (FTE) employment opportunities for Aboriginal people.

Closing the Gap

The National Agreement on Closing the Gap has four Priority Reforms that have been developed in consultation with First Nations peoples. NSW has a fifth priority reform on Employment, Business Growth, and Economic Prosperity. This emerged as a key priority in community consultations, and is supported by the NSW Partnership with the Coalition of Aboriginal Peak Organisations (CAPO). The APP supports this NSW-specific priority.

Priority Reform 5 is focused on ensuring First Nations peoples in NSW are empowered to access pathways through education, training and employment that align with their aspirations, and Aboriginal businesses grow and flourish. The APP supports the priority reform by expanding opportunities for Aboriginal businesses to deliver government contracts, and for First Nations peoples to be employed, and build skills and capabilities, on NSW Government projects.

2022-23 Aboriginal Procurement Policy Review

The NSW Closing the Gap Jurisdictional Implementation Plan 2022-24 included a commitment for NSW to review the APP in partnership with Aboriginal stakeholders. NSW commenced the review in 2022 and completed the review process by publishing the final report on buy.nsw on 29 September 2023. The 2023 APP Review Report consolidates more than 2,000 individual pieces

³ Ibid.

⁴ Ibid

⁵ https://www.aboriginalaffairs.nsw.gov.au/media/website_pages/our-agency/news/aboriginal-businessessecure-greater-share-of-nsw-government-spend/Damien-Tudehope-Don-Harwin-med-rel-Aboriginalbusinesses-secure-greater-share-of-NSW-Government-spend.pdf

of feedback into 17 stakeholder recommendations for the NSW Government to consider as it develops and delivers a new APP in 2024:

APP Pillar	Recommendations
Targets and reporting	<p>Streamline the targets to drive APP objectives</p> <p>Measure the success of the APP across agency groups by publicly reporting further outcomes</p> <p>Improve policy and procurement reporting processes</p> <p>Publicly communicate APP outcomes beyond the buy.nsw website</p> <p>Share case studies of APP successes and challenges across government</p>
Implementation and monitoring	<p>Introduce mandatory non-price evaluation criteria for Aboriginal participation plans</p> <p>Develop comprehensive guidance to enhance understanding of the APP</p> <p>Explore mechanisms to effectively apply the APP to government panels and schemes</p> <p>Develop a risk-based assurance framework to assist agencies to monitor supplier commitments</p> <p>Collaborate with Aboriginal Affairs NSW to develop guidelines for government agencies to identify and manage black cladding in procurement</p> <p>Introduce a standing APP agenda item at Procurement Board meetings</p> <p>Increase visibility of APP-verified Aboriginal businesses on the buy.nsw supplier hub</p>
Working better with APP-verified Aboriginal businesses	<p>Issue guidelines for agencies to provide better support to APP-verified Aboriginal businesses throughout the tendering process, ensuring due process and probity is maintained</p> <p>Improve pre-project communication to increase engagement with APP-verified Aboriginal businesses and community during project planning</p> <p>Develop a communication strategy to raise awareness of support services available to APP-verified Aboriginal businesses</p> <p>Continue to deliver coordinated Gather and Grow events with partner agencies to bring together App-verified Aboriginal businesses, head contractors and buyers.</p> <p>Increase the APP-verified Aboriginal businesses enrolled on the buy.nsw supplier hub</p>

The APP Review Report is available on the [buy.nsw website](https://www.buy.nsw.gov.au).

Support for Aboriginal businesses

NSWP provides advice and support for Aboriginal businesses as part of its work. The NSWP Service Centre provides information to Aboriginal businesses about upcoming procurement opportunities, application processes and on APP requirements. Sourcing services in NSWP also provides a concierge service, providing advice and support to Aboriginal business owners to apply

for WofG prequalification schemes. This is an important avenue to ongoing work opportunities with NSW Government.

NSWP has also, since 2022, hosted annual networking events that bring together Aboriginal businesses, agency buyers and large business contractors to provide information on upcoming procurement opportunities, make connections and share business details. The events are held in regional NSW and metropolitan locations where there are significant projects in the pipeline.

In 2022, over 400 people attended 'Meet the Buyer' events held in Nowra, Newcastle, Tamworth, Dubbo and Wagga Wagga. In 2023, the events were renamed as 'Gather and Grow.' There was an uplift of 14% in overall attendance to a total of 466 attendees across 6 events in Moree, Kiama, Orange, Penrith, Newcastle and Sydney.

Outside NSWP, Service NSW Business Connect provides free one-on-one coaching and advice to help Aboriginal people start and grow their businesses. This includes advice on responding to government procurement opportunities and delivering government procurement contracts.

Procurement requirements under the APP

The APP requires each NSW Government agency to direct 1% of its addressable procurement spend to verified Aboriginal businesses and award 3% of goods and services contracts (excluding construction) to verified Aboriginal businesses. Each agency must also publish an annual Aboriginal Participation Strategy that describes how the agency will meet its obligations under the APP.

For contracts valued \$7.5 million or more, agencies must include minimum requirements for 1.5% Aboriginal participation by requiring one or a combination of:

- at least 1.5% of the contract value to be subcontracted to Aboriginal businesses
- at least 1.5% of the contract's Australian based (full time employed (FTE)) workforce that directly contribute to the contract to be Aboriginal or Torres Strait Islander peoples
- at least 1.5% of the contract value to be applied to the cost of education, training or capability building for Aboriginal staff or businesses directly contributing to the contract.

Agencies should, whenever feasible, give first consideration to Aboriginal businesses for procurements valued up to \$250,000. They may also 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.

Policy history

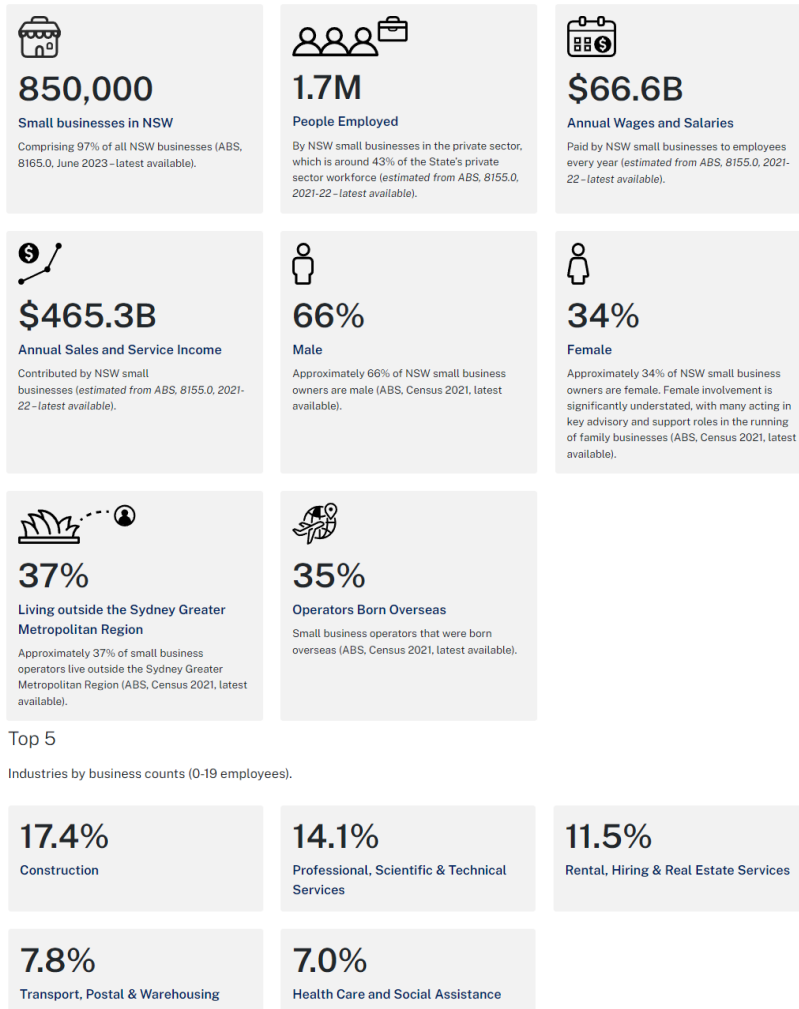
The current version of the APP was introduced in January 2021 after a review in 2019 recommended consolidating two previous Aboriginal procurement policies:

- The previous Aboriginal Procurement Policy 2018, which applied to goods and services procurement, excluding construction
- The Aboriginal Participation in Construction (APIC) policy, which came into effect in 2015. The APIC policy aimed to support greater participation of Aboriginal peoples in Government infrastructure and construction projects across NSW.

3.3 Small and Medium Enterprises (SME) and Regional Procurement Policy⁶

SMEs provide a diverse range of goods and services and are an important driver of employment and NSW’s economic growth. The NSW Government recognises that small businesses, and those located in the regions, can find it difficult to win government contracts.

Small business profile in NSW⁷



Source: NSW Small Business Commissioner

Policy provisions

The SME and Regional Procurement Policy was originally introduced in February 2019 and updated in July 2021. The policy:

- allows agencies to purchase directly from SMEs and regional suppliers for contracts valued up to \$250,000 (increased from \$150,000 in November 2023 under the current government).
- requires agencies to consider buying from an SME ahead of other suppliers for any direct purchase valued up to \$3 million.

⁶ <https://info.buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>

⁷ <https://www.smallbusiness.nsw.gov.au/about-nsw-small-businesses> accessed 2 February 2024

- requires large businesses tendering for contracts valued \$3 million or more to provide information on how they will work with SMEs and support local businesses and employment if they win the contract, by providing an SME and Local Participation Plan.
- requires agencies to apply a minimum non-price evaluation weighting of 10% to SME participation, plus another 10% to assess the social and sustainability commitments made by tenderers, when evaluating tenders for contracts valued \$3 million or more.
- requires agencies to make it easier for SMEs and regional suppliers to compete for government contracts by simplifying tender and contract requirements, providing more information ahead of tenders and ensuring suppliers get constructive feedback if they miss out on a contracting opportunity. The requirement for proof of insurance at time of tender was eased in November 2023 under the current Government.

Definitions

For procurement purposes, an SME is defined as an Australian or New Zealand based enterprise with fewer than 200 FTE employees, in compliance with the Australia-New Zealand Government Procurement Agreement. A small business is defined as a business with between 1 to 19 FTEs, and a medium business is a business with between 20 to 199 FTEs.

A regional supplier is a business of any size with a registered business address in regional NSW. Regional NSW includes all areas within NSW outside the Newcastle, Sydney and Wollongong metropolitan areas.

Procurement spend with SMEs

Agency invoice data in Spend Cube supported by external enrichment data shows that NSW Government procurement spend totalled ~\$37 billion in the 2021-22 financial year, with ~\$8.7 billion spent with SMEs; and ~\$41.6 billion in the 2022-23 financial year, with ~\$9.1 billion spent with SMEs. These figures do not include spend with SMEs engaged by head contractors to support delivery of NSW Government contracts and projects (supply chain spend).

TYPE	FY 2021-22	FY 2022-23
SME	\$8.7 billion	\$9.1 billion
Large	\$26.5 billion	\$31.3 billion
Unclassified ⁸	\$1.8 billion	\$1.3 billion
Total	\$37.0 billion	\$41.6 billion
SME percentage	24%	22%

3.4 Small Business Shorter Payment Terms Policy⁹

The Small Business Shorter Payment Terms Policy was introduced in July 2021. It requires agencies to ensure that large business suppliers who have been awarded goods or services contracts valued \$7.5 million or above pay their small business subcontractors within 20 business days of receipt of a correctly rendered invoice. This provision applies to direct subcontractors of the large business that are (wholly or in part) involved in the provision of goods or services for the purposes of the relevant NSW Government head contract.

⁸ Some suppliers do not identify business size and this information is not available from independent sources.

⁹ <https://info.buy.nsw.gov.au/policy-library/policies/small-business-shorter-payment-terms-policy>

This policy does not apply to construction work or the provision of goods or services under a construction contract, which is subject to the *Building and Construction Industry Security of Payment Act 1999* (NSW).

The Faster Payment Times Policy, administered by Banking and Financial Services in Treasury, sets 5-day payment times for government agencies to pay invoices from registered small business suppliers valued up to \$1 million.

3.5 Procurement from disability employment organisations

The *Public Works and Procurement Regulation 2019*¹⁰ allows NSW Government agencies to procure goods and services directly from a disability employment organisation without the need for a competitive process. This procurement process exemption for agencies purchasing from disability employment organisations has been in place since 2009.

Disability employment organisations have a principal purpose to provide employment to people with a disability. The Procurement Board requires that agencies must confirm a procurement using this provision delivers value for money.

This provision aims to support employment opportunities for people with a disability. A detailed study conducted by the Australian Bureau of Statistics in 2018 indicates that working age people with a disability are more likely to be unemployed than those without disability, and are more likely to be unemployed for longer.

For the purposes of the Regulation, the Minister administering the *Disability Inclusion Act 2014* (NSW) may approve a person or body as a disability employment organisation. A register of organisations covered by this exemption is maintained by National Disability Services on behalf of the Minister. This register is available through the [BuyAbility](#) website, and is integrated into the [Supplier Hub](#) on buy.nsw so that government buyers can easily identify verified disability employment organisations.

There is significant overlap between social enterprises and disability employment organisations. NSW is considering ways to streamline and integrate these policy requirements and supplier listings, particularly as service delivery and funding models for disability employment organisations have changed following the implementation of the National Disability Insurance Scheme.

Further reform of the disability employment sector is anticipated following the release of the Commonwealth Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Final Report* (2023). The Commissioners made a specific recommendation (Recommendation 7.23)¹¹ to strengthen the disability employment procurement policies of the Australian, state and territory Governments. The NSW Government is currently considering its response to all recommendations in the Final Report.

Procurement spend with disability employment organisations

Using the above register, based on agency invoice data in Spend Cube, NSW Government spent approximately \$23.5 million with 66 disability employment organisations in the 2021-22 financial year, and \$67.8 million with 66 disability employment organisations in 2022-23. Note: this procurement data specifically excludes grants.

¹⁰ <https://legislation.nsw.gov.au/view/html/inforce/current/sl-2019-0433#sec.5>

¹¹ Commonwealth, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Final Report* (2023) vol 7, 23

		FY 2021-22	FY 2022-23
Goods and services	Spend	\$23.1 million	\$67.7 million
	Number of suppliers [^]	66	66
Construction	Spend	\$0.4 million	\$0.1 million
	Number of suppliers [^]	9	9

[^] Some suppliers appear in both goods and services and construction supplier counts, as they supply in both categories.

3.6 Procurement support for social enterprises

The Procurement Policy Framework encourages agencies to procure from social enterprises to support economic and social change for disadvantaged people.

Social enterprises are purpose-driven businesses that exist to benefit the community, often through creating jobs for groups facing higher barriers to employment, including people with disabilities, refugees, Aboriginal people, young people and people who are long-term unemployed.

Procurement from social enterprises supports NSW Government's overarching procurement objectives of economic development, social outcomes, and sustainability.

Social Traders maintains a list of social enterprises and certifies that these entities meet recognised social enterprise requirements. NSW Government funds a whole-of-government agreement with Social Traders to provide NSW Government agencies and the buy.nsw Supplier Hub with access to the list of Social Traders-certified social enterprises. Access to certified social enterprises allows government to increase its social procurement impact.

The agreement involves a range of additional services for NSW Government agencies including capability support, networking events and strategic advice.

NSW Government makes it easier for agencies to source goods and services by identifying Social Traders-verified social enterprises in the NSW Government's [Supplier Hub¹²](https://buy.nsw.gov.au/suppliers) on buy.nsw.

Some social enterprises are also SMEs, Aboriginal businesses or disability employment organisations, meaning that social enterprises also benefit from other procurement policies such as the SME and Regional Procurement Policy, Aboriginal Procurement Policy and the provisions allowing direct procurement from disability employment organisations under the Public Works and Procurement Regulation 2019.

Procurement spend with social enterprises

There are around 556 Social Traders-certified social enterprises nationally. There are 106 certified social enterprises based in NSW and 259 social enterprises servicing NSW.

Based on agency invoice data in Spend Cube, NSW Government spent approximately \$34.4 million with 80 certified social enterprises in the 2021-22 financial year, and \$52 million with 98 certified social enterprises in 2022-23. Note: this procurement data specifically excludes grants.

		FY 2021-22	FY 2022-23
Goods and services	Social enterprise spend	\$28.7 million	\$51.1 million

¹² <https://buy.nsw.gov.au/suppliers>

	Number of social enterprises [^]	75	95
Construction	Social enterprise spend	\$5.7 million	\$0.9 million
	Number of social enterprises [^]	19	18

[^] Some suppliers appear in both goods and services and construction supplier counts, as they supply in both categories.

3.7 Preventing modern slavery in government supply chains

The *Modern Slavery Act 2018* (NSW) (**MS Act**) commenced on 1 January 2022. On commencement, there were consequential amendments to the PWP Act (see sections 171(b1), 175(3)(a1), 176(1A)). The obligations of government agencies and objectives of the Procurement Board were amended to include that they ensure that goods and services procured for government are not the product of modern slavery. The Board was also provided with a power under section 175 of the PWP Act to issue directions to government agencies regarding reasonable steps they must take to ensure they are not procuring products of modern slavery.

The annual reporting information for Government Sector Finance agencies under the *Government Sector Finance Act 2018* (NSW) was revised to require that agencies include a statement on the actions taken to ensure that the goods and services it has procured during the previous financial year were not the product of modern slavery, and a statement of the action taken by the agency in relation to any issue raised by the Anti-slavery Commissioner.

Agency annual reports for the 2022-23 financial year contain the first of these statements.

The MS Act establishes the NSW Anti-slavery Commissioner as an independent statutory officer. Dr. James Cockayne was appointed as the ongoing Commissioner on 1 August 2022. NSW Government agencies have a statutory duty to cooperate with the Commissioner in the exercise of the Commissioner's functions.

Procurement guidance and implementation timeline

The NSWP policy team worked with the then-Department of Premier and Cabinet and the interim Anti-slavery Commissioner, Professor Jennifer Burns, from 2018 onwards to prepare NSW Government agencies for the procurement impacts of the MS Act. In January 2022, to coincide with the commencement of the MS Act, NSWP released interim guidance on steps agencies can take to address modern slavery risks in their supply chains; and held briefings for agency procurement personnel on the new procurement obligations under the MS Act.

Since August 2022, NSWP has worked closely with the NSW Anti-slavery Commissioner to develop further guidance, tools and support for government agencies to manage their modern slavery-related supply chain risks. The Anti-slavery Commissioner released the Shared Implementation Framework¹³ (**the SI Framework**), including guidance on reasonable steps to manage modern slavery risks in operations and supply chains, in December 2023. The development of the SI Framework involved extensive consultation with relevant stakeholders, including impacted government agencies, suppliers, local councils, industry associations and research stakeholders.

¹³ <https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner/due-diligence-and-reporting.html>

Consequences if an incident of modern slavery is identified in NSW Government supply chains

The MS Act does not prohibit a business from participating in NSW Government procurement activities where instances of modern slavery are identified in its supply chain. Government agencies and suppliers are required to cooperate to prevent modern slavery in their supply chains and collaborate to address and remedy any instances of modern slavery that are discovered.

The SI Framework assesses risk against people in its approach to preventing modern slavery. Agencies should use their leverage to address deficient supplier practices, as reactively withdrawing from a business relationship can increase the risk of harm to those subjected to modern slavery and reduce the agency's ability to influence the supplier to remedy the situation. The SI Framework states that agencies should only withdraw from a relationship where a supplier or other business partner is unable or unwilling to effectively address modern slavery risks or concerns.

Any organisation or body that has disclosed to the NSW Anti-slavery Commissioner that its goods and services are, or may be, a product of supply chains in which modern slavery is taking place, must state whether the organisation or body has taken steps to address the concern. The NSW Anti-slavery Commissioner may refer any such information on modern slavery to the Commissioner of Police, the Ombudsman, the Secretary of the Department of Communities and Justice, or any other investigative or government agency (whether or not they are in NSW) that the Commissioner considers appropriate.

In conjunction with the MS Act and SI Framework, the NSW Government Supplier Code of Conduct includes obligations for suppliers to comply with applicable laws, regulations, policies and procedures and sets minimum standards for ethical behaviour including fair work practices. It outlines measures that may be taken by agencies and the government if a supplier is found to have breached the Code. These range from suspension or removal from prequalification schemes and panel arrangements or loss of future contract opportunities, to termination of contracts and referral for investigation for corruption or criminal activity.

3.8 Supporting women's economic reform through procurement

Women typically earn less compared to men over their lifetimes, which results in women retiring with significantly less superannuation than men and experiencing other economic disadvantages. As of May 2023, the average full-time gender pay gap in NSW was 11.8 per cent¹⁴.

Women are less likely than men to own and run businesses, with about one-third of business in NSW owned and run by women¹⁵. Of these, around 96% are small businesses¹⁶. Tied to this, the spend profile of government procurement includes high expenditure in traditionally male-dominated fields such as construction (just under half of government spend in the 2022-23 financial year).

Promoting gender equality through procurement

The 2023-24 Gender Equality Budget Statement outlines how the Government's first budget will progress gender equality. The Statement demonstrates how the NSW Government is embedding a gender lens in decision-making and resource allocation.

¹⁴ NSW Treasury, NSW Budget 2023-24, [Gender Equality Budget Statement](#)

¹⁵ ABS Census 2021, via TableBuilder, <https://tablebuilder.abs.gov.au/webapi/jsf/dataCatalogueExplorer.xhtml>, accessed 2 February 2024

¹⁶ Ibid

There are opportunities to leverage the government’s purchasing power to encourage large government suppliers to adopt gender equitable practices and support women in their workforces.

Encouraging large government suppliers to support women in their workforce

In July 2023, NSW Government launched a new ‘verified gender-equitable supplier’ tag on the buy.nsw Supplier Hub and commenced a targeted campaign to encourage the NSW Government’s large suppliers to improve their gender equality performance.

The verification is supplied by the Commonwealth Workforce Gender Equality Agency (**WGEA**) for businesses that meet seven gender equality standards and are certified as ‘employers of choice’. The verification tag supports buyers to consider the social value of procuring from verified gender-equitable suppliers. The tag also signals to large businesses that a gender equitable supply chain is important to NSW government.

‘Employer of choice’ certification is reassessed by WGEA every two years, ensuring continuing compliance.

The figures below indicate NSW Government procurement spend with WGEA-verified suppliers during their period of verification, based on agency invoice data in the WofG Spend Cube.

		FY 2021-22	FY 2022-23
Goods and services	Gender Equitable spend	\$720 million	\$771 million
	Number of Gender Equitable suppliers [^]	96	91
Construction	Gender Equitable spend	\$1.4 billion	\$1.1 billion
	Number of Gender Equitable suppliers [^]	30	34

. Procurement category management teams define the procurement and supplier management strategy for their respective WofG categories. The profiles are being used to identify opportunities to improve gender equality in the government’s supply chain for the specific category. Examples for provided below.

ICT Category

The ICT category team in the Department of Customer of Service, have engaged strategic suppliers Telstra, Salesforce, SAP, and Microsoft to work on appropriate gender equality standards for their category in 2024.

Construction Category

The construction industry is the most male-dominated industry in Australia, with women making up 12% of its workforce and holding less than 2% of on-site roles¹⁷. Construction and infrastructure projects make up over 40% of NSW Government procurement spend annually, making this category a primary focus for work to promote gender equality.

The NSW Government, with the Victorian Government and Australian Constructors Association (ACA), has formed the Construction Industry Culture Taskforce to collaborate to improve productivity and the workplace experience of employees in the construction sector, including gender equality.

¹⁷ Construction Industry Culture Taskforce, [A Culture Standard for the Construction Industry Consultation Paper](#), October 2021

The Taskforce has developed a Culture Standard¹⁸ which includes commitments to address diversity and inclusion in the construction industry. In association with the Standard, the ACA has committed that 75% of members will secure WGEA Employer of Choice certification by 2028. ACA members represent Australia’s major construction companies, and 12 of the 17 members received procurement spend from the government in 2022-23.

The NSW Government is implementing the Women in Construction program, which aims to attract and retain more women in the construction industry, with a focus on increasing the number of women in trade and non-traditional roles. The program includes a trial of new targets for women’s participation on select NSW Government construction projects in 2023-24:

- 4% of trades workforce to be women
- 7% of the project workforce to be women in non-traditional roles.

Further information is provided in the Infrastructure NSW submission in Appendix A-3.”

Women-owned business suppliers

There is currently no standard definition for a ‘women-owned business’ in Australia, and the NSW Government lacks a process to identify and verify women-owned businesses amongst its suppliers. An identification and verification mechanism is a pre-requisite for measuring the government’s current procurement engagement with, and developing procurement measures to support, women-owned businesses.

Women-owned businesses currently benefit from other procurement policies

While the NSW Government currently lacks a gender-focused procurement policy, the majority of women-owned businesses are small businesses (around 96%). Therefore, women-owned businesses can benefit from NSW Government procurement policies that make it easier to procure from SMEs, such as the SME and Regional Procurement Policy.

Women-owned Aboriginal businesses may also benefit from the Aboriginal Procurement Policy. Supply Nation identifies female-owned businesses (businesses with 50% or more Indigenous female ownership) among its suppliers, and makes female-owned businesses searchable via a filter on the Indigenous Business Direct online database. Supply Nation reports that female-owned Indigenous businesses registered with Supply Nation make up approximately 28% of all suppliers but receive only 14% of the total contract revenue¹⁰.

3.9 International procurement agreements and the enforceable procurement provisions

Australia is party to the Australia-New Zealand Government Procurement Agreement (ANZGPA), the World Trade Organisation Agreement on Government Procurement (WTO GPA) and 9 free trade agreements (FTA) that contain government procurement provisions. Collectively referred to as “international procurement agreements” (IPA), these agreements require covered NSW government agencies to comply with procurement procedures and conventions that guarantee equal treatment to suppliers from trade partner countries, with reciprocal access provided by trade partners to their government procurement for NSW and other Australian suppliers. There are specific exemptions as set out below.

¹⁸ <https://www.constructionindustryculturetaskforce.com.au/culture-standard/>

The IPAs, other than the ANZGPA which applies to procurement of any value, apply to procurements by covered entities valued:

- \$9.762 million or more, for a procurement of construction services, and
- \$693,000 or more, for a procurement of goods or any other services¹⁹.

Australia-New Zealand Government Procurement Agreement

The ANZGPA sits within the framework of the Australia and New Zealand Free Trade Area established by the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) of 1983. Unlike other IPAs, the ANZGPA has no exemptions or carve-outs and applies to all government procurement conducted by Australian and New Zealand jurisdictions.

The ANZGPA is a Ministerial agreement between all the State, Territory, Australian and New Zealand governments and does not have the legal status of an international treaty.

WTO GPA and FTAs

Of the 9 FTAs that include government procurement provisions, 8 are bi-lateral FTAs plus the multilateral Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11) that extends government procurement coverage to an additional 5 countries for Australia²⁰.

Australia joined the WTO GPA²¹ in May 2019, and it gives Australian businesses access to government procurement markets in 39 GPA member nations in addition to those already covered by FTAs. The most recent NSW government annual report to the WTO, for the 2021 calendar year, showed the WTO GPA applied to 675 NSW government contracts valued at \$5.6 billion²².

Indicator	Data
NSW government procurement market (based on WofG invoiced spend in Spend Cube)	\$41.6 billion (2022-23)
	\$37.0 billion (2021-22)
	\$34.0 billion (2020-21)
NSW government procurement covered by the WTO GPA	\$5.6 billion (Calendar year 2021)

Enforceable procurement provisions: WTO GPA and FTAs

The WTO GPA and TPP-11 introduced a requirement that parties to the agreements must nominate or establish an independent administrative or judicial authority with powers to review supplier complaints and enforce agency compliance with procurement requirements in these agreements. This obligation applies to government procurement in all Australian jurisdictions.

The *Public Works and Procurement Amendment (Enforcement) Act 2018* (NSW), which passed the NSW Parliament in November 2018, established the Supreme Court of NSW as this review authority for NSW Government procurement.

¹⁹ Thresholds are updated every two years and circulated by the Department of Foreign Affairs and Trade (DFAT). DFAT advised the new thresholds in December 2023 and NSW is planning policy amendments to reflect the new thresholds.

²⁰ Australia has bilateral (standalone) FTAs that include government procurement provisions with 5 other countries that are party to the TPP-11.

²¹ <https://www.dfat.gov.au/trade/organisations/wto/wto-agreement-on-government-procurement>

²² <https://notifications.wto.org/en/notification-status/government-procurement>

The rules that apply to procurements covered by the WTO GPA and FTAs are published in [PBD 2019-05 Enforceable Procurement Provisions](#) (EPP Direction). NSW provides training and support to agencies on how to comply with the EPP Direction, with guidance published on the [buy.nsw](#) website and online training modules that are available to NSW Government staff. NSW runs briefing sessions on the EPP Direction as required, including a round of sessions in 2023 targeting the newly covered entities under the A-UKFTA, and provides on-demand advice to government staff and suppliers via its Service Centre.

Covered agencies: WTO GPA and FTAs

The number of NSW Government entities covered by the EPP Direction varies with machinery of government changes. The NSW entities covered by the WTO GPA and FTAs were first defined in 2005 when Australia entered into the Australia-United States FTA, which was the first Australian FTA to contain government procurement requirements. Covered entities in NSW include the 12 government departments (at 1 January 2024) and a subset of government agencies²³.

While the agency names have changed, the baseline coverage of NSW agencies remained the same until the entry into force of the Australia-United Kingdom FTA (A-UKFTA) in March 2023. The A-UKFTA extended access to specified procurement in nine additional agencies: the Art Gallery of NSW, Infrastructure NSW, TAFE NSW, State Library, Sydney Cricket and Sports Ground Trust, Venues NSW, Hunter and Central Coast Development Corporation, Taronga Conservation Society and goods and services procurement of the former Roads and Maritime Service in Transport for NSW.

Exempt procurement categories, measures and preferences: WTO GPA and FTAs

Certain categories of procurement are exempt in the WTO GPAs and FTAs. While some exemptions apply to all parties to an FTA, others are specific to Australia or are requested by individual states and territories. This means exemptions can vary between jurisdictions within Australia.

Jurisdictions may also exclude certain agencies, which can have the effect of excluding categories of procurement managed by that agency. For example, in NSW the transport infrastructure functions of Transport for NSW and all NSW Health entities except for the Ministry of Health are excluded from WTO GPA and FTA coverage.

Exempt categories of procurement within NSW Government include²⁴:

- health and welfare services
- education services
- motor vehicles
- transport infrastructure
- health infrastructure
- blood products and plasma fractionation services
- government advertising services
- research and development services.

²³ Schedule 1, [Procurement \(Enforceable Procurement Provisions\) Direction 2019](#)

²⁴ Schedule 2, [Procurement \(Enforceable Procurement Provisions\) Direction 2019](#)

The WTO GPAs and FTAs also allow covered entities to apply procurement measures and preferences to benefit certain cohorts, or achieve other policy outcomes²⁵. Provisions leveraged by NSW Government procurement policies include exemptions for:

- procurement of goods or services from a business that primarily exists to provide the services of persons with a disability
- measures to protect public morals, order or safety
- measures necessary to protect human, animal or plant life or health, including environmental measures
- measures relating to the goods or services of a person with disabilities, or philanthropic or not-for-profit institutions, or of prison labour
- preferences to benefit SMEs (defined in the EPP Direction as an Australian or New Zealand firm with fewer than 200 full-time equivalent employees)
- measures for the health or welfare, or for the economic and social advancement, of Indigenous people.

Local participation in procurement

Current economic conditions have increased scrutiny on government procurement practices and how it is used to support NSW job creation, skills development and sustainable local industries. The NSW Government has committed to increasing tender weightings for local content, and to leverage government procurement to support domestic manufacturing, local industries and skilled jobs.

The exemptions described above, including the ability to apply preferences that benefit SMEs, Indigenous people and other cohorts, will be leveraged to increase support for local businesses and industry.

The NSW Government is planning additional procurement measures alongside a range of other initiatives to deliver its commitments to grow local manufacturing and other industries, and support jobs in NSW.

4. Whole of Government Goods and Services Categories Managed Centrally by NSW Procurement

4.1 Whole of Government Contracts and Schemes - NSWP

As allocated by the Procurement Board, NSWP is responsible for WofG categories and commercial arrangements (including contracts, agreements, commercial frameworks, and prequalification schemes) for the following:

- Energy (Electricity and Gas)
- Motor Vehicles (Fleet, Electric Vehicles and Fuel)
- Travel
- Waste Management.

²⁵ Schedule 3, [Procurement \(Enforceable Procurement Provisions\) Direction 2019](#)

- Contingent Workforce
- Employment Checks
- Financial Assessment Services
- Professional Services
- Talent Acquisition.

A summary of each of these WofG contracts and schemes is provided in the body of the core WofG inquiry submission.

4.2 Whole of government Category Teams and Working Groups - NSW

The NSW Government's devolution model has been continuously refined to further recognise the importance of agency capability and accreditation in managing its own procurement in compliance with government-wide procurement laws and policies. However, central management was retained for specific categories where specialised and strategic supply-side management was required to deliver WofG strategies, manage risk or to leverage aggregate demand to drive savings.

Category Management teams

The Category Management teams in NSW define the procurement strategy for their respective WofG category to support and guide government agencies in order to achieve strategic directions.

The Category Management teams are responsible for developing and implementing the category management plan; the day-to-day operational requirements of the category; managing supplier relationships and performance; working collaboratively with the Category Management Working Group (**CMWG**) – see below; establishing and implementing WofG contractual frameworks to achieve value for money; providing advice and influencing internal stakeholders; and delivering savings and other value improvement initiatives for the category in line with NSW Government and agencies' initiatives.

Category Management Working Groups

CMWG's are established for WofG categories to ensure there is representation from across government agencies so that the category's activities and deliverables align with agency requirements.

The CMWGs are organised and facilitated by NSW Category Management teams, chaired by the respective Director, and include members from the relevant portfolio of agencies. Members are appointed by the respective agency's Chief Procurement Officer.

Through taking a WofG and holistic perspective, a CMWG's objectives are to increase and maximise value across government respectively and to prevent unnecessary duplication of work across government. This reduces red tape, improves processes and reduces costs not only for government agencies but also for suppliers. The aim is to achieve a balanced perspective on respective category deliverables and to ensure recommendations made to the Procurement Leadership Group (**PLG**) and Procurement Board are evidence based, all types of benefits are recorded, and are aligned to government policy and contemporary market practice. CMWGs provides governance of the category across government and prioritisation of all projects within it.

CMWG members are responsible for providing representational input into the category plan, approving the category plan and acting in the best interests of WofG, whilst championing the benefits derived from the category plan within their department or agency, and ensuring related

projects have appropriate agency representation. The agency representatives are requested to inform and escalate matters to their PLG member and to participate in ongoing operational performance management through approval of key performance indicator review outcomes.

5. NSW Public Sector Procurement Capability

5.1 NSW Public Sector Capability Framework

The [NSW Public Sector Capability Framework²⁶](#) (**Capability Framework**) describes the knowledge, skills and abilities needed by public sector employees. It supports the public sector to attract, recruit, develop and retain a responsive and capable workforce. The Procurement and Contract Management Business Enablers describe the capabilities required of roles where workers need to understand and apply procurement processes to ensure effective purchasing and contract performance. These capabilities are non-specialist and apply to most public sector roles. The [Procurement Professionals Capability Set²⁷](#) also forms part of the Capability Framework. It defines the knowledge, skills and abilities required for procurement roles, where procurement work occupies a large part of the role, and specialised procurement knowledge, skill and/or ability is required. Each capability has five levels that show a progressive increase in complexity and skill, with indicators that illustrate the type of behaviours expected at each level.

5.2 NSW Procurement – Capability

NSWP provides advice, support and solutions across the workforce development cycle to lift procurement capability in the NSW public sector. The team delivers a range of centre-led training and development solutions that compliments agency-specific training and development, including online training and content, instructor-led training and qualifications, and the Procurement Professionals Community of Practice. In addition, the team provides support services and training for Digital NSW's eProcurement systems in the buy.nsw ecosystem.

Ongoing work to uplift procurement capability and professionalise this critical function across NSW Government agencies will be critical to enhance and improve NSW Government's procurement outcomes.

Comperio

Comperio is the NSW Government's procurement learning management system and forms part of the buy.nsw ecosystem and is managed by NSWP. It hosts a comprehensive library of online procurement training and content to lift the procurement capability of NSW public sector employees, eligible buyers and suppliers.

Professionalisation Pathway for Procurement Specialists

NSWP partners with external training providers to deliver qualifications that provide a professionalisation pathway for procurement specialists at the advanced level. This includes the PSP50616 Diploma of Procurement and Contracting and PSP60616 Advanced Diploma of Procurement and Contracting program from the Australian Qualification Framework. These qualifications are designed to align with the strategic needs of the NSW public sector and provide pathways into the Chartered Institute of Procurement Supply's (CIPS) internationally recognised qualifications, leading to professional designation as MCIPS Chartered.

²⁶ <https://www.psc.nsw.gov.au/workforce-management/capability-framework/the-capability-framework>

²⁷ <https://www.psc.nsw.gov.au/workforce-management/capability-framework/occupation-specific-capability-sets/procurement-capability-set>

NSW Government Procurement Community of Practice (ComPrac)

The Community of Procurement Professionals aims to help procurement professionals working in the NSW public sector build their capability in procurement and contract management. It is an active forum for members to learn about new or changing legislation, policy and procedures, share lessons learned and best practice, and to jointly solve problems, innovate and create new ideas by seeking advice and leveraging the collective knowledge and expertise of the community. Members also receive monthly newsletters containing development opportunities, procurement updates and changes from across the sector, and thought leadership.

Procurement Career Pathways Tool

The [Procurement Career Pathways Tool](https://procurementcareerpathways.psc.nsw.gov.au/)²⁸ supports the attraction, development and retention of procurement talent in the NSW public sector. It helps current and future employees to explore procurement roles, assess their skills and capabilities, and get a personalised career plan and upskilling resources.

6. NSW Government Procurement Data & Analytics

6.1 Spend Cube Overview

The Spend Cube is a comprehensive database managed by NSW. It consolidates invoiced supplier data submitted by over 150 NSW Government agencies, encompassing over 100,000 suppliers in one of Australia's largest procurement data eco-systems comprising hundreds of millions of supplier transactions.

The Spend Cube is a vital management reporting tool for NSW Government as it offers holistic visibility of government's invoiced procurement expenditure with external suppliers. This facilitates strategic monitoring of the success of social policy implementation through commercial outcomes.

6.2 Supplier and Social Procurement Insights

Spend Cube is used to generate key social procurement reporting figures on Small and Medium businesses, Aboriginal participation, Social Enterprises, Disabled enterprises and gender equitable suppliers. These figures have been stated in the relevant social policy section of this document.

To improve social procurement visibility on contracts, NSW uses contract data feed inputs from Department of Customer Service managed sources (eTenders, buy.nsw) for contract values over \$150,000 as required under the *Government Information (Public Access) Act 2009* (GIPA).

By working in conjunction with these supplier facing portals, NSW Government is increasingly delivering end to end visibility on suppliers' experience with NSW Government across registering for and winning business. These insights are vital to delivering on key commitments around 'easy to do business' and 'tell us once' principles.

6.3 Buyer Behaviour Visibility

In addition, WofG databases and dashboards have been created using supplier provided transactional data for key WofG category portfolios managed by NSW. These products typically cover key transactional information such as unit rates and volumes to support targeted

²⁸ <https://procurementcareerpathways.psc.nsw.gov.au/>

buyer behaviour initiatives on both the demand and supply side. Such operational dashboards are important for agencies when balancing delivery and commercial priorities.

6.4 Data Quality, Enhancement and Enrichment efforts

NSWP has worked hard with government agencies and since 2018, there has been a significant improvement in the quality of data being submitted to the Spend Cube by agencies. The journey continues through various centre led data stewardship initiatives to standardise data capture, allowing aggregation and organisation across different sources.

Additionally, agency data is enriched by applying datasets obtained from third party information services combined with self-reported supplier information which provides triangulated visibility and insights on key commercial and social outcomes.

NSWP has also implemented various enhancements to the technology and methods used for data cleansing, analysis, and presentation, including the utilisation of machine learning, and self-service business intelligence software.

6.5 Limitations and Challenges

Despite its extensive capabilities, the Spend Cube faces several challenges and limitations:

Data Capture and Scope

Whilst Spend Cube captures enterprise resource planning (ERP) factual invoice data such as payment date, vendor names and invoice amounts, it currently 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. Furthermore, no distinction is currently made between capital and operational expenditure to reconcile directly with agency financial reporting.

In addition, many agencies' accounts systems currently do not indicate if the expenditure originated from a direct engagement, tender, WofG contract or scheme.

Data Verification, Consistency, and the lack of Supplier Classification Datasets

A significant challenge lies in the logic and assumptions-based approach in reporting insights and analysis relating to suppliers. This approach is due to gaps in independent verification, lack of consistent universal definitions or a lack of comprehensive and contemporary source data. This presents challenges in accurately answering if, for example, a supplier is small, medium, or large business, or how much of a product is produced domestically and its related emissions.

Additionally upstream supply chain visibility is limited particularly in industries where subcontracting is commonplace.

6.6 Effectiveness and future roadmap

Whilst NSWP strives to provide whole of sector visibility on external supplier expenditure, it is currently limited to voluntary agency invoice data submissions. Additionally, GIPA requirements mean agency contracts disclosure is limited to contracts above \$150,000 only. The future roadmap focuses on 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.

Appendix A2 - ICT & Digital Sourcing

Department of Customer Service



1. Executive Summary

ICT Digital Sourcing (ICTDS) is a specialised all of government (WofG) ICT procurement team within the NSW Department of Customer Service (DCS). ICTDS is pleased to provide this submission to the Inquiry into the *Procurement practices of government agencies and its impact on the social development of the people of New South Wales* which addresses the inquiry's terms of reference. We trust that this submission will assist the Legislative Council Standing Committee on Social Issues to better understand how NSW Government agencies procure ICT goods and services and the role ICTDS plays in facilitating value for money, transparency, accountability and social outcomes in NSW Government procurement for the benefit of the community.

ICTDS is a business unit within DCS' Digital NSW division, the lead entity responsible for coordinating NSW Government's ICT and digital strategy and investment and delivering WofG digital platforms and services. Digital NSW is currently focused on ensuring digital capabilities enable the delivery of more inclusive and accessible services that underpin the achievement of the NSW Government's priorities. In addition, Digital NSW is focused on driving the ongoing system transformation needed to truly embed digital as a core way of working in a modern, effective and efficient NSW public service.

ICTDS considers procurement an essential lever in ensuring NSW Government drives positive social change while also positioning Government as a leader in the delivery of world class, efficient, customer centric services. As with other business units in Digital NSW, ICTDS maintains an AoG focus which may provide the Committee a unique perspective on the practices of government agencies as relevant to the procurement of ICT and digital goods and services and optimal use of digital procurement systems.

Through a range of change programs and business as usual activities, ICTDS is focused on:

- developing a strategic, diverse and innovative partnership ecosystem of suppliers who have the capabilities to assist agencies in meeting the NSW Government's priorities and collectively grow the capability and capacity of our local technology sector;
- optimising commercial outcomes from NSW Government ICT procurement spend in order to contribute to the significant challenge of budget repair;
- improve transparency and accountability in NSW Government procurement through providing trusted, accurate and timely data on procurement activities and procurement spend;
- making procurement simpler and more streamlined to connect buyers and suppliers faster, reducing delays and making government easier to do business with; and
- driving optimal and sustainable economic, social and environmental outcomes from ICT procurement specifically, and overall procurement to improve the lives of the people of NSW.

Since the establishment of ICTDS, substantial progress against this mission has been made. For example:

- agency co-ordination and use of all of government agreements (WofGAs) have delivered significant financial benefits of \$551 million secured between FY2019/20 and FY2022/23 ;
- procurement policy reform has led to the establishment of ICT procurement spend targets with small and medium businesses (SMEs); and

- the establishment of the buy.nsw digital procurement platform and ecosystem has made it much easier for buyers to find and contract with the right suppliers, within a diverse ecosystem of suppliers.

2. Introduction

Over the past two decades, ICT procurement has shifted from ownership models to flexible "as-a-service" offerings, emphasising cloud solutions for cost-effectiveness and agility. The increasing prevalence of cyber threats has compelled a focus on integrating robust cybersecurity measures into the procurement process. Additionally, the rapid pace of technological advancement and the adoption of emerging technologies such as artificial intelligence has led to shorter product lifecycles, requiring organisations to adopt a dynamic approach to procurement to stay competitive. These trends collectively reflect a broader shift towards adaptive, secure, and service-oriented ICT procurement practices. ICT procurement policies and practices, if adapted to the changing external environment, have the power to improve social and innovation outcomes for buyers, suppliers and people of NSW. ICTDS has been working to activate these opportunities through reform of ICT procurement policies such as the refreshed contracting framework and innovation procurement pathways.

The emergence of "as-a-service" cloud-based platforms has also offered the opportunity to simplify and standardise systems used across NSW Government agencies, leading to greater efficiencies and improvements in user experience for public servants and the people of NSW. In turn, these efficiencies can support budget repair and/or further investments to drive efficiency through standardisation and simplification. ICTDS has established a portfolio of WofG ICT procurement arrangements to optimise value for money from sector-wide investments in common and core platforms in areas such as office productivity systems, finance and HR systems, data centres and cloud services, and more recently cyber security.

Furthermore, the increasing reliance on and investment in ICT and digital capabilities by both the public sector and private sector in Australia and globally has led to the ICT and digital technology sector becoming one of the fastest growing global sectors. It is one of the most powerful enablers of the global and Australian economies, driving productivity growth in industries from health to agriculture. As well as enabling industry, it is driving new industry challenges, including workforce development and cyber security. As a result of this rapidly growing investment in ICT and Digital, national demand for workers in this space is forecast to surpass 1.2 million²⁹.

It is vitally important the NSW Government seeks to diversify from traditional sources of ICT and digital workforce, including working with industry and academia to grow the capability and capacity in our own sovereign technology sector. Growing sovereign ICT and digital demand is an excellent opportunity for the social development of NSW's indigenous businesses and other vulnerable or marginalised communities, especially as industry seeks to diversify their workforce and both industry and academia seek more accessible ways to obtain and grow digital skills.

In this submission ICTDS will provide further details of our activities and change programs as relevant to the Terms of Reference and share our perspectives on how these contribute to value for money and social development. This includes experience gained through the delivery of sector-wide procurement systems such as buy.nsw; establishment and administration of WofG procurement schemes, panels and agreements relevant to the delivery of ICT goods and services;

²⁹ <https://www.minister.industry.gov.au/ministers/husic/media-releases/digital-and-tech-skills-compact>

our Innovation Procurement Pathways program and the administration and reform of ICT procurement policy.

3. Current State of ICT Procurement

This section addresses term of reference (a):

the current state of procurement by New South Wales government agencies, in particular and as relevant to ICT procurement: (i) the value of procurement, through whole of government or agency procurement arrangements, (ii) the policies, schemes and contracts that New South Wales government agencies procure, (iii) the number of whole of government procurement arrangements available to New South Wales government agencies, (iv) the application of the New South Wales Procurement Policy Framework and the devolved nature of the responsibilities and obligations of New South Wales government agencies under the framework, and (vi) the accreditation program for goods and services procurement and construction procurement

3.1 ICT and Digital Sourcing

ICTDS is a specialised WofG ICT procurement team within DCS. ICTDS is a business unit within DCS' Digital NSW division, the lead entity responsible for coordinating NSW Government's ICT and digital strategy and investment and delivering WofG digital platforms and services. This positions ICTDS well to align ICT procurement policies with ICT strategy, assurance, investment and cyber security practices, as well as leverage digital methodologies such as agile delivery and human centred design in how we deliver policy reform and other projects.

The value of ICT and Digital procurement

According to NSW Government spend data, spend on ICT goods and services have increased from \$2.60 billion in FY2018/19 to \$3.16 billion in FY22/23, an increase of 5.0% compound annual growth rate (CAGR). These figures reflect growing demand for ICT and digital services in line with NSW Government's focus on delivery of government services through digital channels to improve customer and public service experience and an accelerated digitisation of services during the Covid-19 pandemic. More than half of this spend is managed through various WofGAs, and the remaining through procurement arrangements by individual agencies.

Responsibilities of ICTDS

Under the devolved nature of NSW Government procurement, ICTDS is responsible for:

- developing a strategic, diverse and innovative partnership ecosystem of suppliers who have the capabilities to assist agencies in meeting the NSW Government's priorities and collectively grow the capability and capacity of our local technology sector;
- optimising commercial outcomes from NSW Government ICT procurement spend to deliver real savings for NSW Government; and
- driving optimal and sustainable economic, social and environmental outcomes from ICT procurement specifically to improve the lives of the people of NSW.

The current state of the first two responsibilities and the related outcomes achieved are covered in this section. Section 9 expands on the ICTDS responsibilities for driving optimal and sustainable economic, social and environmental outcomes from ICT procurement specifically to improve the lives of the people of NSW.

3.2 ICT and Digital partnership ecosystem

Overall partnership ecosystem

The ICT and digital partnership ecosystem refers to the breadth of suppliers of ICT and digital goods and services used by NSW Government to support its functions, including delivery of services to the people of NSW and corporate and operational services to public servants in NSW Government agencies.

Goods or services are delivered to a NSW Government agency by a supplier under the terms of a contractual agreement, however the relationship between the agency and supplier is established well in advance of this. These relationships are formalised through several mechanisms depending on factors such as the level of competition within a particular supply market and the NSW Government's dependence on the goods and services a supplier may provide.

ICTDS is responsible for the establishment and governance of our ICT and digital partnership ecosystem, including three mechanisms for formalising supplier agreements: procurement schemes, panels and single supplier agreements. Attachment 1 provides context and purpose for each mechanism, and the remainder of this section shows how ICTDS has implemented them.

Procurement schemes

ICTDS manages the WofG [ICT Services Scheme](#) (SCM0020). The ICT Services Scheme is a 'procurement list' within the meaning of the NSW Procurement Board Direction [PBD 2019-05 Enforceable Procurement Provisions](#) (EPP Direction) and is established in accordance with Part 6 of the EPP Direction. Under NSW Procurement Board Direction [PBD 2021-04 Approved procurement arrangements](#) the ICT Services Scheme must be used for all NSW Government ICT/digital purchases. Attachment 2 provides more information on the ICT Services Scheme.

ICTDS is responsible for the governance of the ICT Services Scheme, including the [Scheme Rules](#) (Attachment 3), assessment of applications of potential suppliers, management of the [ICT Consulting Commercial Framework](#) which applies to consulting services, management of suppliers' scheme membership, management of data collection and reporting, and supporting NSW Government agencies to access the ICT Services Scheme.

NSW Government agencies' use of the scheme is governed by the Scheme Rules, and agencies are responsible for monitoring their own compliance with the Rules and the ICT Consulting Commercial Framework.

Panels and Single Supplier Agreements

Panels and Single Supplier Agreements, collectively known as WofGAs, are routinely established by ICTDS with suppliers of ICT and digital goods and services. Both types of agreements are standing offers established through a head agreement governed by ICTDS acting as the Contract Authority and may be either mandatory or recommended. These agreements typically include common elements such as:

- a product and service catalogue that sets out the goods and services which customers may purchase;
- governance arrangements to monitor the performance of each supplier against key performance indicators across all customer contracts under the WofGAs;
- a baseline commercial offer which typically includes maximum prices payable by customers, and may also include discounts or other benefits; and

- pre-negotiated terms and conditions which must be used when a customer seeks to procure through the arrangement.

These WofGAs offer a range of benefits to NSW Government agencies including:

- financial savings through a range of commercial mechanisms including price caps, benchmarking arrangements and volume discounts;
- streamlined purchasing as ordering processes, pricing and terms and conditions are pre-negotiated;
- increased efficiencies as supplier due diligence and preparation of template contracts have been conducted once for the benefit of all;
- increased market contestability through the diverse set of suppliers pre-qualified under WofG arrangements; and
- improved social procurement outcomes where aggregate spend may be used as a lever to address social procurement objectives.

In contrast, without WofGAs NSW agencies are required to approach the market, negotiate and establish customer contracts independently. This can lead to inefficiencies for buyers and suppliers including:

- duplicated effort (including potentially external legal and consultancy effort) negotiating often similar departures from NSW Government's standard terms and conditions, adding delay and cost to procurements;
- the requirement for larger value contracts to be established following an open market approach which results in longer tender evaluation times, in contrast to utilising a panel via limited tender where the open market approach is conducted once on panel establishment;
- higher risk of unnecessary misalignment in requirements between agencies, eroding economies of scale for suppliers and leading to higher prices; and
- increased risk of agencies in similar circumstances paying different prices for the same types of goods and services.

Notwithstanding the establishment of WofGAs, NSW Government agencies are required to follow the NSW Government [Procurement Policy Framework](#) and demonstrate value for money when establishing a Customer Contract under an WofGA.

Attachment 4 provides a list of WofG arrangements.

3.3 ICT Purchasing Framework

All NSW Government agencies must use the [ICT Purchasing Framework](#) when buying ICT/digital goods and services. This is mandated by the NSW Procurement Board Direction [PBD 2021-02 Mandated use of ICT Purchasing Framework](#). A more detailed overview of this framework is provided in Attachment 5. The ICT Purchasing Framework comprises:

- the Core& contracting framework for ICT procurements that are low risk and up to \$1 million (ex. GST); and
- the Master ICT Agreement and ICT Agreement (MICTA/ICTA) contracting framework for ICT procurements that are high risk or over \$1 million (ex. GST).

ICTDS is responsible for providing the purchasing framework and contract templates, as well as supporting agencies in their use of the framework.

It is the buying agency's responsibility to make a risk-based determination about which contracting framework is appropriate, using the risk assessment tool available on the [assessing risk in ICT/digital sourcing guidelines](#) page, in accordance with their own agency risk management policies, frameworks and processes. Agencies are also responsible for tailoring the base contract template to their own environment and for each engagement based on this risk assessment, as well as conducting negotiations and entering into agreements.

3.4 WofGAs under the devolved procurement model

Roles and responsibilities for ICTDS and NSW Government agencies

ICTDS is accredited at level 2 under the NSW Procurement Board's Accreditation Program for Goods and Services. This was awarded to ICTDS in recognition of its ICT procurement capability and allows for the establishment and management of WofGAs without a prescribed maximum contract value.

Under the devolved procurement model, ICTDS is responsible for the following activities related to the creation, management and use of WofG arrangements:

- establishment, governance, and management of the WofG arrangements, including conducting periodic refreshes and supplier intakes, and maintaining service catalogues and price books associated with such arrangements;
- use of commercial mechanisms to maximise discounts and minimise pricing, such as aggregation of purchasing power where possible, benchmarking and price negotiation;
- encouraging adoption of WofG arrangements, including through provision of strategic advice and analytical support, conducting cost estimations and identifying optimisation opportunities to manage spend effectively;
- provision of support to NSW Government agencies with strategic and procurement advice, provision of guidance, tools and templates and training;
- supplier governance and relationship management with key partners to ensure that suppliers are operating in line with their obligations set out in the WofG arrangements;
- encouraging market contestability by actively promoting supplier diversity on panels; and
- embedding social priorities and outcomes into these arrangements at earlier stages of sourcing.

NSW Government agencies are responsible for the following:

- ensuring compliance with the requirements under [NSW Government Procurement Policy Framework](#) and the applicable [Procurement Board Directions](#);
- approaching the market for their procurement requirements (which in the context of panels and single supplier agreements would typically entail a limited tender) and choosing the supplier or product or service that provides the best value for money;
- negotiation of pricing and any other requirements specific to their agency;
- establishment of a customer contract in compliance with the terms of the WofGA; and

- contract and performance management of suppliers as they fulfil their obligations under individual contracts, such as compliance with service levels for example.

It is important to note that although an WofGA typically specifies maximum prices payable, agencies are often able to negotiate better pricing and other conditions by committing to volumes under a customer contract. As such, ICTDS strongly encourages agencies to obtain multiple quotes from suppliers with WofGAs in place where possible, and to use their purchasing power to generate the best possible commercial and social outcomes.

4. Current State of WofG Digital Procurement Systems

This section builds on Section 3 to describe the enabling digital procurement systems delivered by ICTDS.

In addition to the responsibilities for WofG ICT procurement and with respect to the development, management and administration of WofG digital procurement systems (including all goods and services and construction), ICTDS is responsible for:

- improving transparency and accountability in NSW Government procurement through providing trusted, accurate and timely data on procurement activities and procurement spend;
- making procurement simpler and more streamlined to connect buyers and suppliers faster, reducing delays and making government easier to do business with; and
- enabling economic, social and environmental outcomes from overall procurement to improve the lives of the people of NSW.

ICTDS executes these responsibilities through the development, management and administration of WofG digital procurement ecosystem and the platform [buy.nsw](https://buy.nsw.gov.au). [buy.nsw](https://buy.nsw.gov.au) is a source to contract system that delivers a simplified, seamless and connected procurement experience, assists a diverse range of suppliers and is designed to support procurement policy reform initiatives. It also supports some supplier payments through e-Invoicing and click and buy purchasing.

Established in 2019, [buy.nsw](https://buy.nsw.gov.au) is a Digital Restart Funded initiative supporting three NSW Government procurement priorities that are consistent with NSW's customer and digital strategies and Procurement Policy Framework.

Attachment 6 provides more information on [buy.nsw](https://buy.nsw.gov.au).

4.1 Key [buy.nsw](https://buy.nsw.gov.au) dimensions

As at October 2023, [buy.nsw](https://buy.nsw.gov.au) supports:

- more than 90,000 registered users across 54,000 suppliers and 9,000 buyers;
- 1,035 verified Aboriginal-owned businesses and 169 verified social and disability enterprises;
- 1,000 new suppliers registered on Supplier Hub each month;
- over \$11.8 billion in contracts, which were awarded to suppliers registered on [buy.nsw](https://buy.nsw.gov.au), and over 7,358 opportunities, which were matched to supplier profiles during the 2022/23 financial year;
- direct spend in excess of \$296 million in procurement spend during the 2022/23 financial year; and

- an ecosystem consisting of 11 integrated transactional applications including eTendering.

4.2 Buy.nsw supporting NSW Government procurement priorities

Tell us once

buy.nsw provides an WofG source of truth for supplier records from registration through to procurement activity that can be shared across NSW Government agency and WofG procurement systems. This enables suppliers to “tell us their information once” and provides a centralised supplier records system making it easier for suppliers to manage, share and maintain their information. Sharing information between buy.nsw and agencies’ procurement platforms reduces the need to re-enter information to transact with the NSW Government limiting business overheads and red tape.

Supporting the ‘tell us once’ priority, buy.nsw has delivered a simplified supplier registration process that has reduced registration time from up to 2 weeks to less than 5 minutes for common and core supplier information. It provides up to date and reliable supplier information for buyers through integration with external data sources such as the Australian Business Registry and Supply Nation.

Making it easier to do business with NSW Government

Buy.nsw provides an WofG source of truth for all procurement opportunities matched to registered suppliers. This central source of truth for procurement opportunities helps a greater number of suppliers find and respond to them, promoting supplier competition and diversity. Future integration with procurement services reduces response complexity and there is support, advice and compliance built in. Buy.nsw has delivered:

- automated matching of opportunities to supplier profiles based on products and services that they have selected;
- a searchable and filterable Opportunities Hub that consolidates all NSW Government opportunities published;
- an enhanced taxonomy that accurately reflects goods and services offered by suppliers that they self-select and manage;
- a new schemes module that simplifies creation and management of schemes by NSW Government buyers and application to, and management of, membership by suppliers; and
- a digital signature service ‘SecureSign’ that simplifies the execution of procurement contracts for both buyers and suppliers.

Future funded roadmap activities include new procurement pathway modules for simple and complex procurement with policy compliance built-in and an opportunities API (application programming interface) that allows agencies to automatically share and publish all opportunities.

Fair and open competition

Buy.nsw provides an WofG source of truth for contract disclosures. This provides greater transparency of procurement activity and improves the ability to increase diversity of suppliers and spend across SMEs, start-ups, regional business, Aboriginal-owned business, not-for-profit and disability enterprises. Supporting ‘fair and open competition’ buy.nsw has delivered:

- a range of initiatives to identify and promote SMEs, start-ups, regional businesses, Aboriginal-owned businesses, not-for-profit and disability enterprises, and gender equitable businesses.

Verified business identifiers allow buyers to filter on key supplier attributes as well as service locations. The platform has also automated registration for faster payments for eligible businesses; and

- a reporting portal for buyers and suppliers to complete their social procurement policy reporting commitments.

Future funded roadmap activities include an automated centralised contract disclosure registry integrated with procurement activity which can be used by downstream systems such as finance and the NSW Treasury SpendCube for clearer and more accurate procurement spend insights.

5. Effectiveness of ICT Procurement

This section addresses term of reference (b):

the effectiveness of whole of government and agency procurement arrangements, including standing offers, panels and prequalification schemes, in ensuring that suppliers and their subcontractors deliver value for money and comply with relevant policies and regulations, including labour laws, at the qualification, contract negotiation stage and contract management stages of procurement

In its leadership role for ICT and digital investment across all NSW Government agencies, Digital NSW is driving reform across all dimensions of ICT and digital in NSW including digital strategy, cyber security, spatial data, adoption of “State Digital Assets” and ICT procurement. These reforms are aligned to and in support of the NSW Government priorities.

Specific initiatives to improve the effectiveness of ICT procurement are described below.

5.1 Optimising commercial outcomes through WofGAs

Driving adoption of the WofGAs and optimising commercial outcomes

Many ICT and digital WofGAs are mandatory, however under the devolved procurement model compliance with mandates and uptake of optional panels is a matter for NSW Government agencies.

ICTDS supports agencies to adopt and achieve the best outcome from WofGAs through regular engagement, information sessions, training and advice. This information is detailed in Section 9.3. Support focuses on formulating procurement and negotiation strategies, and in particular negotiating bespoke terms and/or improved pricing depending on specific agency requirements. ICTDS maintains several platforms to facilitate access to information about WofGAs by agencies, including portals to share WofGAs, service catalogues, pricing, contracting templates and guidance.

ICTDS proactively manages NSW Government ICT spend to achieve the best possible value for money through development and implementation of all of government category plans and establishment and adoption of WofGAs across telecommunications, software, cloud, hardware and services.

As at 30 June 2023, \$551 million in benefits have been secured between FY2019/20 and FY2022/23 through various WofG ICT procurement initiatives, exceeding the Government’s commitment of \$400 million in ICT procurement benefits over the previous forward estimates.

5.2 Improving value for money through WofG arrangements

The measures ICTDS takes to ensure ICT and digital WofGAs drive benefits from our ICT and digital procurement spend and to maximise value for money include:

- periodically refreshing service catalogues and price books for the products covered under WofGAs to ensure these continue to offer value for money by taking advantage of the declining price trends or changing service offerings and commercial models in the market;
- including the provision to negotiate better pricing at the NSW Government agency Customer Contract level based on agency specific volume and spend commitments;
- including 'most favoured nation or low watermark clauses' in some WofGAs that ensures any downward movement in unit prices on account of market testing is captured and is made available to all customers;
- in the case of stand-alone direct agreements, following a co-ordinated approach to procurement through aggregation of volume across the sector to obtain better pricing and terms and conditions; and
- working with NSW Government agencies to facilitate adoption of WofGAs at the point of contract renewals and optimisation of spend during the term of the contract, allowing the agencies to reduce their total spend.

ICTDS collaborates with the information and digital leaders across the sector and other business units in Digital NSW to remain aligned to the state digital strategy and the emerging ICT and digital investment pipeline. For example, currently there are significant investments across the sector in cyber security, therefore ICTDS has commenced an initiative to develop a panel for the procurement of core and common cyber security software and tools.

5.3 Improving the usability and impact of ICT procurement policies

In the devolved procurement model agencies consume centrally established policies and mechanisms via a variety of disparate operating models with a range of training, capability, systems and support available to them. Effectiveness of centrally established procurement arrangements can be greatly enhanced by working with agencies to understand their operating environment and optimise available support accordingly. Leveraging human-centred design principles, ICTDS manages a continuous program of policy reforms designed to adapt to the changing needs of our customers (NSW Government agencies and industry), facilitate compliance to changing laws, regulations and external environmental conditions (e.g., cyber security) and enable the procurement and adoption of emerging technologies such as Artificial Intelligence.

Policy reforms also cater to the current and emerging priorities of the NSW Government; current examples include ensuring NSW Government services are more inclusive and accessible, growing opportunities and spend with small businesses, encouraging and supporting more innovation-friendly procurement practices as well as the growing adoption of artificial intelligence to improve NSW Government services.

Supplier diversity

The mandatory ICT Services Scheme (Section 3.2.2) is perpetually open to new suppliers, provides a streamlined mechanism for NSW Government buyers to discover a diverse range of suppliers across all identified categories of ICT and digital goods and services. As at 23 November 2023, there are 4,903 unique suppliers on the ICT Services Scheme with the following break-down:

Supplier type	Number of suppliers
Indigenous suppliers	34
Large suppliers	618
Medium suppliers	1,498
Small suppliers	2,776
Total	4,903

Risk management and mitigation

The [risk identification guidelines](#) described in Section 3.3 were introduced to help users determine whether to use low risk or the more complex Master ICT Agreement/ ICT Agreement (MICTA/ICTA) contracting framework. They support users to make a point-in-time decision and provide an indication of the types of engagements likely to be considered high risk, including those with high complexity and interdependencies, or uncertainty around capability, supply chains or the maturity of technology.

The risk identification guidelines include:

- definitions of key terms and how they apply to ICT/digital engagements;
- typical features of low- and high-risk procurement;
- prompts to follow agency-specific risk frameworks, policies, guidelines and templates to both assess risk and to develop mitigation strategies beyond contractual controls;
- a checklist for determining low risk procurements;
- a list of considerations for each of the key ICT and digital procurement categories including software, cloud, telecommunications, hardware, and professional services; and
- links to a range of non-compulsory resources to help with risk management.

Uplift of the high risk / high value ICT Purchasing Framework

The MICTA/ICTA contracting framework replaced ProcureIT 3.2 in July 2021, and was mandated from September that year. The new framework had the following objectives:

- uplift key provisions on security, Intellectual Property (IP) and liabilities;
- reduce complexity of modules and terminology;
- better support a risk-based approach; and
- align with industry best practice.

The move to a new contracting framework was driven by a significant shift in the external environment. Since the introduction of the ProcureIT contracting framework in 2003, there has been an increased complexity and frequency of cybercrime, a shift from on-premise towards Software as a Service (SaaS) delivery models, and suppliers seeking to retain greater control of their products and services after delivery.

This shift created a need for heightened cyber security, data security and privacy protections in the core terms and conditions, which were uplifted in MICTA/ICTA as a signal to market of what standards the NSW Government expects our suppliers to comply with.

The importance of agencies having the flexibility to tailor agreements based on the risk profile of each engagement also increased, to enable them to make decisions about which departures from core terms and conditions they would be willing to accept and the circumstances under which those uplifted positions might not apply. This accounts for variations in security requirements based on existing cyber security measures and architecture, the agency's risk profile and the specific implementation plans for a product or service.

The trend towards suppliers increasingly negotiating contract terms and conditions to accommodate their delivery and maintenance models put have resulted in changes to the ICT Purchasing framework's governance arrangements. The former governance arrangements whereby DCS approved all non-beneficial variations to core terms and conditions evolved over the life of ProcureIT from central oversight to an approval step that was holding up agreements. Under MICTA/ICTA, agencies have instead been empowered to approve their own non-beneficial variations and are required only to report these to DCS to build up a central repository of variations and to enable DCS to monitor the effectiveness of the contract framework in mitigating key risks.

Finally, the number of modules in the contract templates were reduced from 14 to 4, and the schedules from 12 to 9, to streamline the document suite.

Monitoring implementation of the uplifted ICT Purchasing Framework

As the first significant shift in the contracting framework since 2003, MICTA/ICTA came with a commitment to review its implementation after the first 12 months of operation. The review of the MICTA/ICTA framework began in August 2022 and was conducted with a dual purpose:

- check on implementation progress, with a focus on key changes to the contract templates, governance arrangements and suitability of support; and
- build towards a more agile "living" policy approach to become more responsive to shifts in the sector's ICT and digital strategies and investments as well as trends in the overall technology sector.

Under the devolved procurement model, there is shared responsibility for managing the NSW Government risk exposure between the WofG ICTDS function providing the framework, guidance and support, and agencies implementing it into their ICT and digital procurements. The review of the contracting framework is seeking to understand how to optimise the templates, guidance and support by adopting a user-centred and interactive approach.

Agency leaders have a corresponding role to ensure procurements are conducted with skilled resources who understand the framework and monitor its effective use and governance compliance.

The review has adopted a user-centric approach throughout 2023 and is expected to be finalised in the first half of 2024, with implementation of some improvements already underway and continuing in an ongoing fashion as part of a regularly re-prioritised "backlog" in a living policy approach. More information and initial findings of the review are in Attachment 7.

6. Current Capacity of Procurement Officials to Meet Procurement Policy Outcomes

This section addresses term of reference (c):

current capacity of procurement officials in government agencies to assess suppliers and ensure they, and their subcontractors deliver value for money and comply with relevant policies and

regulation, including labour laws, at the qualification or contract stage and throughout the contract management stage

ICTDS' WofG role affords a comprehensive and sector-wide view of the current capacity of NSW Government agency procurement teams to maximise value for money from ICT procurements and ensure they and their suppliers comply with relevance policies, laws and regulations.

6.1 Simplification and standardisation of ICT and digital assets

Through the state digital strategy, Digital NSW is driving simplification and standardisation of the sector's ICT and digital assets.

The ICTDS portfolio of WofGAs focuses on common and core ICT and digital platforms procured by many NSW Government agencies. Value for money from these WofGAs is optimised through the simplification and standardisation of ICT and digital assets across NSW Government agencies, which in turn leads to migration to and greater adoption of common and core platforms.

Furthermore, to ensure the simplification and standardisation of ICT and digital assets does not come at the expense of social development and economic outcomes for the local technology sector, ICTDS collaborates with suppliers of common and core platforms to find opportunities for local suppliers to implement and support the platforms (e.g. Salesforce, SAP and Microsoft).

6.2 Optimising value and compliance through contracting

ICTDS has conducted a review of challenges experienced by users of the refreshed ICT Purchasing framework – see sections 5.3.3. and 5.3.4. These workshops conducted with ICT procurement, legal, risk and commercial representatives from agencies have identified a range of trends in how the contracting framework is being applied and the challenges these teams experience. The complexity and rapid change of the technology environment is resulting in more frequent and involved negotiations with suppliers, and ICT and digital buyers needing effective and timely support when contracting.

These challenges are best addressed through a coordinated effort between ICTDS and senior procurement and ICT and digital executives within NSW Government agencies who can address limitations in the ICT procurement capacities and supporting frameworks within those agencies.

Further detail on the review is provided in Attachment 7.

6.3 Accessing the best solutions through innovation procurement

Innovation Procurement Pathways (IPP) (see also Section 9.2) is a program that has recently entered delivery stage after two years of discovery work to build a clear picture of the conditions of success for innovation procurement. Discovery, direct testing with multiple projects and co-design of solutions with practitioners across NSW Government has shown that innovation procurement, as a skillset, is a niche area of expertise best developed through repeated exposure to digital innovation procurements and procurement of emerging technology including artificial intelligence. Further detail on this can be found in Attachment 8. Access to this skillset can vary between NSW Government agencies.

7. Evaluation Criteria

This section address term of reference (e):

the evaluation criteria used in tenders and how they are weighted in making a decision to award a contract, in particular consideration of: (i) local content, (ii) value for money, (iii) social, economic and labour market outcomes, (iv) environmental considerations, such as sustainable sourcing, energy efficiency and waste reduction, (v) innovation and (vi) subcontracting arrangements

ICTDS does not mandate or advise on evaluation criteria over and above frameworks provided by NSW Procurement, however evaluation criteria are one lever agencies may use to implement the indirect spend target for large ICT contracts. The [ICT/Digital SME procurement commitments](#) set a minimum target of 25% of a contract's addressable spend to be spent with SMEs for contracts over \$3 million, demonstrated through subcontracting or supply chain spend.

Agencies with ICT procurements over this threshold \$3 million must:

- make suppliers aware of the SME indirect addressable spend target at time of tender;
- include SME indirect targets in the contract, of at least 25% of the total contract value of addressable spend; and
- monitor suppliers are submitting quarterly reporting against their progress to achieve their SME contract target commitments.

8. Buy.nsw Improves Transparency and Accountability

This section addresses term of reference (f):

current approaches to transparency and accountability of procurement by New South Wales government agencies, in particular: (i) function and requirements of the New South Wales Government Procurement Board and the New South Wales Procurement Policy Framework, (ii) record keeping arrangements for procurement activities

Good quality and reliable data is critical for procurement spend transparency and accountability. Standardised, WofG procurement activity datasets support category management and helps the NSW Government and agencies identify opportunities for spend optimisation. It is a key enabler in achieving social procurement outcomes that support NSW businesses and the economy. Existing mandates include:

Supplier registration: As of 1 July 2022, all NSW Government suppliers must be registered on buy.nsw. This provides a minimum mandatory data set for all NSW Government suppliers and ensures transparency of who is providing goods and services to NSW Government.

Advertising of NSW Government supply opportunities: Premier's Memorandum M2006-11 NSW Procurement Reforms requires all agencies to advertise and make available request for tender documentation on the NSW Government eTendering website (a buy.nsw application).

Contract award notices: Section 27 of Government Information (Public Access) Act 2009 No 52 requires all contracts over \$150,000 to be published on eTendering (a buy.nsw application).

8.1 Procure-to-pay reference data architecture

In collaboration with all NSW Government agencies, buy.nsw is developing a procure-to-pay data architecture that integrates buy.nsw and NSW Government agency procurement systems. This will support greater compliance to the above mandates, provides standardisation of key datasets and

requirements around their use; and improves transparency and accountability while supporting social procurement policies.

Attachment 6 provides more information on buy.nsw.

9. Economic, Social and Environmental Outcomes

This section addresses term of reference (g)

the New South Wales Government's procurement practices, in particular its ability to:

- i. prioritise local content, local manufacturing, and local jobs*
- ii. improve opportunities for quality training and workforce participation*
- iii. provide opportunities for diversity, inclusion and the participation of disadvantaged groups, including women and minorities*
- iv. support local suppliers, and small and medium enterprises*

9.1 ICT/Digital Sovereign Procurement Taskforce and SME procurement commitments

In 2020 [ICT/Digital Sovereign Procurement Taskforce](#) was established to:

- enable increased number of government supply opportunities targeting SMEs and the potential for increased spend on SMEs;
- ensure SMEs can compete on an equal footing in ICT and digital procurement activities; and
- foster growth in capacity and capability of the local ICT/digital industry, building on existing NSW Government initiatives focused on encouraging this growth, as well as investment in technology precincts.

Based on the recommendations of the taskforce the NSW Government committed to a range of measures to support the growth of SMEs in the technology sector through its procurement activities. This includes Aboriginal businesses, start-ups and Australian disability enterprises. The [ICT/Digital SME procurement commitments](#) include:

- 30% of ICT procurement addressable spend must be spent directly on SMEs;
- 25% of indirect ICT procurement addressable spend in all procurements above \$3 million must be spent with SMEs; and
- purchasing permission for agencies to buy directly from an SME on the ICT Services Scheme up to \$250,000.

The taskforce also explored opportunities for preferencing NSW-based or Australian suppliers, however, such preferences were inconsistent with the EPP Direction, which enforces for NSW Government agencies compliance with international procurement and free trade agreements.

Delivered taskforce recommendations in addition to the spend commitments include:

- establishing direct and indirect SME reporting methods
- refreshing the ICT contracting framework
- faster payments for supplier dealing with NSW Government

- digitising the NSW Government procurement and payment processes by implementing easy to find supplier diversity tags, and to do business with NSW Government
- developing online training modules and guides for SMEs selling to government.

9.2 Innovation procurement to enable greater supplier diversity

Defining innovation procurement

ICTDS defines innovation procurement as approaching the market to solve a problem where the solution is not known, or where there may be multiple ways to solve the problem. Further rationale for the NSW Government definition of innovation procurement is provided in Attachment 8.

Strategic drivers for innovation procurement

Innovation in ICT and digital is increasingly important as the rate of change in the technology sector and the role of ICT and digital technology in NSW Government service delivery both grow. Many NSW Government strategies have identified procurement as an important enabler of innovation and technology outcomes, as well as ICT and digital industry outcome. These are listed in Attachment 8.

More agile procurement practices can help the NSW Government access the latest technology and solve problems in innovative ways. These practices include:

- effectively framing the problem to be solved;
- understanding what is on offer from the market;
- working more closely with suppliers to frame problems and design solutions;
- trying out solutions that might be untested or applied to a new context; and
- having a plan to implement them if they succeed.

Accelerators and innovation programs across the NSW Government are adopting these practices but for NSW Government buyers who do not have access to this expertise, it can be hard to know where to start, or how to balance the risks and rewards of doing things differently.

Facilitating innovation procurement

The NSW Government facilitates innovation procurement through centralised policies, provisions, and resources (listed in Attachment 8). In the NSW Government devolved procurement model, these provisions are set centrally, but agencies have autonomy to make their own decisions to activate provisions and use resources. The uptake of innovation procurement practices in NSW government relies on agencies navigating resources and provisions to use the full extent of the policy levers available.

The Innovation Procurement Pathway (IPP) program conducted discovery in 2021-22 which showed that existing resources and provisions can be difficult to find, understand and implement, but that they can be effective if we improve the support and guidance for navigating a competitive innovation process. The IPP program focuses on improving uptake of innovation procurement with a comprehensive support model. This model will include a support team, self-service guidance, frameworks, and awareness efforts, which are described in Attachment 8.

9.3 Training and buyer workforce participation opportunities

ICTDS provides central guidance and training opportunities for all NSW Government agencies to support their uptake and adoption of WofGAs, policies and frameworks. These include:

- ICT Knowledge Network Community of Practice and a supporting newsletter to share updates on current initiatives related to ICT and digital sourcing within the NSW Government, and provide opportunities to learn about external market changes and effective procurement practices;
- Software Procurement Community of Practice to share information and coordinate software procurement exercises, including examining ways to maximise leverage with dominant suppliers and to inform the pipeline of planned WofGAs;
- project specific working groups to support the development of new AoGAs through requirements gathering workshops and agency feedback sessions;
- opportunities for buyer representatives to participate in evaluation committees required to establish WofGAs;
- ICTDS Portal and Community of Practice SharePoint information repository;
- end-user training sessions delivered on request to help buyers understand and use WofGAs;
- strategic, operational and analytical support tailored to agencies for adoption of AoGAs and realisation of optimisation opportunities;
- user-centric consultation and education forums as part of policy reviews; and
- partnering with agency procurement teams as part of a test and learn “sandbox” for innovation procurement.

9.4 Implementation of overall social procurement policies within the supplier ecosystem

The buy.nsw platform aims to make it easier for buyers to identify and engage with specific supplier cohorts such as SMEs, Aboriginal-owned businesses and social and disability enterprises to enable the NSW Government to meet their social procurement commitments. The buy.nsw platform provides a [supplier list](#), which includes approved suppliers within the ICT Services Scheme, that enables buyers to view and filter diverse suppliers to determine whether they fit into one of these cohorts.

In addition, the WofG panel arrangements includes a diverse set of suppliers including, where available, SMEs and Aboriginal-owned businesses. For example, the recently established [Professional Services Purchasing Arrangements](#) (PSPA) includes 73 SME suppliers and 3 Aboriginal-owned businesses out of the 94 suppliers empanelled. In addition to giving NSW Government agencies more choice of suppliers, this makes it easier for customers to procure from these suppliers and drive social outcomes.

10. Cross-Jurisdiction Collaboration

This section covers term of reference (h):

procurement best practice to encourage ethical conduct and promote social development in other jurisdictions, both nationally and internationally

ICTDS collaborates with its peers in the Commonwealth Government and other State Governments in relation to ICT and digital more broadly and specifically on ICT procurement and digital procurement systems. The forums through which this collaboration occurs is described in Attachment 10, including specific initiatives. NSW Government plays a lead role in this collaboration in recognition of our maturity in digital government and ICT procurement specifically. Our position relative to our peers has been recognised over several years by Intermedium in their [Digital Government Readiness and Maturity Indicator \(DGRMI\)](#).

The focus of our cross jurisdictional and industry collaboration is to ensure we can leverage best practice policy making from other jurisdictions, create consistent and effective ecosystem parameters for suppliers working across borders and in development of all of government agreements with key suppliers.

Appendix A3 - Infrastructure NSW



1. Executive Summary

INSW has a lean procurement function that provides procurement advice, assistance, and enablement to the operating divisions of INSW as required. The overarching objectives are to procure at a high ethical standard and obtain value for money.

The primary focus is to ensure WofG Procurement Policy Framework and the numerous related policies are complied with, and the requesting operating divisions receive fit for purpose goods and services whilst ensuring value for money objectives are being met.

The current procurement team consists of the following permanent, full-time positions:

- 1 x Director, Procurement and Business Support (SES 1)
- 1 x Associate Director, Procurement (11/12)
- 1 x Manager, Procurement (9/10)
- 1 x Officer, Procurement (7/8)
- 1 x Admin Support, Procurement (5/6)

The Director, Procurement and Business Support is an active member of the Procurement Leadership Group (PLG) which has oversight of the various WofG procurement policies and framework. The PLG provides strategic advice and recommendations for improvements to the Procurement Board (PB). INSW occupies a “non-voting” position on the PB.

INSW is a dual accredited agency, holding PB accreditation for Goods and Services (Level 1) and accreditation for Construction (Level 2) related procurements. As part of the accreditation programs (G&S administered by NSW Procurement (Treasury), and Construction administered by NSW Public Works (Regional NSW)), INSW is required to submit separate annual attestations signed by the head of agency as confirmation of INSW’s compliance with each of the programs.

INSW is responsible for the design and delivery of priority state infrastructure projects, where the agency responsible for managing the asset does not have the infrastructure/construction capabilities. These projects are procured complying with NSW government guidelines that encompass several social policies. Positive social outcomes related to project delivery range from obvious benefits such as provision of employment, aboriginal participation programs, diversity and inclusion programs; through to less obvious social benefits.

One of the most obvious benefits is the provision of new or upgraded infrastructure for the state. Projects currently being delivered include:

- Powerhouse Parramatta – The state’s largest cultural investment since the opera house, the new flagship museum will be the first State cultural institution located in Western Sydney.
- New Sydney Fish Market – replacing an antiquated facility which will lead to long-awaited revitalisation of the local community.
- Penrith Stadium Refurbishment – expanding and reconstructing a 25,000 seat stadium to support the growing population of Western Sydney.
- Powerhouse Ultimo Revitalisation – heritage revitalisation upgrading and expanding museum facilities.
- Barangaroo Precinct – Urban renewal project transforming a disused container terminal into a spectacular 22 hectare waterfront precinct.

Projects NSW is the operating division of INSW responsible for Projects and Precincts. INSW's other operating divisions are Strategy, Policy and Innovation (SPI) and Investor Assurance (IA). There are two support divisions: Corporate Services and Finance & Operations.

The Procurement team's span of items procured include but are not limited to; training services, architectural services, designers, engineers, marine specialised services, WHS specialists, Green Energy, consultants, project managers/directors, landscapers, auditors, contingent labour providers, prime (head) builders, facility management and utility providers.

Of the 'Plan, Source, Manage' procurement cycle, Procurement at INSW collaborate with the divisions across the plan and source phases. The manage phase (aka Contract management or supplier performance) is the responsibility of the engaging business unit (budget holder). There is a longer-term strategy (FY25/26) whereby Procurement will assist with contract management, but this will require additional resources.

2. Construction Leadership Group

The Construction Leadership Group (CLG) is chaired by Infrastructure NSW with representation from infrastructure delivery agencies, NSW Treasury, NSW Procurement and the NSW Building Commissioner.

The CLG is not a policy making body, but a key coordinating mechanism for relevant policy initiatives, including for construction procurement matters. Infrastructure policy matters are drafted and consulted on via the CLG. CLG endorsement is critical for matters that subsequently progress to Cabinet or the NSW Procurement Board for formal policy status.

The CLG regularly interacts with industry through its engagement function, supporting joint government and industry activities, along with other State jurisdictions and the Commonwealth Government.

There are three Sub-Committees supporting the CLG that focus on the three CLG priorities: Culture and Diversity; Environmentally Sustainable Infrastructure; and Commercial. The Sub-Committees include representatives from all CLG member agencies. A Work Health and Safety (WHS) Working Group was stood up in October 2023.

3. NSW Government Women in Construction Program

Infrastructure NSW is leading the NSW Government Women in Construction Program in partnership with the Department of Education. The NSW Government Women in Construction Program aims to improve diversity and culture in the construction industry and attract more women into the sector in trade and non-traditional roles. This is important as more women in the male dominated construction industry will help to reduce industry segregation and enhance gender equality. Currently, women make up approximately 13% of the construction sector, yet only 2% of trade-based roles are held by women.

The Program includes four priority actions, one of which includes targets for women in trade and non-traditional roles for government infrastructure projects. The Program is trialling a target of 4% women in trade roles and 7% women in non-traditional roles on select government infrastructure projects for 2023-24. Early reporting indicates that these targets are on track to be met.

A new reporting requirement was introduced via an updated Procurement Board Direction to

require reporting on the number of women in trade and non-traditional roles for all new NSW Government construction contracts over \$10 million as of 1 September 2023.

The Infrastructure Skills Legacy Program (ISLP), led by the Department of Education, aims to boost the number of skilled construction workers and create additional pathways to employment. The ISLP targets are mandated via a NSW Procurement Board Direction which sets out the below skills, training, and diversity targets for major construction projects. The Board Direction was updated to include mandatory reporting for women in trades and women in non-traditional roles from 1 September 2023.

Target	Contract Value	Contract Value	Contract Value >
	\$7.5-\$10 million	\$10 -100 million	\$100 million
Apply Aboriginal Procurement Policy	√	√	√
20% of the Trades Workforce to be Apprentices		√	√
20% of the Project Workforce to be Learning Workers			√
2% of the Trades Workforce to be Women		√ (Report only, no target applies)	√
Report on number of women in non-traditional roles		√ (Report only, no target applies)	√ (Report only, no target applies)
8% of the Project Workforce to be Young People		√ (Report only, no target applies)	√ (Report only, no target applies)
Report on Local Employment Outcomes			√

Appendix A4 - NSW Public Works

Regional NSW



1. Introduction

The NSW Government agency NSW Public Works welcomes the opportunity to make a submission to the Standing Committee on social Issues in relation to its inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales’.

This submission provides background information on NSW Public Works about specific issues raised in the inquiry’s terms of reference.

2. NSW Public Works

For context, NSW Public Works is unique within government, noting it:

- is accredited for construction procurement, with a core function of managing the design & delivery of construction infrastructure for local govt and state agencies across NSW. In 2022/23 this involved working on the delivery of 1,983 projects over 40 different asset classes with an approximate capital value of >\$3 billion.
- Provides procurement assurance to unaccredited agencies across government
- Has a central role within whole of government construction procurement, including a partial role in the construction procurement category management function.
- Manages whole of government and/or multi agency contracts for Facilities Management, Cleaning and Security
- Operates on a commercial, fee for service basis, with no recurrent funding.

This means NSW Public Works have considerable construction procurement expertise, both from a strategic and practitioner perspective.

The NSW Public Works structure and systems for managing construction procurement have been refined over a history of 160+ years.

NSW Public Works has a small Construction Procurement team (16 FTE) which:

- Provides procurement support and expertise to a statewide team of approximately 500 staff primarily made up of engineering, project and construction management professionals and practitioners, and
- is responsible for the maintenance and continual improvement of procurement and governance systems across the business.

NSW Public Works also supports whole of government procurement through:

- Administration of prequalification schemes for construction (consultants and contractors)
- Ownership and maintenance of standard form contracts for construction, including GC21, MW21 (Minor Works), MMW21 (Mini-Minor Works) and consultants in construction.
- Providing basic administration activities related to whole of government Contractor and Consultant Performance Reporting scheme for contracts <\$50M.
- Administration of the Construction Procurement Accreditation program

As part of the Construction Leadership Group, along with other infrastructure delivery agencies, NSW Public Works actively contribute to the development of policy which shapes construction procurement.

Governance and oversight of NSW Public Works practices are managed through and in accordance with the NSW Public Works Integrated Management System, which are accredited to ISO 9001:2015, ISO 14001:2015 and ISO 45001:2018.

3. Specific References to ToR inquiries

The terms of reference for the inquiry direct the Committee's attention to some specific aspects of NSW Public Works.

The NSW Government provides the information below to assist the inquiry.

That the Standing Committee on Social Issues inquire into and report on the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales, and in particular:

(a) the current state of procurement by New South Wales government agencies, in particular:

(i) the value of procurement, through whole of government or agency procurement arrangements.

NSW Public Works has managed the construction procurement of projects with a capital value of approximately \$3b+ in 2022/23.

NSW Public Works also manages Whole of Government and /or multi agency contracts for Cleaning, Facilities Management and Security on behalf of all agencies (this spend is reported by individual agencies).

It is noted that in some instances there is a desire for agencies to maintain autonomy and implement their own Facilities management type contracts, despite whole of government contracts being in place. Whilst this may well be for good reason and works well for those larger agencies with capacity and maturity to manage these contracts, this approach potentially reduces the ability of government, and particularly smaller agencies, to leverage and harness the larger agencies and the State's significant buying power. This approach can potentially also result in

- duplication of efforts,
- an inconsistent approach with and for industry,
- likely increased costs
- reduced access to the requisite skill sets to effectively manage specialised procurement.

(ii) the policies, schemes and contracts of all categories that New South Wales government agencies procure, including labour

NSW Public Works follow Procurement board directions and guidelines issued within the NSW Procurement framework.

Contingent labour is sourced by NSW Public Works through a Contingent Workforce - SCM0007. Any agency across government, and NSW Public Works, as an accredited construction delivery agency, typically accesses the following schemes for construction procurement:

- SCM1191 Consultants in Construction <\$9M
- SCM10611 Consultants in Construction >\$9M
- SCM0256, general construction works <\$1M
- SCM1461 for Construction works >\$1m, <\$9m
- SCM00002 for construction works >\$9M

A number of larger Infrastructure delivery agencies have also established their own “additional” internal construction (Contractors and consultants) prequalified panels.

It is noted that NSW Public Works also administers the above construction prequalification schemes. The administration of these schemes, together with a small government funded team of 3 staff, was transferred from NSW Procurement to NSW Public Works in 2017 as a result of an independent report that recognized the administration of these schemes required a level of specific construction procurement and practitioner expertise, which exists within NSW Public Works.

The expectation was at that time that this small team might also provide a whole of government Construction Procurement Category Management role.

However, the number of prequalified contractors on these schemes has grown by 174% since 2017. The NSW Government has a spend of \$12+BN per year from 6,367 suppliers that are registered within its Construction Category schemes. A large majority (97%) of these contracts are for works below \$50M and the related procurement schemes are used across 46 NSW Government agencies, 20 Local Councils, 6 State Owned Corporations, 2 Universities and 2 Federal Government agencies.

With the increased demand on the small NSW Public Works team charged with administering the construction schemes, the NSW Public Works Category Management capacity and activity is thus limited to very basic administrative tasks, such as assessment of scheme applications, dealing with scheme related enquiries, organisation of training sessions for GC21 and management of the construction accreditation scheme.

There is no other whole of government team completing Category Management tasks relating to Construction and even at the agency level, any Category Management capabilities and activities are limited and don’t benefit agencies across government.

Independent third party advice, prepared after detailed consultation across all government infrastructure agencies, including INSW and NSW Procurement, has confirmed that a greater capacity to deliver more robust and strategic Construction Procurement Category Management services, not inconsistent with the levels provided for the ICT and Professional Services categories, could not only assist in increasing productivity outcomes across the construction sector but could potentially advance at least five commitments of the Governments 10-Point Commitment to the Construction Sector by becoming a more productive ‘customer of choice’:

- Procure and manage projects in a more collaborative way (Commitment 1)
- Develop and promote a transparent pipeline of projects (Commitment 4)
- Reduce the cost of bidding (Commitment 5)
- Monitor and reward high performance (Commitment 7)
- Increase industry diversity (Commitment 10).

Additionally, more thorough Category Management would considerably reduce the risk to NSW Government relating to price increases due to inadequate capacity in the market, supplier default and managing supplier underperformance. It could further build significant accountability through better centralised and visible data.

This would include services such as:

- Collating market insights from across the whole of government
- Gathering spend insights to identify savings opportunities.
- Building supplier relationship management
- Improving the construction procurement system
- Gathering performance information and enabling agencies to manage performance.

In short there is a great opportunity and potential that a properly funded and dedicated centralised team to provide this service across government would potentially improve greatly procurement outcomes.

(iii) the number of whole of government procurement arrangements available to New South Wales government agencies

NSW Public Works administers a number of construction prequalification schemes (see above) which are accessible for all agencies.

NSW Public Works are also the custodians of NSW Government standard form contracts for agency use in construction, in particular

- GC21
- MW21 (Minor Works)
- MMW21 (Mini-Minor Works)
- Consultants in Construction

The GC21 contract is used on a majority of NSW Government's infrastructure projects >\$2m. Since its development more than two decades ago in consultation with government and industry and with construction related legal input, it has been extremely successful and nationally recognised as a 'plain- English', simple and cooperative contract that facilitates collaboration and transparent risk sharing.

However, the use of these government endorsed construction contracts in their standard form across government is not mandated. Knowledge of how these contracts work and are administered across government, often by third party contract administrators, is extremely variable and inconsistent.

In the NSW devolved infrastructure delivery ecosystem, the contract whilst being accessed regularly has been and continues to be modified (more than 100+ versions at last count) by agency procurement and legal teams, often unaware of how these contracts in their standard form can work, and thus regularly undermining its commercial integrity and shifting an excessive proportion of risk onto Industry.

Industry feedback continually reiterates the desire for a standardization across government, and the difficulty of doing business with government without a consistent approach. Regular industry feedback through INSW and other forums is that whilst the contracts might have a GC21 title on

them they are often very different with quite significant and confusing changes made to GCC clauses. Feedback in some cases has been that contractors simply build risk into their prices as they are not sure how some of the clause changes might be interpreted or implemented.

Use of non standard form contracts potentially can result in:

- Inconsistent or unreasonable allocation of risk.
- Reduced access to the market, limiting contractors' ability to participate in government construction particularly less experienced firms who may not understand modified or bespoke contracts.
- Limitations on new players entering the market due to uncertainty of government requirements.
- Increase bid costs
- Reduced productivity, as each job is different.
- Reduced ability to administer contracts consistently and effectively.
- The freely available contract guide documents describing how to use and administer the standard form contracts are often of no use in administering altered versions of those same contracts.

NSW Public Works offers training in GC21 and MW21 contracts on a fee for service basis, however there is no requirement for government agencies writing and managing these contract to have undertaken any training or competency assessment.

the application of the New South Wales Procurement Policy Framework and the devolved nature of the responsibilities and obligations of New South Wales government agencies under the framework

NSW Public Works implements the NSW Government Procurement Policy Framework within its Integrated Management System, which is accredited to ISO 9001:2015, ISO 14001:2015 and ISO 45001:2018.

NSW Procurement Policy Framework requirements are reflected in the NSW Public Works digitized project and contract management system, which is supported by robust financial delegations commensurate with risk.

Procurement training is provided for all staff involved in construction procurement through our Bridge Learning Management System

Across un accredited construction procurement agencies and even in some smaller Construction Procurement Accredited agencies there appears to be varied understanding and application of NSW Procurement Policy Framework as it applies to construction Procurement.

the value/volume of New South Wales government agencies procurement undertaken outside of whole of government procurement arrangements

The devolved nature of construction procurement as well as the lack of standard reporting and implementation systems means that it is very difficult to establish the application of construction procurement policies across all agencies.

Despite it's central role in construction procurement, in the devolved construction procurement model in NSW, similar to agencies like INSW and NSW Procurement, NSW Public Works does not

have visibility of the construction procurement practices of other agencies outside of the whole of government contracts.

the accreditation program for goods and services procurement and construction procurement

The following comments relate to the Construction Procurement Accreditation program only, noting the NSW Public Works is not accredited for Goods and Services procurement.

In 2018, NSW Public Works was tasked with defining the needs of the NSW Government and implementing a reformed whole-of-government Accreditation Program (the Program) and Assurance Process for Construction Procurement. Several models of this program were developed over ensuing years for consideration and endorsement by the existing devolved Infrastructure agencies via the CLG before a final version was deemed acceptable. The current accreditation model for construction procurement was approved for implementation by the NSW Procurement Board and deployed 1 January 2021.

During development of this program, there was a desire from delivery agencies for a “light touch” approach to reduce administrative burden. Accordingly, the construction accreditation process relies on high-level reporting and self-attestation from individual accredited agencies regarding the setting of, and delivery to, performance indicators.

Whilst the endorsed system does reduce the qualification and administrative burden of becoming accredited, there are however a number of issues tare recognized as needing attention - but one example is that there is still limited visibility at a central level of procurements and procurement practices undertaken by both accredited and unaccredited agencies.

The procurement assurance requirements associated with the accreditation program are reliant on self- reporting, and procurements across government are not centrally reported and monitored for compliance against the accreditation program.

NSW Public Works has identified to CLG opportunities for improvement of the construction accreditation program, including:

- Elements of the current “one size fits all” Construction Procurement Accreditation and Assurance models do not suit all agencies due to their variability in the size, type, capability, maturity, risk profile and value of the planned procurement activities;
- Inconsistencies exist in the outcomes of accreditation assessments due to the use of multiple external consultants;
- The Program is not adequately managing the risk associated with the provision of construction procurement assurance;
- The Program does not foster cluster-level strategic discussions around multiple agencies from the same cluster pursuing accreditation;
- The Program does not adequately provide visibility over an Accredited Agency’s ongoing compliance with the minimum standards;
- The Program does not currently facilitate adequate tracking and reporting of assured procurement activities; and
- Potential for downstream delivery risk due to pre-construction works under \$1.3M not requiring assurance from an accredited agency.

(b) the effectiveness of whole of government and agency procurement arrangements, including standing offers, panels and prequalification schemes, in ensuring that suppliers and their subcontractors deliver value for money and comply with relevant policies and regulations, including labour laws, at the qualification, contract negotiation stage and contract management stages of procurement

Whole of government and agency procurements are not optimal. Construction Category Management

As noted in a)ii) above, construction category management is minimal to basic at best, despite the significant value of construction spend across government. There are significant opportunities for improvement in this space.

There are instances of other agencies undertaking some basic category management to suit their own needs but there is no centralised or wholistic approach. For example, details regarding a poor-performing contractor are not necessarily shared amongst agencies, nor is there a consistent approach in the management of poor contractor performance.

Construction Procurement Capability

As noted in a)iii) above, there is not a consistent approach to engagement with industry across government. Currently there is

- No mandate to use the standard form contracts which are available to agencies,
- No competency-based assessment for procurement practitioners within government,
- Widespread modification of standard documents which reduces productivity, increases cost and limits government capacity to access the market, and potentially limits industry to participate in government construction due to the difficulty in understanding often different requirements across agencies.
- Outsourcing of contract and project management across many agencies, which results in
 - depletion of organisation knowledge and internal government expertise,
 - Internal government capability required for government to be an informed buyer and manager of projects
 - an inconsistent delivery approach.

Contractor Performance Reporting

NSW Public Works operates the NSW Whole of Government (WofG) CPR system. However, this system is not used consistently by delivery agencies across NSW as it demands a manual process and delivers value below stakeholders' expectations.

This system has several limitations that affect the value delivered:

- Information is incomplete: Parameters and grading criteria were set up in 2011, and are not up to date with most current legislation and contract requirements.
- Information is often not gathered: Given the manual nature of the CPR process, some agencies fail at completing reports regularly and sharing them with the central team
- Information doesn't enable proper analysis: As performance metrics are stored in word/PDF formats, they do not enable trend analysis, or analysis of a contractor against peers

- Information and reports are not designed to inform a specific decision: The system is not connected to decisions influenced by contractor performance (such as panel construction or the fair and equitable provision of future tender or work opportunities)
- Information is locked in local drives: Stakeholders need to request the information over email to the central team, rather than accessing directly

As a response, many delivery agencies have developed agency-specific systems. However, these use slightly different assessment and scoring criteria, which delivers an inconsistent approach to engaging with industry across government. In addition, as agency-specific systems are not connected to each other, it is not possible to provide a complete picture of a contractor's performance across government, which limits government's ability to make performance-based decisions.

Stakeholder interviews confirmed that both industry and government customers would value a solution that delivers more objective and complete performance information and enables meaningful performance analysis and collaboration.

(c) current capacity of procurement officials in government agencies to assess suppliers and ensure they, and their subcontractors deliver value for money and comply with relevant policies and regulation, including labour laws, at the qualification or contract stage and throughout the contract management stage.

Construction procurement is specialised and requires a different approach to goods and services procurement.

There is limited construction procurement capacity across all government agencies. Due to capacity and capability limitations, some agencies have a centralised procurement group which combines goods and services with construction. This means that construction specific risks are not always understood identified or articulated in the construction procurement process.

Many agencies outsource their construction contract & project management services to the private sector, which depletes the organisations knowledge required for government to be an informed buyer and often results in an inconsistent engagement with industry.

any opportunities that may exist for co-regulation, and other incentives to improve labour market governance and enforcement through the procurement process to ensure the process delivers both value for money and social outcomes

NSW Public Works is able to provide practitioner input to incorporate social procurement policies into standard form construction contracts.

Consistent use of standardized documentation, (which we know can be configured to allow for specific infrastructure needs, contracting options and innovative construction), will support improved value for money and social outcomes through construction procurement.

Standardization and consistency across government construction procurement processes will also potentially increase industry participation and the redevelopment of a smaller tier 2 and 3 construction contractors into the market across NSW.

the evaluation criteria used in tenders and how they are weighted in making a decision to award a contract, in particular consideration of:

- ***local content***
- ***value for money***
- ***social, economic and labour market outcomes***

- ***environmental considerations, such as sustainable sourcing, energy efficiency and waste reduction***
- ***innovation***
- ***subcontracting arrangements***

NSW Public Works develops tender evaluation criteria and weightings which reflect the value definition of our clients.

Providing clear policy on value for money across government and a standard approach to tender evaluations will provide industry with greater capacity to respond to government requirements and deliver social outcomes through construction procurement.

Again, a devolved model introduces challenges of consistent approach in achieving procurement outcomes across government.

(f) current approaches to transparency and accountability of procurement by New South Wales government agencies, in particular:

(i) function and requirements of the New South Wales Government Procurement Board and the New South Wales Procurement Policy Framework

In regard to central Construction Procurement roles there exists:

- a lack of definition of roles of central agencies,
- a lack of resources to maintain and update support materials,
- many outdated circulars and guidance with no apparent ownership or action / use from any agencies.

record keeping arrangements for procurement activities

NSW Public Works maintains a digitized project and contract management system – Envision – to not only maintain records in accordance with statutory requirements but also to ensure processes and practices are undertaken in accord with our Certified Integrated Management systems and our NSW government Construction Procurement accreditation requirements.

Agency annual self-reports and outcome reports

The construction accreditation process relies on high-level reporting and self-attestation from individual accredited agencies regarding the setting of, and delivery to, performance indicators. NSW PW has systems in place to do this.

However procurements across government are not centrally reported and monitored for compliance against the accreditation program.

the New South Wales Government's procurement practices, in particular its ability to:

- ***prioritise local content, local manufacturing, and local jobs***
- ***improve opportunities for quality training and workforce participation***
- ***provide opportunities for diversity, inclusion and the participation of disadvantaged groups, including women and minorities***
- ***support local suppliers, and small and medium enterprises***

It is noted that the SME and Regional Procurement Policy specifically excludes construction. NSW Public Works supports the development of construction specific social procurement policy.

It is further noted that PBD 2019-05 Enforceable Procurement Provisions do not allow selection criteria of suppliers based upon local content for Construction in excess of \$9.584m.

Without contravening EPP, it is largely up to individual agencies, with appropriate construction procurement expertise to develop one off mechanisms, almost at a contract by contract, place by place basis to achieve social procurement outcomes.

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

Appendix B
Submissions from Accredited Agencies

March 2024



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Note:

Each submission is based on the submitting agency’s own point of view and experience including an outline of their respective agency’s procurement functions and practices as well as their perspective on the operation of the current procurement model. Submissions therefore should be read independently of each other.

Where figures have been provided, reasonable efforts have been made to qualify them against NSW Procurement’s Spend Cube database. Where there are material differences, this may be due to differing reporting definitions, parameters, sources and systems.

Appendix B1 – NSW Treasury

Accredited Agency Submission



1. About NSW Treasury, the Department

NSW Treasury, the Department (Treasury), welcomes the opportunity to make a submission to the Legislative Council's parliamentary inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales.

Treasury is the NSW Government's principal whole-of-government (WofG) financial and economic adviser. Treasury provides advice to inform budget decision-making, manages the State's principal financial assets and liabilities, manages the commercial functions and businesses of the State, advises on performance and financial management policies.

Treasury employs more than 1,000 staff, is led by an Executive Board made up of the Secretary, four Deputy Secretaries and two rotating Senior Executives, and are responsible for delivering Treasury's strategy and goals across the following groups:

- Policy and Budget.
- Economic Strategy and Productivity.
- Commercial.
- Financial Management and Services.
- Office of General Counsel.
- Office of Secretary.

Scope of the submission

This submission provides background information on Treasury's agency procurement responsibilities and practices in relation to specific issues raised in the inquiry's terms of reference. The submission does not include other agencies part of Treasury's agency group, including icare (reports to a board), Infrastructure NSW (who have their own accreditation), TCorp (a public financial corporation and not a budget dependent agency), and State Super (SAS Trustee Corporation is a statutory body representing the Crown and incorporated under the Superannuation Administration Act 1996 (NSW)).

2. Operationalisation of the devolved procurement system within Treasury

2.1 How Treasury is supported in the procurement process

Treasury (through NSW Procurement) has 'Level 2 accreditation' for goods and services procurement, as approved by the NSW Procurement Board. This means Treasury can independently conduct procurement activities in accordance with NSW Government procurement laws and policies, approved budgets, and financial and procurement delegations, without concurrence from another accredited agency.

Procurement services are provided by NSW Procurement to all Treasury staff (Treasury buyers) via a shared corporate procurement services arrangement.

Treasury maintains a Procurement Policy TIPP 6.01 'How to buy for NSW Treasury' (the Policy). The Policy is designed to provide plain English procurement guidance on general purchasing and procurement conducted on behalf of Treasury buyers and complies with the NSW Procurement Policy Framework. The objective of the Policy is to ensure that correct procurement processes are followed, and that optimal value for money is achieved during those processes. The Policy also recommends that priority is given to certain businesses for certain contracts, especially verified Aboriginal businesses, small to medium enterprises (SMEs), regional businesses and disability organisations.

This means Treasury buyers are authorised to conduct their own procurement processes, within the mandate that all rules and requirements stated in the Policy, and any related policies, are applied. This includes fulfillment of the relevant authorisations and existing statutory delegations as per the Digital Treasury Operations Handbook (Handbook) provided to Treasury employees. The Handbook advises

who is legally authorised to do what in Treasury and is the vehicle through which business units can obtain the Secretary's authorisations to perform specific activities or functions, including in finance and procurement.

The NSW Procurement team is available in a shared corporate procurement services capacity to support Treasury buyers in their procurement planning, sourcing and management activities to ensure that all Policy obligations are met, and correct processes are followed, when buying or procuring goods or services.

2.2 Compliance

The Policy is designed to ensure Treasury complies with all the rules stipulated in the NSW Procurement Policy Framework and the Procurement Board's directions and requirements, as they apply to each step of the procurement process. The Policy is underpinned by the Procurement Tool Kit as described below.

2.3 Procurement Tool Kit

Practical implementation of the Policy is underpinned by a Procurement@Treasury Tool Kit (Tool Kit), which is available to all Treasury buyers on the Treasury Intranet and provides further guidance in the three steps of planning, sourcing and managing procurements. The aim of the Policy, and additional guides, procedures and templates provided through the Tool Kit, is to ensure Treasury buyer's compliance with required and best practice procurement policies and processes.

This compliance is also supported by the requirement for all staff (regardless of their employment agreement) to complete mandatory procurement training at induction stage, as well as an annual compliance eLearning module on the Treasury procurement process, attested by all Treasury Directors and Executive Directors as complete.

The standard templates for all steps in the procurement process, published in the Tool Kit, are filled with all social policies to ensure compliance with these policies.

2.4 Continuous improvement program

To ensure good governance on procurement processes, Treasury has embarked on a continuous improvement program to ensure emerging and identified weaknesses in procurement processes are recorded in a risk register, to be reduced through an appropriate risk mitigation strategy.

This program also aims to address all outstanding Auditor General recommendations from different performance audits. Two key audits were the Treasury end of year audit for the year 30 June 2021, as well as the Auditor General audit on the use of consultants in March 2023. All Treasury agency recommendations from these performance audits were accepted and implemented.

Treasury also submits an annual self-assessment to the Procurement Board confirming that it has undertaken best endeavours to comply with its 'Level 2 goods & services accreditation' requirements.

Treasury has implemented a contract register enabling buyers to upload contracts through a self-serve portal on Treasury's Intranet. During this process, the Treasury buyer is presented with a Procurement Reference Number, which is then included in the Purchase Order to enable data matching of actual spend with the contract register. The threshold for contracts to be loaded into the Treasury contracts register is stipulated in the Policy and currently requires contracts greater than \$150,000 (inc. GST) plus consultant engagements requiring Secretary approval.

2.5 Ensuring probity in the planning, sourcing, and management of procurement

As part of all three "plan," "source" and "manage" phases of the procurement lifecycle, Treasury buyers are encouraged to utilise the guidance provided in the Tool Kit, before planning for procurement is initiated, to develop an appropriate procurement plan or strategy. The procurement plan template provided in the Tool Kit provides a framework for all Treasury buyers, and members of any established procurement evaluation committee, with focus, clarity and direction for all procurement activities.

Treasury, through its “Uplift Program”, in January 2023 introduced a probity checklist. This includes key considerations for Treasury buyers undertaking procurements, consistent with the principles of the NSW Procurement Policy Framework.

Whilst the checklist provides guidance, it is not exhaustive. Buyers are also encouraged to apply the checklist in conjunction with any other relevant legislative requirements and related Treasury policies and supporting frameworks.

To understand and plan for the total cost of a program / project, Treasury buyers are encouraged to follow the appropriate sourcing strategy, including:

- Seeking three quotes from suitable suppliers who may be most appropriate.
- Consideration that direct engagements are not compliant, if the total project cost is over \$250,000.
- Aiming to achieve the best value for money outcomes and avoid unexpected process delays.
- When seeking quotes, being transparent with suppliers about potential future phases of work, noting that those suppliers may or may not be selected to undertake those future phases of work.

2.6 NSW Treasury’s commitment to supporting SMEs, Aboriginal businesses and social procurement groups

Treasury is committed to using procurement to promote competition and build a fairer, more sustainable state economy.

In line with this objective, there are several government-wide procurement policies and initiatives that aim to support various targeted social groups. These policies include:

SME and Regional Procurement Policy - up to \$150,000 (now increased by the current government to \$250,000) from an SME or regional business:

Staff may procure any goods or services valued up to \$250,000 directly from an SME business (< 200 FTEs), or regional supplier, even where those goods or services are available on an existing arrangement.

Aboriginal Procurement Policy - up to \$250,000 from an Aboriginal business:

Staff may directly negotiate with suitable qualified Aboriginal businesses to procure goods or services provided it meets all the requirements for value for money and quality. This provision applies even where those goods or services are available on an existing arrangement. If staff are procuring using a scheme, they must give first consideration to an Aboriginal business, if available. If one or more potential Aboriginal businesses are identified, you may invite those businesses to participate in a selective tender.

Many Aboriginal businesses are also SMEs, therefore when we give first consideration to an Aboriginal business, we are likely also giving first consideration to an SME. However, to avoid confusion, the NSW Procurement Policy Framework allows that, when we give first consideration to an Aboriginal business, we do not need to also give first consideration to an SME.

When procuring goods and service contracts over \$3 million from SMEs or over \$7 million with Aboriginal businesses, certain conditions must be met in respect to setting evaluation criteria and requesting SME and local participation plan and Aboriginal participation plan from suppliers as outlined in the above procurement policies.

Australian Disability Enterprises:

Australian Disability Enterprises (ADEs) are generally not-for-profit organisations providing supported employment opportunities to people with disability. Treasury supports ADEs as they provide employment pathways for people with a disability. Treasury staff are able to buy goods or services of any value from an ADE, on the basis of one written quote.

Social Enterprises:

Social enterprises are businesses that trade to intentionally tackle social problems, improve

communities, provide people access to employment and training, or help the environment. Procuring through social enterprises represents significant opportunity for social enterprise growth, and social change for disadvantaged Australians.

Treasury staff are encouraged to procure from social enterprises to support economic and social change for vulnerable people. Social enterprises may be SMEs, Aboriginal-owned businesses, or Australian Disability Enterprises, and if so, qualify for the purchasing preferences and initiatives laid out above.

2.7 Specific References to ToR inquiries

The terms of reference for the inquiry also directs the Committee's attention to some specific aspects of Treasury's procurement practices.

Treasury purchases, predominantly, from whole of government contracts and schemes. When purchasing from these whole of government arrangements, Treasury relies on the relevant category managers, contract, and scheme owners to perform appropriate supplier due diligence, either at the time of prequalification of schemes or throughout the contract management process.

When Treasury purchases from suppliers outside of these whole of government arrangements, either through a sourcing process or direct engagement, Treasury ensures that the companies it does business with, are financially sound through processes such as reviewing credit history, insurance details, and financial reports, either through a desktop review, referee checks or through a third party.

Treasury ensures that suppliers have the appropriate resources, experience, methodology and pricing to deliver the sought services.

Appendix B2 – Fire & Rescue NSW

Accredited Agency Submission



1. Executive Summary

The submission outlines the NSW Government agency Fire and Rescue NSW (FRNSW) procurement practices and its impact on the social development of the people of NSW. This submission explains the unique context of FRNSW procurement in obtaining specialty equipment and opportunities to streamline procurement in advancement of social development.

FRNSW welcomes the opportunity to contribute to the Standing Committee on Social Issues inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales'.

This submission provides background information on FRNSW procurement structures and practices and covers some specific issues raised in the inquiry's terms of reference.

2. Procurement structure and spend

FRNSW is a level 1 accredited agency under the NSW Government accreditation scheme for goods and services. FRNSW is not accredited for constructions and uses NSW Public Works advisory for concurrence for construction over \$1.3 million and utilises project managers from the preapproved construction scheme to run procurement processes over that amount.

FRNSW spends approximately \$170 million per year on goods and service including construction.

Approximately half of this spending relates to whole of government contracts such as fuel, electricity and stationery and off the various schemes such as the information and communications technology and professional services schemes.

The remaining half is the procurement of agency specific specialty products such as protective clothing, fire trucks, firefighting equipment which are complex and higher risk items for FRNSW front-line staff to ensure their safety while they protect the community and the environment.

By using a hybrid model, FRNSW focuses on the procurement of core specialised products that have a higher risk profile for the agency whilst leveraging off whole of government contracts for everyday requirements. The latter process is suitable for FRNSW's needs.

3. Market dynamics

FRNSW has unique procurement requirements for firefighting equipment, which need to meet stringent international and Australian standards. This reduces viable providers in the Australian market. It is common for only five or six suppliers to bid on specialised products.

Several of the products FRNSW use are sourced from overseas local distribution arrangements with Australian suppliers.

4. FRNSW procurement Governance

To ensure appropriate governance, the FRNSW Procurement policy and manual is in line with the NSW Government Procurement Framework. Mandatory requirements outlined in the NSW Procurement framework are monitored annually through a procurement compliance checklist. The procurement unit undertakes sample testing and desktop reviews to ensure it continues to comply with the mandatory requirements of the NSW Government Procurement Framework.

The agency thresholds for obtaining quotes for items not on contract are:

Purchasing Items Not in Contract

Value	Requirement
> \$10,000 - <= \$50,000 Excl GST	One written quote
>\$50,000 - <= \$250,000 Excl GST	Three written quotes
> \$250,000 Excl GST	must be referred to Strategic Procurement and Contract Services who will facilitate an appropriate competitive process

The thresholds for quotes and engagement of the procurement unit are aligned to the government scheme rules and initiatives such as the decision to increase the threshold for direct procurement with SME suppliers from \$150,000 to \$250,000. These arrangements make it easier for the business units to engage with SME's and based on last financial year data, FRNSW spent approximately 50% of its total expenditure with SME's.

5. Procurement practices and its impact on social development

Government agencies would benefit from a coordinated approach to improve social outcomes with a single overarching policy that covers all areas of social development with one reporting regime.

Examples of social outcome initiatives include the Aboriginal Participation Policy, the Small and Regional Development Policy, the Modern Slavery Act, and The Government and Resource Efficiency policy, all which have separate reporting requirements.

FRNSW recommends that initiatives be streamlined into one policy which aligns with the international standard on sustainable procurement **ISO20400:2017 Sustainable Procurement Guidance**. The international standard of sustainable procurement covers social, economic and environmental aspects of procurement.

6. Prioritising local content, Local manufacturing and local jobs

The Enforceable Procurement Provision is designed to ensure overseas companies are not disadvantaged when bidding for tenders in NSW. There is an exemption within the provision for SMEs. There is no such exemption for local content or local manufacturing which means there is no opportunity to prioritise local content for procurement over \$680,000.

This has the undesirable outcome of not attributing accurate value to products in government procurement processes. When aligned against government priorities, value for money procurement incorporates SME participation, whole of life cost and sustainability.

This could be ameliorated by incentives where "nominated savings" instead of cost can be banked against procurement savings targets for contracts that have supported regional, social, or environmental initiatives.

Appendix B3 – Rural Fire Service

Accredited Agency Submission



1. Introduction

The submission outlines the procurement practices of the Rural Fire Service (RFS).

The RFS is the combat agency for bush fires in the State and is responsible for the combat of all fires in rural fire districts. Collaborating closely with other emergency service agencies, it supports response to motor vehicle accidents, floods, storms, and tempest within rural fire districts.

With a mission to mitigate the risk and impact of fires, the RFS engages in comprehensive risk management programs, tackling bush fire hazards and ignition sources. As part of the Communities and Justice Portfolio, the RFS plays a pivotal role in shaping the safety and well-being of the people and communities of NSW.

This submission provides background information on the RFS in relation to specific issues raised in the inquiry's terms of reference.

2. Procurement Practices in the RFS

The RFS has instituted a comprehensive Procurement Policy, backed by a detailed Procurement Manual and an intranet repository of supporting documents including policies, process diagrams training material and 'how to' guides for using the procurement processes and procurement system. The central team also run regular information sessions for all RFS staff to attend to increase awareness and educate staff on how procurements for the RFS should be appropriately managed.

These resources serve to inform, guide, and bind RFS staff to the obligations inherent in all procurement processes. The RFS employs a mandated procurement system, utilised by all staff across the agency for the entirety of the procure-to-pay process, aligning seamlessly with the Agency and the NSW Procurement Policy Framework.

The Framework and Procurement Board Directions are the foundation of the RFS' procurement policies and processes.

Adopting a centre-led procurement approach, the RFS has a small, dedicated central procurement team offering advice, guidance, policy formulation, and compliance oversight across all agency directorates. Procurements exceeding \$30,000 undergo review and endorsement by the central team, ensuring alignment with both governance and NSW Procurement and Agency policies. The predetermined workflows in the procurement system, factoring in risk and value considerations, facilitate purposeful procurement strategies and the realisation of value for money and social procurement benefits.

In FY23 RFS' procurement spend was \$342M with \$65M spent through whole of government arrangements. 47% was with registered SME suppliers and 45% of all our suppliers were regionally based. \$83M was spent on natural disaster emergency response. The remaining procurement spend was not able to be sourced through whole of government contracts or schemes due to the specialised nature of the supply required by the Agency. This includes specialised firefighting and rescue equipment, firefighting protective clothing and aviation related procurements.

The RFS has a particular usage profile being an emergency response agency with extensive regional and remote operations. The RFS has evolved procurement practices across a range of categories to leverage whole of government scale (including other jurisdictions) as well as the specialised expertise where required – for example.

- Aviation – NAFC co-ordinated inter jurisdiction negotiation.
- Emergency Accommodation – local providers engaged through the whole of Government FCM platform.
- Emergency Telecommunication – Telco Authority network access arrangements and whole of Government schemes for hardware, software development and related services

The RFS has specific needs in relation to emergency supplies to cater for our 72,000 volunteers, including:

- Personal protective equipment;
- Personal protective clothing;
- Firefighting equipment;

- Firefighting consumables
- Firefighting appliances (both terrestrial and airborne)

A key feature of RFS procurement is the distinction between business as usual and emergency procurement.

It is not predictable where a fire response will be required, and the scale of the response required. The RFS has developed sophisticated logistics capabilities to ensure the right consumables and equipment are deployed to the right place at the right time to support emergency response. The RFS engages with local communities and businesses in the event of emergencies to support the local economy, and to purchase necessary goods and services as close as possible to the fireground (where statewide arrangements do not already exist).

As part of the RFS building program, Local Councils undertake most Brigade station builds, and Public Works Advisory is engaged to manage and direct larger builds.

For Fleet, Whole of Government arrangements are utilised to purchase chassis. The RFS has developed supplier panels including regional and SMEs to construct the specialised appliances.

Firefighting aircraft are highly specialised and manufactured overseas. Where the RFS has purchased aircraft, they are purchased on the open market, and modified for firefighting by specialist providers. For aviation contract arrangements, a mix of local and overseas aircraft are contracted via national aviation firefighting arrangements.

With regard to emergency response equipment, radios and IT equipment there is no local manufacturing.

3. Specific References to ToR inquiries

The RFS promotes positive social development in NSW. Beyond its emergency response capabilities, the agency actively invests in local regional communities, establishing facilities and generating employment within District Offices and Fire Control Centres.

With a priority on engaging SMEs and Regional Businesses, the RFS strives to contribute to the economic buoyancy of local communities. For example, the RFS utilises whole of government arrangements to procure motor vehicles and truck chassis. This includes corporate fleet vehicles and the fit out of new and the refurbishment of existing firefighting appliances. These are often SMEs and are spread across NSW communities in places like Tumut, Inverell and Orange.

During fire emergencies in regional NSW, the RFS prioritises local suppliers wherever possible, being aware of not depleting local supplies critical for the community which can be in short supply due to the fire emergency. The RFS collaborates with regionally based SMEs for various needs, including critical equipment, facilities for volunteer firefighters and catering arrangements.

There are many mandated reporting requirements related to Social Procurements including Aboriginal Participation, Small Medium Enterprises, and Disability Businesses Modern Slavery and Consulting engagements. The RFS complies with all the mandated reporting requirements. There is an impact on the agency's procurement function with the continual increase of multiple reporting requirements and this could be an opportunity to streamline the processes and manage impacts on agencies.

4. Outcomes related to Social and Sustainable procurement policies.

As a volunteer organisation, our members are drawn from communities that face the devastating effects of catastrophic bushfires.

Current RFS priority initiatives include.

- The recently implemented Reconciliation Action Plan – The RFS is committed to reconciliation and strengthening our relationship with our Aboriginal and Torres Strait Islander members and communities.
- Investment in gender appropriate facilities – as part of volunteer recruitment and retention strategies

- A marketplace for regional manufacturing of RFS appliances.

The RFS relies heavily on SMEs for emergency equipment and supplies during fires. The RFS strongly supports initiatives that promote viable and sustainable regional commerce and employment.

The RFS seeks further clarification on how the social and sustainable policies can be implemented in a way that is easy and efficient for small business compliance.

The RFS would welcome a stronger government stance on setting a clear order for procurement priorities: NSW businesses, Australian companies, businesses in countries with which Australia has trade agreements and others.

Appendix B4 – State Emergency Service

Accredited Agency Submission



1. Executive Summary

The NSW State Emergency Service (NSW SES) is pleased to make a submission to the Standing Committee on Social Issues in relation to its Inquiry into the Procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales.

This submission provides information as to the procurement practices of the NSW SES, with close reference to the Terms of Reference (ToR) of the Inquiry.

The following submission provides background information on the roles and responsibilities of the NSW SES. It gives insight into the procurement structure of the NSW SES, its accreditations and evaluation criteria, governance and oversight, and the impact of agency procurement policies on the social development of the people of NSW. It also contains a copy of the NSW SES Procurement Policy, and a table containing the NSW SES Procurement Expenditure for FY22/FY23.

2. About the NSW SES

The NSW SES is the lead emergency response agency for floods, storms and tsunami in the State. We are a volunteer-based organisation that provides emergency assistance to the people of NSW 24 hours a day, 7 days a week, 365 days a year.

The NSW SES is comprised of more than 10,000 volunteers who are supported by over 400 staff members. The NSW SES supports the community through 261 local SES units across 7 zones throughout the State.

The zones are supported by the State Headquarters in Wollongong, which also houses the State Operations Centre (including the NSW SES Call Centre, which can be reached on 132 500).

While the core responsibilities of the agency relate to the response to flood, storm and tsunami emergencies, the NSW SES also provides road crash rescue, general land rescue/ bush search and rescue and alpine search and rescue efforts across the State, and assistance to the agency's emergency services partners during major operations.

In 2016, the NSW SES obtained Level 1 Accreditation from the NSW Procurement Board to undertake their own procurement of goods and services. The procurement of goods and services is undertaken in accordance with the NSW Procurement Policy Framework.

3. Introduction

The NSW SES welcomes the opportunity to make a submission to the Standing Committee on social Issues in relation to its inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales.

Scope of the submission

This submission provides background information on the NSW SES about specific issues raised in the inquiry's terms of reference.

4. Procurement Structure

NSW SES obtained Level 1 Accreditation from the NSW Procurement Board to undertake their own procurement of goods and services in 2016. The procurement of goods and services is undertaken, in accordance with the NSW Procurement Policy Framework.

NSW SES procurement practices have been developed to ensure compliance with the NSW Procurement Policy Framework. The tender evaluation criteria and weightings are developed in consultation with the tender evaluation committee and any subject matter experts, with approval by the authorised delegate/project sponsor.

Where practicable, the NSW SES supports engagement with small-to-medium enterprise (SME), regional, Aboriginal and disability providers as part of their procurement practices. During operational periods, the

NSW SES supports a high number of SME suppliers across a number of sectors within local communities, including cafes, eateries and general equipment maintenance suppliers.

5. Governance and Oversight

NSW SES funds are managed with full financial accountability, in a framework that is efficient, effective, economical and ethical. In accordance with the NSW Government Procurement Policy Framework, the NSW SES uses the Plan, Source and Manage approach to provide a structured guide to the procurement process as specified in legislation, government policies and Procurement Board policies and directions. Commencing financial year 2023/2024, open tender processes require respondents to submit an attachment addressing 'Modern Slavery in Supply Chain' (where this is relevant depending on the good/service).

6. Outcomes related to procurement policies and its impact on the social development of the people of NSW

The NSW SES tracks outcomes related to social procurement policies through its continued work with SMEs. The NSW SES expenditure on registered SMEs increased by almost 50% from the 2021-22 financial year to the 2023-23 financial year, the increase is likely related to the increased flooding events and COVID-19. Accordingly, the NSW SES values its impact on the social development of the people of NSW.

Furthermore, engagement of disability service providers also comprised part of the total agency addressable spend for both the 2021-22 and 2022-23 financial years. Due to an increase in vehicle fleet, the volume of cribbing supplied by our disability service provider increased, which has

contributed to the increase in spend with disability service providers. Year-over-year growth amounted to 61%, indicating a substantial agency-wide focus on inclusion, and a partnership with disability services to foster tangible social impact.

Appendix B5 – The Department of Customer Service

Accredited Agency Submission



1. Executive Summary

The submission outlines the New South Wales (NSW) Department of Customer Service (DCS)¹ procurement practices in NSW and its impact on social development of the people of NSW.

DCS has been granted a level 2 accreditation by the NSW Procurement Board which means there is no limit on the maximum contract value for procurement of goods and services. DCS can undertake all procurement events in line with approved budgets, financial and procurement delegations. DCS Corporate Procurement is responsible and accountable for all procurement activities within the portfolio.

DCS does not hold accreditation for construction procurement. As an unaccredited agency, DCS is limited to a threshold of \$1.3m for construction procurement. Above that, DCS must seek assurance from an accredited agency.

DCS Corporate Procurement provides procurement support to all Customer Service divisions and related entities that are included within the Department of Customer Service's accreditation for procurement activities.

At DCS, business divisions are responsible for their procurement activities up to \$1M (ex. GST) or those deemed low risk, and DCS Corporate Procurement leads procurements above \$1M (ex.

GST) or those deemed high risk (risk is determined via a Business Risk Assessment). The Corporate Procurement function provides advisory support and guidance to the agency divisions to enable understanding and practical implementation of the NSW Procurement Policy Framework and the DCS Procurement Manual. DCS Corporate Procurement partners with the business to ensure compliance throughout their engagements across the governance and probity pillars of the NSW Procurement Policy Framework and DCS Procurement Manual and offers independent advice and support throughout the contract lifecycle.

DCS Corporate Procurement, in collaboration with the Aboriginal Outcomes Unit, hosted the inaugural Aboriginal Supplier Showcase in April 2023 to give people across DCS, in particular those who are involved in buying goods and services, the opportunity to:

- connect with Aboriginal suppliers, to develop an understanding of their products and services
- consider the importance of the Aboriginal Procurement Policy
- understand how they can make a difference to DCS achieving its Aboriginal spend targets and in turn, contributing to increased Aboriginal economic participation in NSW
- develop an understanding around the barriers that Aboriginal suppliers face in the tender process and in turn, understand how to ensure equity and fair opportunity

DCS Corporate Procurement will continue to deliver these events across not only Aboriginal suppliers, but disability suppliers as well to ensure a greater impact on social procurement moving forward.

DCS welcomes the opportunity to make a submission to the Standing Committee on social Issues in relation to its inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales'.

This submission addresses the inquiry's terms of reference.

2. Response to Terms of Reference

2.1 Specific References to ToR inquiries

DCS provides the information below to assist the inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales, and in particular:

¹ Department of Customer Service consists of divisions, agencies and entities including Office of the Secretary, Better Regulation Division, Corporate Services, Digital.NSW, Revenue NSW, Customer Delivery & Transformation, Service NSW, State Insurance Regulatory Authority, People and Culture, Information & Privacy Commission, Office of the NSW building Commissioner, Small Business Commission, Personal Injury Commission and Independent Review Office

- a) the current state of procurement by New South Wales government agencies, in particular: the value of procurement, through whole of government or agency procurement arrangements; the policies, schemes and contracts of all categories that New South Wales government agencies procure, including labour; the number of whole of government procurement arrangements available to New South Wales government agencies; the application of the New South Wales Procurement Policy Framework and the devolved nature of the responsibilities and obligations of New South Wales government agencies under the framework; the value/volume of New South Wales government agencies procurement undertaken outside of whole of government procurement arrangements; and the accreditation program for goods and services procurement and construction procurement

In financial year (FY) 22/23 DCS total spend was \$953.9m², of which \$760.2m² was related to procurements associated with Whole of Government arrangements³, and \$193.6m² on procurements outside of Whole of Government arrangements.

Whole of Government (WofG) arrangements³ are broken down into schemes, contracts, and panels. Each arrangement is given either a status of mandatory or recommended.

- Mandatory arrangements mean NSW Government Agencies must procure from a supplier listed under this arrangement. For example, the ICT Services Scheme.
- Recommended arrangements give NSW Government Agencies the ability to purchase under the arrangement or outside of the arrangement. For example, the Performance and Management Services Scheme (P&MS).

The number of WofG arrangements that DCS uses from time to time are outlined below.

- 43 mandatory arrangements
- 17 recommended arrangements

NSW Government has various procurement policies to support Small to Medium Enterprise (SME), regional and Aboriginal owned businesses, disability employment organisations and social enterprises.

Policies

The main policies DCS procures under are:

- *Small and Medium Enterprise and Regional Procurement Policy*
- *Aboriginal Procurement Policy*
- *Australian Disability Enterprise*

Table 1 outlines DCS spend against the above policies for goods and services (including construction). DCS is required to report Aboriginal spend on a quarterly basis through centralised reporting to NSW Treasury (NSW Procurement).

DCS exceeded the FY22/23 procurement target for expenditure with Aboriginal suppliers by \$9.6m.

Table 1²

Policy	FY22	FY23
Aboriginal suppliers	\$21.5m	\$21m
Disability Enterprises	\$2.5m	\$1.3m
Small & Medium Enterprise and Regional Business	\$183m	\$201m

Schemes

² Based on FY 22/23 Spend Cube data (ex. GST), Corporate Purchasing Card spend and Contingent Labour spend from Managed Service Provider

³ Associated with Whole of Government (WofG) means a supplier exists on a WofG arrangement, but spend has not necessarily occurred under that WofG arrangement

DCS utilises NSW Government Prequalification Schemes to procure goods and services with the most commonly used schemes being the ICT Service Scheme (\$464.5m²), Contingent Workforce Scheme (\$232.2m²) and Performance and Management Services Scheme (\$125.8m²).

Contracts

DCS utilises NSW Government Whole of Government Contracts to procure goods and services with the most commonly used agreements being the Microsoft Enterprise Agreement (\$42m²), Cloud Purchasing Arrangements (\$34.8m²), ICT End User Devices and Services Contract (\$19.9m²) and SAP Cloud Services Agreement (\$19.3m²).

As the Procurement Board has granted DCS level 2 accreditation, there is no limit on the maximum contract value for the procurement of goods and services. DCS can undertake all procurement events in line with approved budgets, financial and procurement delegations. DCS Corporate Procurement is responsible and accountable for all procurement activities within the portfolio.

DCS does not hold accreditation for construction procurement. As an unaccredited agency, DCS is limited to a threshold of \$1.3m for construction procurement. Above that, DCS must seek assurance from an accredited agency.

In August each year, DCS Corporate Procurement also completes an annual self-reporting process as outlined in section 5.3 of the annual self-reporting process, as described in the Accreditation Program Requirements for Goods and Services Procurement, including an Agency Procurement Plan, Annual Outcomes Report, self-assessment attestation and Improvement Plan.

DCS Corporate Procurement has a level 2 accredited function across the portfolio with the ability to approve procurements and provide concurrence in line with the DCS Procurement Manual.

All procurement activities within DCS must comply to the DCS Procurement Manual which outlines all the minimum standards for managing procurement activities within DCS. Business divisions are responsible for their procurement activities up to \$1m (ex. GST) and those deemed low risk whilst DCS Corporate Procurement leads procurements above \$1m (ex. GST) or those deemed high risk (risk is determined via a Business Risk Assessment). Responsibility is further broken down in the DCS Corporate Procurement Service Catalogue based on value, risk, and the business division's procurement capabilities.

DCS Corporate Procurement provides advisory support and guidance to the business divisions to enable understanding and practical implementation of the NSW Procurement Policy Framework and the DCS Procurement Manual. DCS Corporate Procurement also drives capability development across DCS. For example, creating and distributing Contract & Records Management and Engagement of Consultants training to meet the recommendation from the Use of Consultants Performance Audit in 2023.

DCS Corporate Procurement partners with business divisions to ensure compliance across the governance and probity pillars of the NSW Procurement Policy Framework, and the DCS Procurement Manual throughout their engagements.

Having a level 2 accreditation and a devolved, decentralised procurement framework is effective and efficient for DCS as it allows for independent and expedient procurement which would be restricted by having to approach NSW Treasury for procurement concurrence. As DCS Corporate Procurement works closely with the business divisions, it also allows us to achieve the right outcomes.

- b) the effectiveness of whole of government and agency procurement arrangements, including standing offers, panels, and prequalification schemes, in ensuring that suppliers and their subcontractors deliver value for money and comply with relevant policies and regulations, including labour laws, at the qualification, contract negotiation stage and contract management stages of procurement**

To qualify for a WofG arrangement, suppliers are assessed and go through a prequalification process. As part of this process, suppliers are required to accept standard commercial frameworks, comply with policies and regulations, adhere to the Supplier Code of Conduct, and agree to use standard commercial

contracts. When a NSW Government agency such as DCS buys off these WofG arrangements, it improves efficiencies as a basic level of due diligence has already been completed and therefore the procurement process can focus on realising the five key government objectives which are:

1. Value for money
2. Fair and open competition
3. Easy to do business
4. Innovation
5. Economic development, social outcomes and sustainability

There are some WofG arrangements such as the P&MS Scheme, ICT Professional Services Purchasing Arrangements (PSPA) and Legal Services Scheme where negotiated capped rates are agreed for suppliers to adhere to. This is effective in achieving value for money as DCS has a clear benchmark when receiving and evaluating quotes, even if directly negotiating. For example, the PSPA has over 80 suppliers qualified under the scheme, all of which have negotiated capped rates that a buyer can easily access. DCS has confidence that the quote received is competitive, as a market assessment has already been done at the qualification stage, ensuring value for money and a more efficient procurement process. This also allows SME suppliers an equal playing field as rates are negotiated and agreed to prior to going onto a scheme.

All arrangements require suppliers to agree to standard terms and conditions. For example, under the ICT Services scheme, suppliers agree to use either a Core&, ICTA or MICTA agreement when engaging with businesses. Using these framework contracts are mandated by the ICT Services scheme and provide suppliers early access to relevant policies and conditions of supplying to NSW Government. This creates efficiencies in the procurement process, as both supplier and buyer have a standard contract to start negotiations with. This can reduce the volume of interaction with DCS Legal (DCSL) in responding to contract departures.

In FY22/23, approximately \$28m in procurement savings was achieved across DCS.

Overall, WofG arrangements have proven effective in ensuring value for money and compliance to government policies and regulations.

c) current capacity of procurement officials in government agencies to assess suppliers and ensure they, and their subcontractors deliver value for money and comply with relevant policies and regulation, including labour laws, at the qualification or contract stage and throughout the contract management stage

DCS consists of multiple agencies¹, and some of those agencies have inhouse procurement teams that are responsible for low value and low risk procurement activities, whilst high risk and/or high value procurement activities sits with DCS Corporate Procurement.

DCS follows the NSW Government Procurement Policy Framework process of Plan, Source and Manage in conducting its procurement activities.

A further detailed breakdown of the number of procurement staff for each of these business divisions is listed in Table 2.

Table 2

Division	Staff ⁴	Responsibility
Better Regulation Division	0	Low value/low risk procurement; Contract Management
Corporate Procurement	29	Level 2 Goods & Services accreditation, responsible and accountable for procurements conducted within DCS
Customer Delivery and Transformation	2	Inhouse Procurement for low value/low risk procurement; Contract Management
Corporate ICT Procurement Team	15	Inhouse Procurement for low value/low risk procurement; Contract Management
Digital.NSW (including NSW Telecommunications Authority and Spatial Services)	55	Construction Procurement for Critical Communication Enhancement Program (CCEP), management of Operational Telecommunications Equipment, Infrastructure and Services Scheme (SCM0053) and management of Remote Sensing Services and Equipment Scheme (SCM5841); Contract Management
Independent Review Office	1	Inhouse Procurement for low value/low risk procurement; Contract Management
Personal Injury Commission	1	Inhouse Procurement for low value/low risk procurement; Contract Management
Revenue NSW	8	Inhouse Procurement for low value/low risk procurement; Contract Management
Service NSW ³	6	Inhouse Procurement for low value/low risk procurement; Contract Management
State Insurance Regulatory Authority	1	Inhouse Procurement; Contract Management
TOTAL		118

In early 2022, the DCS Corporate Procurement team underwent a Restructure Management Plan as a result of an independent review on the current procurement practices whereby the team size was increased from 21 to the current 29. The team is now split into 3 streams, Business Partnering (BP), Sourcing, and Centre of Excellence (CoE) to enable it to be more customer centric and provide timely, data driven, outcome-based support to the DCS.

Over the last few years, the team has worked hard to improve the capabilities of procurement teams across DCS by making it easier to access and self-serve, thereby delivering value for money and increased compliance. Some of the key initiatives undertaken include:

- Designing and standardising templates, helping users to understand and comply with procurement policies consistently;

⁴ Staff numbers are inclusive of temporary roles, contractors and ongoing positions

- Creating the new Procurement and Travel SharePoint website resulting in easier access to information on procurement and to a range of tools, resources to self- educate, and improving speed of procurement;
- Launching a chatbot tool enabling staff across DCS to have their frequently asked questions answered in a timely manner, leading to further improved procurement knowledge on compliance and procedures; and
- Development of the Executive Dashboard to provide visibility of expiring contracts, savings and helpdesk requests.

d) any opportunities that may exist for co-regulation, and other incentives to improve labour market governance and enforcement through the procurement process to ensure the process delivers both value for money and social outcomes

Nil response

e) the evaluation criteria used in tenders and how they are weighted in making a decision to award a contract, in particular consideration of: local content; value for money; and social, economic and labour market outcomes

Local content for the SME and Local Participation Plan is defined as goods produced, services provided, and labour supplied in NSW as per the *Procurement Policy Framework*. DCS tenders over \$3m require suppliers to submit an SME and Local Participation Plan, referencing SME and NSW specific content.

DCS in line with the *Small and Medium Enterprise and Regional Procurement Policy* also requires that for tenders above \$3m, the business division includes a minimum of 10% non-price evaluation criterion allocated to SME participation and a minimum 10% non-price evaluation criterion that allocates support for the NSW Government's economic, ethical, environmental, and social priorities.

DCS business divisions must also consider opportunities for Aboriginal participation in all major procurement activities over \$7.5m (ex. GST) as per the *Aboriginal Procurement Policy* and document these opportunities in their Aboriginal Participation Strategy. As this is mandatory, any tender over \$7.5m that doesn't comply, will not be considered during the evaluation.

There are no procurement thresholds (minimum or maximum) or mandatory evaluation criteria that apply to sourcing from *Australian Disability Enterprises (ADE)*. ADE's must however be considered at all values and non-mandatory criteria weightings regarding ADEs can be added to any evaluation.

As per the *Procurement Policy Framework*, the overarching consideration for government procurement is ensuring best value for money in the procurement of goods, services, and construction.

DCS outlines in the Evaluation Plan Guide that a qualitative procurement is likely to have a higher non-price weighting and a quantitative procurement will have a higher price weighting. DCS Corporate Procurement encourages business divisions however, to set evaluation criteria to a minimum of 30% pricing and 70% non-pricing criteria to show value for money in all procurement. If the business finds this doesn't suit their evaluation, they can engage DCS Corporate Procurement about why that is the case and collaboratively work together on a solution.

DCS Corporate Procurement has several templates which streamlines the evaluation process making it simpler for the business divisions to conduct evaluations and deliver value for money while also delivering positive social outcomes. Templates include:

- Evaluation scoring sheet
- Evaluation plan
- Evaluation report

The DCS approach to modern slavery is underpinned by the guiding principles in *Modern Slavery in Procurement* including embedding ethical buying practices into business processes and updating policies, procedures, and systems to reflect the agency's commitment to addressing modern slavery risks. It is mandatory for all tender submissions to comply with NSW procurement policies and NSW Legislation including modern slavery, responses that fail to meet mandatory conditions or who fail to supply a response which addresses modern slavery will result in that submission being excluded during the evaluation phase.

f) current approaches to transparency and accountability of procurement by New South Wales government agencies, in particular, record keeping arrangements for procurement activities and Agency annual self-reports and outcome reports

Records are retained in accordance with the DCS Records Management Policy, the *State Records Act 1998* and directions from State Records NSW.

An action item from the *Use of Consultants Performance Audit in 2023* was to improve record keeping. In response DCS Corporate Procurement created the Contract and Record Management online training module which is mandatory for staff performing a procurement activity and available to all staff.

Record keeping for procurement activities is the responsibility of each staff member within DCS.

The implementation of an internal procurement audit process which reviews procurement compliance, including record keeping, in partnership with business divisions, facilitates lessons learned and highlights areas of further education.

DCS Corporate Procurement is required to submit accreditation self-reporting annually which includes:

- Agency procurement plan for the next 12 or 24 months depending on accreditation level.
- Annual outcomes report for the previous financial year.
- Self-assessment attestation for the previous financial year.
- Improvement plan progress report for the previous financial year if there are outstanding improvement actions carried over from the legacy accreditation scheme.

DCS adheres to its annual reporting responsibilities and provides a departmental Annual Report in line with the requirements as set out in the *Government Sector Finance Act 2018* previously under the *Annual Reports (Departments) Act 1985* and *Annual Reports (Statutory Bodies) Act 1984*.

The Annual Report supports DCS's accountability and transparency about its decision making, resource use and performance.

DCS's annual reports are prepared and submitted within the allowable 4 months after the end of the annual reporting period and provides an overview of DCS's activities and financial position.

Within the annual report we outline:

- About Customer Service
- Our lighthouse projects
- Highlights and achievements including savings
- Corporate Performance including spend reporting
- DCS related entities annual reports

g) the New South Wales Government's procurement practices, in particular its ability to: improve opportunities for quality training and workforce participation, provide opportunities for diversity, inclusion and the participation of disadvantaged groups, including women and minorities and support local suppliers, and small and medium enterprises

As part of our level 2 accreditation, DCS Corporate Procurement is required to drive continuous improvement and capability development across DCS.

Training within DCS Corporate Procurement:

- DCS Corporate Procurement have a 12-month calendar of training activities that are run each month. These activities are based around a staff survey that was conducted to confirm what areas are a priority for learning and development.
- As part of our 12-month training calendar, DCS Corporate Procurement engaged the Institute of Public Administration Australia to provide training on Contract Management Essentials and Effective Procurement Capabilities.
- Comperio is a NSW Government procurement training platform. Each quarter, the team is provided with a list of modules that are mandatory for completion to ensure continuous learning and improvement. All new starters are provided an induction pack outlining training

courses in Comperio that require completion to form a solid foundation for their role in procurement.

Training across the portfolio including DCS Corporate Procurement:

- All staff, including contractors, must complete all mandatory learning modules to be aware of their obligations, understand what constitutes ethical conduct and to be knowledgeable of the laws, regulations and internal policies relating to their roles.
- DCS Corporate Procurement leads a Community of Practice (CoP) with over 260 members. The CoP aims to capture and share knowledge to help staff improve compliance to the DCS Procurement Manual, capability, identify solutions, and share best practice.
- DCS Corporate Procurement provides important procurement updates across DCS via multiple communication channels.

DCS Corporate Procurement provides continuous education and guidance in relation to social procurement buying options including:

- The Aboriginal Supplier Showcase 2023 (providing education on the Aboriginal Procurement Policy, networking with Aboriginal Suppliers and understanding barriers faced)
- Procurement documentation containing guidance around assessing accessibility (specifically in ICT procurements)
- The DCS Procurement Manual providing guidance on how and when to assess options to buy from underrepresented groups including the ability to engage an Aboriginal Supplier or ICT SME (prequalified under the ICT Services scheme) via 1 quote up to \$250,000 and a Disability Enterprise at any value
- Adherence to the Aboriginal Procurement Policy in relation to evaluation criteria of 1.5% Aboriginal participation in all contracts valued at \$7.5m or above

DCS Corporate Procurement provides continuous education and guidance in relation to SME and regional business buying options including:

- The DCS Procurement Manual provides guidance on how and when to assess options to buy from SME and regional business including the ability to directly engage with 1 quote up to \$150,000
- Adherence to the Small and Medium Enterprise and Regional Procurement Policy in relation to evaluation criteria of 10% allocated to SME participation and 10% allocated to support the NSW Government's economic, ethical, environmental and social priorities in all contracts valued at \$3 million or above

h) procurement best practice to encourage ethical conduct and promote social development in other jurisdictions, both nationally and internationally

Nil

i) any other related matters

Nil

Appendix B6 – The Department of Planning and Environment*

Accredited Agency Submission

*Note: This submission was prepared in December 2023, prior to the machinery of government changes effective 1 January 2024.



1. Executive Summary

The submission outlines the NSW Department of Planning & Environment procurement practices and its impact on social development of the people of NSW.

The NSW Department of Planning & Environment (DPE) welcomes the opportunity to make a submission to the Standing Committee on Social Issues in relation to its inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales.

This submission provides background information on DPE's procurement practices, and the specific issues raised in the inquiry's terms of reference.

This submission is a combined submission from DPE Corporate Services and the New South Wales Land and Housing Corporation (LAHC).

2. Procurement Practices in DPE

2.1 DPE Procurement Process

DPE holds construction and goods and services (level 1) procurement accreditation through its Corporate Services Group. The Department operates a centre-led model of procurement with a central procurement team providing the framework, systems, governance and strategic support to the operational business units to deliver on their priorities.

As part of this centre-led model, DPE operates through a business partnering model with procurement business partners assigned to operational divisions. DPE manages approximately \$2bn annually in procurement spend across over 4,000 market engagements.

DPE also provides procurement support to some agencies and Department's outside of its own network, generally as a result of machinery of government changes. For example, DPE provides accreditation concurrence (goods & services) for the Department of Regional NSW, concurrence and assurance (construction) to the Office of Energy and Climate Change (Treasury), Energy Corporation of NSW (Treasury), Smart Cities (Transport) and other independent agencies within the DPE network such as the NSW Environment Protection Authority.

Further details on the operational model of procurement within DPE can be found in the DPE Procurement Procedures and process maps.

As part of its annual accreditation reporting and self-attestation process, DPE has its procurement framework independently tested against the NSW Procurement Policy Framework (Framework). This 'Health Check' is in addition to being subject to regular internal and external audit which have consistently found that the DPE Procurement Procedures meet the governance and compliance requirements of accreditation and the Framework.

Within the Planning & Environment network of agencies, DPE maintains a Procurement Governance Group (PGG) with the aim of providing leadership and direction to network agencies on strategic procurement to strengthen delivery capability and to promote greater recognition of the value of procurement experience, qualifications and professional expertise.

2.2 Land and Housing Corporation (LAHC) Procurement Practices

LAHC is a public non-financial corporation which is currently part of the DPE network of agencies but will transition to Homes NSW from 1 February 2024 within the Stronger Communities network.

LAHC holds construction procurement accreditation in its own right. The procurement function is centrally coordinated, with a centralised team, LAHC Procurement, providing a procurement framework, governance and support to LAHC Divisions, including managing sourcing activities, recordkeeping and providing guidance on procurement strategies and contract management.

LAHC's business objective is to actively grow and manage the supply of the right types of housing, at the right time, in the right areas, for people in need in our communities. LAHC manages a portfolio of over 125,000 properties, valued at \$51 billion.

LAHC's centralised procurement function is supported by its Procurement Framework, Manual, and various procurement factsheets and guidance. This is complemented with regular Procurement Fundamentals Training for staff.

LAHC's procurement activities and outcomes are oversighted by its Procurement Governance Committee and operates under the LAHC Procurement Governance Framework.

LAHC is represented on the Construction Leadership Group and associated working groups. LAHC is also represented on working groups such as Infrastructure Advisory Services and participates in communities of practice for Aboriginal Procurement Policy and Professional Services.

3. Social Development Requirements

Value for money is the overarching consideration for both DPE and LAHC in their procurement decisions.

The use of procurement as a lever to achieve social, economic and sustainability is supported.

The increasing number of social development objectives to be achieved through procurement has resulted in added complexity and cost to both agencies and service providers.

The requirement to include an increasing number of weighted criteria for social development has to be balanced against project delivery criteria. We would support a holistic social and sustainable procurement policy which balances social development goals with flexibility for agencies in their application to best deliver project and social outcomes.

The ability to include local content, manufacturing and local employment is limited by the NSW Government's obligations under the various Free Trade Agreements which has been embodied in PBD 2019-05 Enforceable Procurement Provisions.

Currently, DPE adopts an SME 'flag' from the NSW Procurement managed SpendCube. DPE supports the proposed amendments to supplier hub requiring self-identification via statutory declaration for a Whole of Government approach to managing SME verification. This is similar to the centralised verification or registration for gender-equitable suppliers, Australian Disability Enterprises and Aboriginal businesses. It would minimise the need for agencies to conduct separate due diligence status and for suppliers to respond to each agency.

A major limitation on reporting against SMEs is that there is no centrally managed and validated list of SME suppliers.

4. Targeted Social and Sustainable Procurement Outcomes

4.1 Support Small and Medium Enterprises (SME)

DPE Corporate Services procurement has integrated SME & Regional Procurement Policy requirements into its processes, systems and templates.

DPE's spend with SMEs has been increasing year on year since FY2021/2022. In the last two financial years, DPE's direct spend from SMEs has been consistently 32-34% of total spend and is on track to reach a similar figure for FY2023/2024. For each financial year: total vendor spend for DPE network of agencies; total SME spend for DPE network of agencies; calculation showing SME spend as a percentage of total spend is available.

For the purposes of internal reporting, DPE adopts the SME definition from the SME & Regional Procurement Policy.

A major limitation on reporting against SMEs is that there is no centrally managed and validated list of SME suppliers which is mentioned above.

4.2 Australian Disability Enterprise (ADE) Summary:

DPE is sector leading in the support of disability employment with increased annual spend with ADEs whilst meeting procurement objectives under the Framework. Inclusion of ADE suppliers is strongly aligned with DPE values and we actively promote inclusion and diversity of our communities through strategic procurement outcomes.

DPE leverages cl 5 of the *Public Works and Procurement Regulation 2019* to procure goods and services supplied by a supplier approved as a disability employment organisation.

Where possible, DPE ensures it contracts with ADEs for the tenancy cleaning of corporate sites, especially in regional areas of NSW. It also engages ADEs for gardening maintenance, printing and promotional services, supply of first aid kits and fleet vehicle cleaning. This approach continues the commitment and procurement priorities of the Department of Industry, a previous iteration of DPE, which in 2018 won a Premier's Award for 'Creating jobs for people with a disability through social procurement'.

Under NSWG Agency Accreditation model, all accredited agencies are required to select metrics that demonstrate consideration and performance against sustainable procurement objectives and requirements. Since the start of current Accreditation program, DPE has elected to report on ADE spend as part of its commitment to this sector.

DPE's spend on ADEs, as a total and as a percentage of DPE's total vendor spend for the last three financial years is available.

4.3 Support for Aboriginal vendors

Since the commencement of the NSW Aboriginal Procurement Policy (APP) in 2018, DPE (and previous iterations) has directed spend to Aboriginal businesses (as defined in the APP) and has consistently and significantly exceeded Treasury spend targets. In 22/23 it also publicly committed to a stretch target for APP spend. DPE has taken various steps to promote spend with Aboriginal businesses including:

- Identifying at a Secretary and Senior Executive level the value to be derived from contracting with Aboriginal vendors;
- Leveraging Senior Executive support and communications to drive awareness and behaviour;
- Building an Aboriginal vendor directory linked with Supply Nation and NSW Indigenous Chamber of Commerce data, showing all Aboriginal vendors with which DPE have recorded spend
- Building a dashboard showing Aboriginal vendor spend and Treasury targets, separated at a Group level to allow Executive to view and track progress against targets;
- A direct API feed from Supplier Hub of verified Aboriginal vendors into DPE's procurement systems to allow appropriate use of single quote exemptions and accurate analysis of procurement data;
- Including a section in DPE's procurement strategy template requiring consideration and application of the APP;
- Incorporating Aboriginal participation as a mandatory and/or evaluation criteria in relevant tenders;
- Including evaluation criteria above and beyond what is required by the APP for some procurement activities, for example activities which have a direct impact on or connection to Aboriginal communities or programs;
- Exclusively using an Aboriginal vendor for the provision of office supplies for a number of corporate sites.

As a result of these measures, the total spend and number of Aboriginal vendors engaged each financial year has increased year on year since 2019/20 is available.

4.4 Sustainable procurement

In addition to the above and DPE's ongoing commitment to social and sustainable procurement, the DPE Corporate Services Sustainability Strategy 2023-2027 identifies the following sustainable procurement goals and actions for DPE for financial year 2023/24:

- 50% increase in spend with Aboriginal vendors against the 2022/23 target set by NSW

Government;

- Implement the NSW Anti-slavery Commissioner's Guidance on Reasonable Steps;
- Support two stakeholder events for engagement with Aboriginal vendors;
- Implement API with the Office of the Registrar of Indigenous Corporations;
- Automate identification of Aboriginal vendors in procurement system to identify contracts with Aboriginal businesses.

Appendix B7 – Transport for NSW

Accredited Agency Submission



1. Introduction

Transport for NSW's procurement spans a diverse set of industries, ranging from transport and logistics, building materials and construction, business services to information and communications technology. Therefore, Transport for NSW uses a wide range of whole of NSW Government and Transport-specific schemes, panels and contracts.

Transport for NSW's procurement operating model currently consists of the following key frameworks that sit within the overarching Transport Procurement Policy, namely:

- Transport Goods and Services Procurement Framework, which sets out the requirements for procurement of goods and services across Transport for NSW
- Transport for NSW Roads and Maritime Infrastructure Procurement Framework, which sets out the requirements for Roads and Maritime related construction procurement
- Transport for NSW Infrastructure and Place Construction Procurement Framework, which sets out the requirements for Transport for NSW's construction procurement, and
- Sydney Metro Construction Procurement Framework, which sets out the requirements for Sydney Metro's construction procurement.

Transport for NSW's procurement policy framework is based on the NSW Procurement Policy Framework, which incorporates NSW Government-wide laws, policies, and guidelines, including the Enforceable Procurement Provisions arising from international procurement agreements. It also includes social outcome drivers which support participation from small to medium enterprises, regional businesses and Aboriginal-owned businesses.

Transport for NSW incorporates socially responsible procurement practices into its procurement policy framework, considering factors such as ethical sourcing, local content and manufacturing, fair labour practices and environmental sustainability in assessing value for money.

Sydney Metro has developed and implemented a three phase (plan, source, manage) Commercial Management Framework that ensures consistency and standardisation of commercial processes and documentation. This supports compliance with relevant legislation and policies and enables commercial quality assurance and continuous improvement driving value for money outcomes.

Under Transport's for NSW's procurement operating model, centre-led goods and services and infrastructure procurement teams provide staff with policies, standards and guidelines as to how they should undertake procurement. Accountability for those procurements sits with the respective financial delegate to make decisions and act on behalf of Transport for NSW, under the Transport Secretary's Instrument of Delegation and Authorisation. Financial delegation limits are based on the job position's organisational responsibility and role.

Sydney Metro has a flexible workforce model to manage procurement and contracts. The agency has two distinct teams for managing procurements and contracts, across construction, professional services, and general service contracts. The in-house resources are generally supplemented by transaction advisors that are procured as outsourced work packages for a defined transaction or period.

Both Transport for NSW and Sydney Metro are accountable for their individual procurement policy frameworks and practices. As noted above, for Transport for NSW this encompasses the Transport Goods and Services Procurement Framework, Transport for NSW Roads and Maritime Infrastructure Procurement Framework and Transport for NSW Infrastructure and Place Construction Procurement Framework that sit within the overarching Transport Procurement Policy. For Sydney Metro this is the Sydney Metro Construction Procurement Framework. However, Transport for NSW and Sydney Metro align and share insights through overarching procurement governance mechanisms, such as the Transport Procurement Board.

Transport for NSW recognises its place as a custodian of a network that serves the social and economic wellbeing of NSW. It requires vigilance and continuous evolution to maintain high standards in expending public funds.

Transport for NSW is undertaking a significant program of works to uplift transparency, oversight, governance and accountability in procurement, ensuring:

- there are robust controls in place when expending funds;
- there is the right internal culture and capability to ensure integrity of these systems and controls;
- active management of conflicts of interest when and where they arise; and
- provision of appropriate support, training and advice to staff and service providers.

For example, the Transport for NSW Procurement Risk Oversight Committee supports the procurement senior leadership team in driving transparency and accountability across the goods and services procurement function, including governance and management of audit and assurance actions, first line assurance reporting and insights against the procurement policy framework, risk navigation tool insights, procurement risk register review and management, and compliance maturity program governance over procurement legislative and policy obligations.

Transport for NSW encourages the use of whole of government and agency procurement arrangements, including standing offers, panels and prequalification schemes, where appropriate. Transport for NSW remains committed to increasing opportunity and diversification of social suppliers in its procurement activity. Transport for NSW recognises that its procurement buying power can be leveraged to generate social value beyond the delivery of goods and services.

The development of agency arrangements includes defining requirements, assessment of the legislative frameworks, commercial terms and delivery outcomes required to ensure value for money. Management of these arrangements is often through the use of contract management teams. These teams manage the contracts to the required specifications and Key Performance Indicators, including compliance with social outcomes, legislative and policy requirements.

Transport for NSW has dedicated social procurement and workforce development management resources who drive compliance to policies and regulations throughout the procurement lifecycle. They also ensure delivery partners are driving value for money outcomes, including improved social outcomes, and have appropriate planning, framework and reporting mechanisms in place.

Sydney Metro also has a dedicated social procurement and industry development team who form part of the project from business case, procurement, delivery, and operations. This team ensures compliance to policies by using appropriate contractual requirements, by promoting client and industry-led programs to support outcomes with sub-contractors and by implementing quality monitoring and regular reporting mechanisms. They also ensure delivery partners are driving value for money outcomes and have appropriate planning, framework and reporting mechanisms in place. In addition, Sydney Metro has strong collaborative partnerships in place across government and industry.

Transport for NSW is exploring ways to embed social value for broader application and potential investment across procurement functions. Investment decisions and procurement provide the key mechanism to wield market power for the greater good. Some initiatives include an internal Social Value Mapping Project to highlight proactive, collaborative and place-based methods to embed public benefit from the outset in operations, technology, services and infrastructure. In Western Sydney, social value is embedded in the Western Sydney Airport Precinct 30-year Strategic Vision, with its three primary outcomes being 'city shaping and place making', 'excellent services' and 'supporting strong economic growth'. To support teams working in the Precinct achieve this social value, Transport for NSW is building a Strategic Framework to establish uniform, place-based social, environmental and economic outcomes. A key part of the approach is to collaborate with community, local organisations and Government partners.

2. Specific references to ToR inquiries

The current state of procurement by New South Wales government agencies, in particular:

- *the value of procurement, through whole of government or agency procurement arrangements*
- *the policies, schemes and contracts of all categories that New South Wales government agencies procure, including labour*
- *the number of whole of government procurement arrangements available to New South Wales government agencies*
- *the application of the New South Wales Procurement Policy Framework and the devolved nature of the responsibilities and obligations of New South Wales government agencies under the framework*
- *the value/volume of New South Wales government agencies procurement undertaken outside of whole of government procurement arrangements*
- *the accreditation program for goods and services procurement and construction procurement.*

Transport for NSW

Given the significance and scale of both Transport operations and infrastructure delivery, Transport has a unique role as an enabler for broader government imperatives and in ensuring that every dollar spent delivers social and economic value.

Transport for NSW and Sydney Metro's expenditure through whole of government and agency procurement arrangements amounts to approximately \$61 billion over the last three Financial Years.

Transport for NSW's procurement spans a diverse set of industries, ranging from transport and logistics, building materials and construction, business services to information and communications technology.

Supporting this range of procurement, Transport for NSW uses a wide range of whole of NSW Government and Transport-specific schemes, panels and contracts. For example, in relation to contingent labour, Transport uses the Whole of NSW Government Contingent Workforce Scheme SCM0007.

Transport's procurement operating model currently consists of the following key frameworks that sit within the overarching Transport Procurement Policy, namely:

- Transport Goods and Services Procurement Framework, which sets out the requirements for procurement of goods and services across Transport for NSW
- Transport for NSW Roads and Maritime Infrastructure Procurement Framework, which sets out the requirements for Roads and Maritime related construction procurement
- Transport for NSW Infrastructure and Place Construction Procurement Framework, which sets out the requirements for Transport for NSW's construction procurement, and
- Sydney Metro Construction Procurement Framework, which sets out the requirements for Sydney Metro's construction procurement.

Transport for NSW's procurement policy framework is based on the NSW Procurement Policy Framework, which incorporates NSW Government-wide laws, policies, and guidelines. Under Transport for NSW's procurement operating model, centre-led goods and services and infrastructure procurement teams provide staff with policies, standards and guidelines as to how they should procure goods and services. Accountability for those procurements sits with the respective financial delegate to make decisions and act on behalf of Transport for NSW, under the Transport Secretary's Instrument of Delegation and Authorisation. Financial delegation limits are based on the job position's organisational responsibility and role.

Transport's expenditure outside whole of government and agency procurement arrangements amounts to approximately \$356 million over the last three Financial Years.

Transport agencies are authorised by the NSW Procurement Board to undertake either goods and services, or construction procurement through the corresponding NSW Procurement goods and services procurement accreditation program, or Public Works Advisory construction procurement accreditation

program. Accreditation allows Transport for NSW to buy goods and services, or construction services and sets minimum standards for managing procurement activities and risk, promoting the delivery of strategic outcomes and driving continuous improvement.

Both Transport for NSW and Sydney Metro are accountable for their individual procurement policy frameworks and practices. As noted above, for Transport for NSW this encompasses the Transport Goods and Services Procurement Framework, Transport for NSW Roads and Maritime Infrastructure Procurement Framework and Transport for NSW Infrastructure and Place Construction Procurement Framework that sit within the overarching Transport Procurement Policy. For Sydney Metro this is the Sydney Metro Construction Procurement Framework.

However, Transport for NSW and Sydney Metro align and share insights through overarching procurement governance mechanisms, such as the Transport Procurement Board.

Sydney Metro

Sydney Metro supports the implementation of the NSW Government Action Plan – Ten point commitment to the construction sector. In particular, Sydney Metro’s procurement activities support point 9 ‘Improve skills and training’ and point 10 ‘increase industry diversity’.

Sydney Metro has developed and implemented a three phase (plan, source, manage) Commercial Management Framework that ensures consistency and standardisation of commercial processes and documentation, supports compliance with relevant legislation, policies and regulations, and enables commercial quality assurance and continuous improvement driving value for money outcomes. The Commercial Management Framework is consistent with the obligations under the NSW Government Procurement Policy.

The effectiveness of whole of government and agency procurement arrangements, including standing offers, panels and prequalification schemes, in ensuring that suppliers and their subcontractors deliver value for money and comply with relevant policies and regulations, including labour laws, at the qualification, contract negotiation stage and contract management stages of procurement.

Transport for NSW

Transport for NSW establishes and manages a broad range of agency arrangements, including service contracts, infrastructure projects and panels. These are established in accordance with the NSW Government procurement policy frameworks, having due regard to probity in establishing value for money outcomes.

Transport for NSW’s personnel and contracting entities are required to comply with all NSW Government policies and regulations. These include:

- Aboriginal Procurement Policy
- Small and Medium Enterprise and Regional Procurement Policy
- Procurement Board Direction 2023-01: Skills, Training, and diversity in construction
- Procurement Board Direction 2019-03: Access to government construction procurement opportunities by small and medium sized enterprises
- Procurement Board Direction 2016-03: Construction standards and conformance
- Procurement Board Direction 2017-07: Conduct by suppliers
- Modern Slavery Act 2018 (NSW)
- NSW Industrial Relations Guidelines: Building and Construction Procurement
- Long Service Levy requirements, and
- Enforceable Procurement Provisions.

Where Federal Government funding is being provided to a project there are additional requirements. This involves the preparation and approval of an Australian Industry Participation Plan and an Indigenous Participation Plan.

Transport for NSW encourages the use of whole of government and agency procurement arrangements,

including standing offers, panels and prequalification schemes where appropriate and remains committed to increasing opportunity and diversification of social suppliers in our procurement activity. Transport for NSW recognises that its procurement buying power can be leveraged to generate social value beyond the delivery of goods and services, and infrastructure.

The development of agency arrangements includes defining requirements, assessment of the legislative frameworks, commercial terms and delivery outcomes required to ensure value for money. Management of these arrangements is often undertaken by dedicated contract management teams that manage the contracts to the required specifications and Key Performance Indicators, including compliance with social outcomes requirements.

For bus, light rail and ferry related service contracts and the bus procurement panel, there are dedicated specialist contract management teams with access to specialist advisors as necessary that proactively manage the outcomes to ensure legislative and policy compliance.

An example of a whole of government procurement arrangement that delivers value for money, while driving compliance with relevant policies and legislation, is NSW Treasury's Whole of Government Contingent Workforce Scheme SCM0007 ("SCM0007").

SCM0007 has reduced the time taken to procure contingent labour across Transport for NSW. The introduction of a digital platform, a Managed Service Provider and a scheme contract template has reduced procurement timelines by over 50 per cent. The use of the scheme contract template has increased consistency in contract terms, reducing commercial risk. It has also streamlined the contract management of SCM0007 engagements. The mandated contract templates reduce the risk of non-compliance with relevant policies and regulations, including labour laws.

Transport for NSW has used its buying power across SCM0007 to drive greater Aboriginal business participation, capability development and Aboriginal employment opportunities, as well as employment opportunities for neurodiverse candidates.

For example, Indigeco has been a strategic labour hire recruitment provider under SCM0007 for Transport for NSW for over three years. During FY22-23, Indigeco recruited 350 contingent labour roles across Transport for NSW, achieving 278 placements, with 15 per cent of candidates identifying as Aboriginal or Torres Strait Islander. Indigeco commenced providing services under SCM0007 in January 2021, and has grown to become one of the top 10 labour hire recruitment firms to the NSW Government.

Transport for NSW has also awarded \$293,186.75 in contracts under SCM0007 to Xceptional Testing, a social enterprise that provides employment opportunities to neurodiverse candidates.

An example of an agency procurement arrangement that delivers value for money while driving compliance with relevant policies and legislation is the NSW Government Legal Services Panel, administered by Transport for NSW.

The NSW Government Legal Services Panel has demonstrated benefits through:

- Improved legal panel rates and volume discounts, resulting in auditable savings
- Streamlining of legal services procurement, and
- Requirements for panel firms to report on their pro-bono, equitable briefing and social outcome activities.

Sydney Metro

Value for money is a key driver of all procurement processes at Sydney Metro. Sydney Metro makes use of whole of government panels and prequalification schemes where appropriate. Dedicated teams are established to manage all stages of procurement from planning, procurement to contract management phases.

Current capacity of procurement officials in government agencies to assess suppliers and ensure they, and their subcontractors deliver value for money and comply with relevant policies and regulation, including labour laws, at the qualification or contract stage and throughout the contract management stage.

Transport for NSW

Given the policy and legislative landscape, volume of engagements, turnover in personnel, among other factors, procurement and contract management officials operate in a complex environment. Transport acknowledges the need to constantly review and implement best practice changes to policies, procedures and guidance (backed by communication and training to staff) to enable procurement officials to ensure suppliers and subcontractors deliver value for money and comply with relevant policies and regulation. Transport for NSW has a robust program of work underway to achieve this.

Transport for NSW, through the goods and services and construction procurement accreditation programs, ensures that it develops the procurement competency and capability of its staff to deliver all aspects of the procurement process effectively. This includes learning opportunities and guidance provided through Transport for NSW procurement policies, standards and templates for all stages of the procurement process.

Transport for NSW legal, subject matter experts and industry experts are used, as appropriate, to ensure compliance can be demonstrated. Appropriate systems and tools are used and their effectiveness is continually reviewed for opportunities to deliver improve outcomes.

Transport for NSW has dedicated social procurement and workforce development management resources who drive compliance to policies and regulations throughout the procurement lifecycle. They also ensure delivery partners are driving value for money outcomes, including improved social outcomes, and have appropriate planning, framework and reporting mechanisms in place.

For example, Transport for NSW has established a Transport Portfolio Anti-Slavery Working Group, which has led the update of Transport for NSW's procurement policy framework to include measures that ensure goods and services procured by and for the agency are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW).

Sydney Metro

Sydney Metro has a flexible workforce model to manage procurement and contracts. The agency has two distinct teams for managing procurements and contracts, across construction, professional services, and general service contracts. The in-house resources are generally supplemented by transaction advisors that are procured as outsourced work packages for a defined transaction or period.

Sydney Metro also has a dedicated social procurement and industry development team who form part of the project from business case, procurement, delivery, and operations. This team ensures compliance to policies by using appropriate contractual requirements that reflect certain policies and passes through the supply chain, by promoting client and industry led programs to support outcomes with sub-contractors and by implementing quality monitoring and regular reporting mechanisms. They also ensure delivery partners are driving value for money outcomes and have appropriate planning, framework and reporting mechanisms in place. In addition, Sydney Metro has strong collaborative partnerships in place across government and industry.

Sydney Metro's procurement governance framework includes measures to ensure that goods and services procured by and for the agency are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW).

any opportunities that may exist for co-regulation, and other incentives to improve labour market governance and enforcement through the procurement process to ensure the process delivers both value for money and social outcomes.

Transport for NSW is exploring ways to embed social value for broader application and potential investment. Investment decisions and procurement provide the key mechanism to wield market power for the greater good. These include an internal Social Value Mapping Project to highlight proactive, collaborative and place-based methods to embed public benefit from the outset in operations, technology, services and infrastructure.

In Western Sydney, social value is embedded in the Western Sydney Airport Precinct 30-year Strategic Vision, with its three primary outcomes being 'city shaping and place making', 'excellent services' and 'supporting strong economic growth'. To support teams working in the Precinct achieve this social value, Transport is building a Strategic Framework to establish uniform, place-based social, environmental and economic outcomes. A key part of the approach is to collaborate with community, local organisations and Government partners.

Consequently, Transport for NSW is uniquely placed to align with NSW Treasury's work as outlined in the 2023-24 NSW Budget in developing reporting for several wellbeing and performance measures in the future. Opportunities could include:

- Developing a Social Value framework to guide many areas of public benefit including procurement, tracking accountability from business case to bid and delivery, reporting to NSW Treasury and back to community.
- Developing place-based opportunities and growing partnerships with industry and communities. This includes early engagement and forward planning for future and existing businesses, jobs and skills while addressing current impediments to participation and learning from historic underperforming targeted recruitment programs.
- Testing outcomes-based contracts to meet the needs of communities. Specifically linking the service provided to the social value delivered, including addressing transport disadvantage, linking people to jobs, essential services and fostering community cohesion.
- Revisiting procurement prequalification schemes, striking a balance between organisational risk management and efficiency with resulting cost escalation, barriers to participation by smaller enterprises and limitations for innovation.
- Re-designing procurement to work at scale while embracing micro scale opportunities to diversify supply lines, build resilience and create markets for smaller local and regional economies.

Measures of success would include flow on benefits to local economies through retention of skills, and industry, wellbeing outcomes for the jobseeker, business, and resilience across broader community.

the evaluation criteria used in tenders and how they are weighted in making a decision to award a contract, in particular consideration of:

- i. Local content***
- ii. Value for money***
- iii. Social, economic and labour market outcomes, environmental considerations, such as sustainable sourcing, energy efficiency and waste reduction innovation***
- iv. Innovation***
- v. Subcontracting arrangements.***

Transport for NSW

In line with the NSW Procurement Policy, all Transport for NSW tenders are assessed against agreed criteria that optimise the ability to assess the best value for money outcome. Both non-commercial and commercial elements of tenders are evaluated to ascertain the best overall value for money outcome.

Criteria may be weighted or non-weighted, depending on the scope of the procurement. Evaluation

criterion are customised for each procurement to include all applicable policies and legislation.

Commonly used evaluation criteria include, but are not limited to:

- Social outcomes
- Environmental impact
- Contribution to NSW Government priorities, policies and programs
- Organisational strategic and financial capability
- Demonstrated ability to perform the services
- Compliance with the Scope of Work
- Resource capability and availability
- Project management approach, and
- Price (including whole-of-life costs where necessary).

Local content forms an important consideration across Transport for NSW's strategic tenders. For procurement projects where funding over \$20 million is provided by the Commonwealth Government, a certified Australian Industry Participation Plan is required to be submitted by all tenderers. The Australian Industry Participation Plan outlines the actions an organisation will undertake to familiarise themselves with the capabilities of Australian industry and provide them with full, fair and reasonable opportunity to supply goods and services to the a given project.

Opportunities will also be created to support the development of local industry for new buses sourced under Transport for NSW's Bus Procurement Panel. The development of local industry will form a key consideration in the assessment of future bus procurement. Extensive industry engagement has occurred and will continue to be key in achieving sustainable local content increases.

Social and labour market outcomes, such as those related to the Aboriginal Procurement Policy and Procurement Board Direction 2023-01: *'Skills, Training, and diversity in construction'*, regularly form part of the evaluation criteria for Transport for NSW's strategic tenders.

Where the estimated construction contract value is between \$10 million and \$100 million, tenderers are required to nominate and commit to minimum targets for trainee hours, in accordance with NSW Procurement Board Direction 2020-03: *'Skills, training and diversity in construction'*. These nominated minimum targets are evaluated in assessing the overall tender.

Transport for NSW values innovation in the delivery of outcomes. For example, Transport for NSW's construction Requests for Tender allow for submissions to include Sustainability Innovation Options, which detail a tender's proposed initiatives to enhance sustainable outcomes within the project. In addition, these procurements also allow for submissions to include Carbon Intensity Options, which are designed to outline key carbon abatement opportunities within a project.

Sydney Metro

Sydney Metro has weighted criteria for all major packages of work for how tenderers drive and support workforce development and industry participation requirements. As part of this, the schedule includes how the tenderer will support local participation, drive diversity in the workforce and supply chain, as well as implement skills development programs which mitigate skill shortages and build a pipeline of future talent.

These are further backed up by a specific suite of requirements which support state and federal policies that drive social procurement outcomes, such as the NSW Aboriginal Procurement Policy. Sydney Metro requirements also flow through the supply chain.

Sydney Metro under its Commercial Management Framework has developed a Tender Evaluation Procedure that aligns with relevant NSW Government Polices. It provides a standardised and consistent approach to driving consistent reliable value for money proposals for Sydney Metro and reduces bid time and costs for delivery partners.

Current approaches to transparency and accountability of procurement by New South Wales government agencies, in particular:

- i. function and requirements of the New South Wales Government Procurement Board and the New South Wales Procurement Policy Framework***
- ii. record keeping arrangements for procurement activities***
- iii. Agency annual self-reports and outcome reports.***

Transport for NSW

Transport for NSW recognises its place as a custodian of a network that serves the social and economic wellbeing of NSW. It requires vigilance and continuous evolution to maintain high standards in expending public funds.

Transport for NSW is undertaking a significant program of works to uplift transparency and accountability in procurement, ensuring:

- there are robust controls in place when expending funds
- there is the right internal culture and capability to ensure integrity of these systems and controls
- active management of conflicts of interest when and where they arise, and
- provision of appropriate support, training and advice to staff and service providers.

For example, the Procurement Risk Oversight Committee commenced in May 2022. This supports the procurement senior leadership team in driving transparency and accountability across the Goods and Services procurement function, including governance and management of audit and assurance actions, first line assurance reporting and insights against the procurement policy framework, risk navigation tool insights, procurement risk register review and management, and compliance maturity program governance over procurement legislative and policy obligations.

In relation to record keeping, Transport's Goods and Services procurement policy framework states that full records of the procurement process must be retained for record and audit purposes to comply with the *State Records Act 1998* (NSW) and Transport's Records Management Policy. Transport's Goods and Services procurement policy framework also contains a comprehensive list of procurement-related records that must be retained.

The Transport Goods and Services Procurement Policy and Governance function also undertakes assurance testing against sourcing projects. This includes testing that key procurement documentation has been appropriately recorded. For example, assurance testing is undertaken to ensure conflict of interest declarations have been completed, signed and saved on file for all Tender Evaluation Committee members.

In relation to agency annual outcomes reports, Transport uses the Goods and Services Procurement Accreditation Program, including the annual outcomes reporting, as a basis to track the performance and tangible contribution of Transport's Goods and Services procurement function. These annual outcomes are also reflected in the Procurement Goods and Services quarterly internal reporting.

Sydney Metro

Sydney Metro adheres to all Procurement Board Directions issued by the NSW Procurement Board. Sydney Metro's Procurement and Contract Management Standard ensures compliance with the NSW Procurement Policy Framework. All procurement records are kept in accordance with the *State Records Act 1998* (NSW). Sydney Metro provides Annual Outcomes reporting as part of its obligations under the Construction Procurement Accreditation Program. Sydney Metro complies with the Ten Point Commitment and fulfills its obligations to Infrastructure NSW in complying with the annual Implementation Statement Reporting requirements, which track agency progress against the Ten Point Commitment.

New South Wales Government's procurement practices, in particular its ability to:

- i. prioritise local content, local manufacturing, and local jobs***
- ii. improve opportunities for quality training and workforce participation***
- iii. provide opportunities for diversity, inclusion and the participation of disadvantaged groups, including women and minorities***
- iv. support local suppliers, and small and medium enterprises.***

Transport for NSW

Transport for NSW's procurement policy framework is based on the NSW Procurement Policy Framework, which incorporates NSW Government-wide laws, policies, and guidelines including the Enforceable Procurement Provisions arising from international procurement agreements, as well as social outcome drivers to support participation from small to medium enterprises, regional businesses and Aboriginal-owned businesses.

Transport for NSW incorporates socially responsible procurement practices into its procurement policy framework, considering factors such as ethical sourcing, local content and manufacturing, fair labour practices and environmental sustainability in assessing value for money.

Case study: [Bus Procurement Panel 4](#)

For example, Transport for NSW's Bus Procurement Panel 4, which will be used to procure Zero Emission Buses, assesses the manufacturer's strategies and targets for social procurement outcomes. These include disability participation, diversity and inclusion, small and medium enterprise and local enterprise participation, environment and sustainability, compliance to modern slavery requirements, and compliance with Aboriginal Participation Plan requirements.

The first term of the Zero Emission Bus Program, between 2024 and 2028, will create opportunities for local growth in buses with a target of 50 per cent local content. Extensive industry engagement has occurred and will continue to be key in achieving these outcomes. Local content is further assessed as part of the evaluation criteria for procuring a Zero Emission Bus under Bus Procurement Panel 4, while remaining sensitive to all supply and operational requirements. Manufacturers will be required to confirm claimed local content percentage materiality using a consistent method of measuring local content.

Case study: [Aboriginal business outcomes](#)

Transport for NSW and Sydney Metro have achieved meaningful results for the people, communities and businesses of NSW through driving Aboriginal business participation through its procurement. Transport for NSW and Sydney Metro have awarded 1,185 contracts more than

\$10,000 to Aboriginal businesses between FY20-21 and FY22-23. These 1,185 contracts are worth an estimated \$209 million.

Indigeco, an Aboriginal owned business, advised Transport for NSW that because of their increased engagement with the NSW Government, primarily with Transport for NSW under SCM0007, they have expanded their business to provide a skills and training offering named 'Mob Ready'. This training focuses on developing the skills of Aboriginal and Torres Strait Islander apprentices and trainees in preparation for entering the workforce. Indigeco aims to have 40 per cent of their workforce identified as Aboriginal and Torres Strait Islander by 2025.

Transport for NSW and Sydney Metro have also awarded a total of \$138.58 million in contracts to registered Australian Disability Enterprises between FY20-21 and FY22-23, supporting the employment of people living with disability and enabling them greater access to productive employment opportunities.

Sydney Metro

Approximately 20 per cent of the Sydney Metro workforce undertakes skills development training. Sydney Metro works with its delivery partners to ensure this is focused on building capability and skills in focus areas and supporting other priorities such as safety and cultural inclusion.

Sydney Metro also implements the NSW Infrastructure Skills Legacy program which has targets relating to women in trades, young people under 25 and Aboriginal peoples. Delivery partners through the bid-back mechanisms also have targets or initiatives that support refugees and asylum seekers, returned service people and long term/under employed.

Sydney Metro continues to implement its Aboriginal and Industry Participations plans across all projects to drive jobs, skills and diversity within the workforce and supply chain. These plans provide strategic opportunities to increase skills and economic participation and support employment within Aboriginal and Torres Strait Islander communities across NSW.

Sydney Metro's model is based on successful implementation across delivery of multiple infrastructure projects. Our model includes:

- Minimum targets based on procurement policies
- Mandatory bid backs to drive priority areas and innovation, including initiatives that support small businesses to build their capability and improved access to procurement opportunities, and
- Client led programs such as the Aboriginal Business Forum and Sydney Metro's pre-employment program to drive local supply chain diversity and local employment opportunities for underrepresented groups.

The following outcomes across Sydney Metro City-Southwest, West and Western Sydney Airport packages have been achieved:

- 83,991 workforce to date with 84 per cent being filled by Greater Sydney residents and 48 per cent being filled by Greater Western Sydney residents,
- 2,496 small and medium enterprises have been engaged in the Sydney Metro supply chain, with 38 per cent being local businesses in Greater Western Sydney,
- 13 per cent of all small and medium enterprises are Recognised Aboriginal Businesses, of which 35 per cent are local to Greater Western Sydney.

Sydney Metro's broader workforce also has diverse representation with approximately 40 per cent being:

- Culturally and Linguistically Diverse background (10, 803)
- people with a registered disability (over 549)
- Returned-service people (over 287)
- long-term unemployed (3,915)
- under-employed (1,585)
- Aboriginal people (2,141)
- young people (13,725), and
- women in non-traditional trades and occupations (4,110).

Procurement best practice to encourage ethical conduct and promote social development in other jurisdictions, both nationally and internationally

Transport for NSW acknowledges the need to constantly review and apply best practice to procurement policies, procedures and guidance to encourage ethical conduct and promote social development.

For example, Transport for NSW recently undertook a risk assessment on its supply chain to identify the categories of highest inherent modern slavery risk. This informed the inaugural Modern Slavery Statement, which details the steps taken over FY22-23 to ensure that goods and services procured by and for Transport for NSW were not the product of modern slavery.

Transport for NSW has committed to continuously monitoring modern slavery risk in our supply chains and assessing the effectiveness of our modern slavery framework, including measures across improved modern slavery risk identification, completion of modern slavery supplier assessment questionnaires, monitoring and reporting modern slavery concerns and reportable incidents, and updates to the

Procurement Policy Framework.

Transport for NSW also monitors and reports on performance measures relating to ethical conduct and social development through the Goods and Services First Line Assurance program. For example, First Line Assurance reporting includes monitoring the completion of mandatory Probity and Ethics training and conflict of interest declarations for Tender Evaluation Committee members. First Line Assurance reporting also includes monitoring compliance with the Enforceable Procurement Provisions, the Aboriginal Procurement Policy and the Small and Medium Enterprise and Regional Procurement Policy.

Appendix B8 – NSW Health

Accredited Agency Submission

1. Executive Summary

The submission outlines the NSW Health procurement practices in NSW and its impact on social development of the people of NSW.

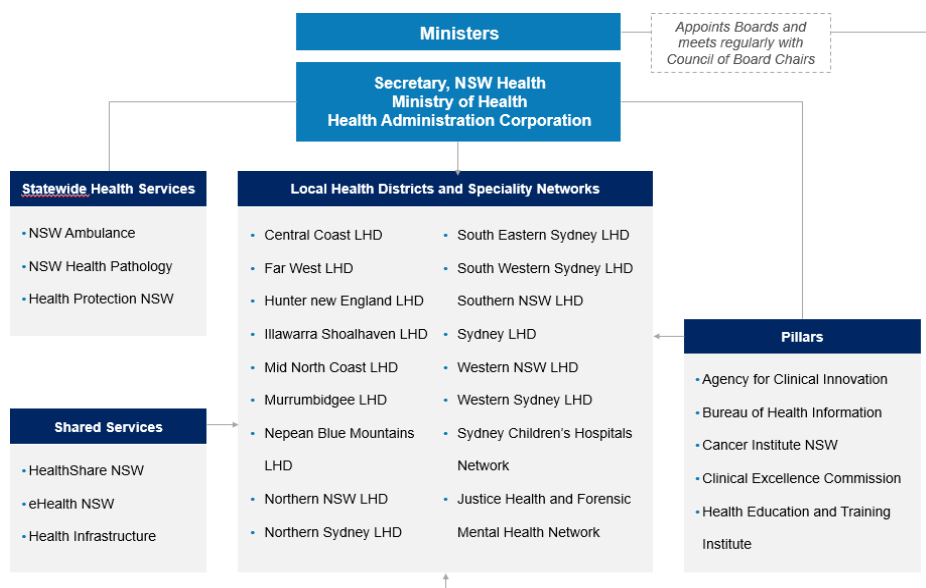
NSW Health conducts its procurement in accordance with its obligations to ensure value for money, improve competition and facilitate access to government business, particularly by small and medium enterprises and regional enterprises. The NSW Health Procurement Policy requires agency buyers to meet the requirements of the NSW Procurement Policy Framework regarding social and sustainable procurement measures.

NSW Health works closely with NSW Procurement to promote social and sustainable initiatives. NSW Health is developing a Social and Sustainable Procurement Strategy that will provide guidance to the system to achieve optimal social, sustainable and economic outcomes for the people of NSW. It will be released in 2024.

The NSW public health system provides high quality, safe healthcare to the people of NSW. It is the biggest and busiest public health system in Australia, with 228 public hospitals, and 178,000 (138,199 Full Time Equivalent) dedicated staff who are supported to deliver the very best care to our patients, consumers and clients. The health system impacts every NSW citizen, from care in hospitals to care in our community, and provides the full spectrum of physical and mental health care. NSW Health’s purpose is to plan for the provision of comprehensive, balanced and coordinated health services to promote, protect, develop, maintain, and improve the health and wellbeing of the people of NSW.

2. NSW Health Procurement Structure

The NSW Ministry of Health supports the executive and statutory roles of the Health Cluster and Portfolio Ministers, as illustrated below:



HealthShare NSW and eHealth NSW are the central points for NSW Health’s goods and services procurement activity and their key functions include procurement of clinical and non-clinical goods and services, contract and supplier management, supply chain services on behalf of local health districts, Statutory Health Corporations, and the Ministry of Health. HealthShare NSW and eHealth NSW work in partnership with the NSW Health entities to understand their requirements, facilitate large sourcing activities and appoint common use suppliers that meet their requirements.

Health Infrastructure hold NSW Health’s construction accreditation and leads the planning and delivery of capital works across the system.

3. Policy and Governance

NSW Health conducts its procurement in accordance with its obligations to ensure value for money, improve competition and facilitate access to government business, particularly by small and medium enterprises and regional enterprises. This includes consideration of various factors including cost, quality, capability, and capacity. Compliance with legislation, whole of government and whole of Health goods and services procurement requirements are managed in the following ways:

- **Policy:** The NSW Health (Goods and Services) Procurement Policy covers all mandatory requirements of the NSW Government Procurement Policy Framework and includes additional requirements and thresholds unique to the NSW Health Cluster.
- **Accreditation:** NSW Health holds the highest level 2 accreditation and complies with the annual self-reporting requirements.
- **Compliance:** The Ministry of Health runs a comprehensive compliance program and works to improve processes and systems to assist increased compliance with policy.
- **Support:** The Ministry has dedicated relationship managers for each Health entity that provide procurement support and advice, and assist entities to remain compliant with legislative, policy and reporting requirements.
- **Tools:** The Ministry administers a procurement portal which hosts the policy, comprehensive procurement procedures, quick reference guides, templates, and links to other reference areas.
- **Training:** In 2022-23, the Ministry trained more than 700 NSW Health staff on procurement policy and procedures. A Procurement Academy has also been established as an additional three day training course, which is in its delivery phase. The team regularly presents at forums and team meetings to further assist capability development.

4. Specific References to ToR inquiries

Effectiveness of whole of government and agency procurement arrangements in ensuring that suppliers and their subcontractors deliver value for money and comply with relevant policies and regulations

The Chief Procurement Officer, NSW Health, has mandated the use of Whole of Government (WofG) and Whole of Health (WofH) contracts and schemes where they exist. In 2020,

NSW Health embarked on a significant procurement reform which, while still in the implementation phase, has improved compliance with existing arrangements and exceeded savings targets.

NSW Health has developed an end-to-end procurement system that increases efficiencies, minimises off-contract spend and enables detailed compliance reporting.

Whole-of-government schemes, contracts and prequalification lists ensure effectiveness through their relevant rules, standard contracts, and where applicable, standard commercial rates.

NSW Health has a variety of standing offer arrangements managed by eHealth NSW and HealthShare NSW that provide value for money for NSW Health agencies across a broad range of goods and services.

Current capacity of procurement officials in government agencies to assess suppliers

Across NSW Health, there are approximately 345 dedicated procurement officers. Some procurements are undertaken outside of central procurement teams, depending on the risk and value of the procurement. The role of these officers is to provide support to Health agency procurement teams to assess suppliers and ensure they and their subcontractors deliver value for money and comply with relevant policies and regulations at the contract stage and throughout the contract management stage.

Evaluation criteria used in tenders

Evaluation criteria are developed on a case-by-case basis for each procurement, and each NSW Health agency has its own set of standards considering local content, value for money,

social, economic, and labour market outcomes, environmental considerations, such as sustainable sourcing, energy efficiency and waste reduction, innovation, and subcontracting arrangements, together with ensuring goods and services meet regulatory and safety requirements.

The Ministry of Health requires that the requirements of the Small and Medium Enterprise and Regional Procurement Policy and the Aboriginal Procurement Policy are applied where the procurement meets the thresholds set by the policy.

Current approaches to transparency and accountability

i. function and requirements of the New South Wales Government Procurement Board and the New South Wales Procurement Policy Framework

The NSW Health (Goods and Services) Procurement Policy aligns with the directions of the NSW Government Procurement Board and the Procurement Policy Framework. When the Procurement Board releases new directions that affect the requirements of the Procurement Policy, NSW Health agencies are notified of the change and the Procurement Policy is updated in due course.

ii. record keeping arrangements for procurement activities

NSW Health requires that all contracts valued over \$150,000 are disclosed on eTenders, in line with the *Government Information (Public Access) Act 2009*. Contracts that are outside existing arrangements and valued above \$150,000 are required to be saved into NSW Health's contract management platform and activity updated throughout the life of the contract. NSW Health is developing a Vendor Management System specifically for Professional Services engagements. This system will track the engagement from pre-approval to contract closure and ensure records are kept in line with the requirements of the *State Records Act 1998* and enable NSW Health to audit compliance easily.

iii. Agency annual self-reports and outcome reports

NSW Health holds the highest level 2 accreditation for both goods and services procurement. Health Infrastructure holds the construction accreditation on behalf of NSW Health. As a part of its annual accreditation, NSW Health provides its agency procurement plan for the next 12 months, annual outcomes report and self-assessment attestation for the previous financial year.

Procurement practices

i. provide opportunities for diversity, inclusion, and the participation of disadvantaged groups, including women and minorities

The NSW Health Procurement Policy requires agency buyers to meet the requirements of the NSW Procurement Policy Framework regarding social and sustainable procurement measures. NSW Health champions diversity and inclusion and achieved the following results in FY22-23:

- Spent \$41.8 million directly with Aboriginal owned businesses, exceeding the \$23 million target set by the Procurement Board
- Spent \$2.64 million with Australian Disability Enterprises
- Spent \$2.42 million with Social Enterprises.

ii. support local suppliers, and small and medium enterprises

The Small and Medium Enterprise and Regional Procurement Policy aims to increase small and medium enterprise participation in procurement opportunities within the NSW Government and improve economic, ethical, environmental, and social outcomes through a range of initiatives. NSW Health has embedded the requirements of the Small and Medium Enterprise and Regional Procurement Policy into its own Procurement Policy and in FY22-23 spent \$1.67 billion, or % of its overall goods and services procurement spend with small and medium enterprises. Of this, \$291.6 million was with suppliers outside the greater Sydney area.

Procurement best practice to encourage ethical conduct and promote social development in other jurisdictions, both nationally and internationally

NSW Health is a member of the WofG Anti-Slavery Working Group, chaired by the NSW Anti-Slavery Commissioner and works with the group to develop best practice guidance for NSW Government agencies. NSW Health embeds anti-slavery clauses into tenders and contracts where appropriate. Further, NSW Health reports annually to the Australian Government on its actions toward minimising slavery in its supply chain, in line with the requirements of the *Modern Slavery Act 2018 (Cwth)*.

Appendix B9 – Health Infrastructure

Accredited Agency Submission

1. Executive Summary

Health Infrastructure (HI) was established in July 2007 and is responsible for the implementation of the NSW Health capital works program, overseeing the planning, design, procurement and construction of health capital investments valued at \$10 million and above.

HI is the accredited entity for construction procurement within the Health cluster, providing autonomy to procure construction services. HI may also provide assurance services to local health districts or specialty health networks for their construction procurement valued over \$1.3 million.

HI is a well-established delivery with a strong track record and reputation across the construction industry and NSW Government. In its more than 16 years of operation, the capital pipeline has grown from \$511 million in 2007 to \$13.8 billion of capital investment over the next four years. Since 2007, HI has completed around 240 health capital works projects across NSW, including more than 160 in rural and regional NSW. We currently have more than 100 projects underway.

The sophistication of HI's procurement approach has progressively increased and today HI is considered a leading agency across NSW Government for the social impact outcomes achieved on its projects. Case studies are provided to Infrastructure NSW (INSW), including those outlined in the INSW [December 2022 Progress Report](#).

This submission outlines the NSW Government entity HI procurement practices in NSW and its impact on social development of the people of NSW.

2. Introduction

Health Infrastructure (HI) was established in July 2007 and is responsible for the implementation of the NSW Health Capital Works program, overseeing the planning, design, procurement and construction of health capital investments valued at \$10 million and above. HI is the accredited entity for construction procurement within the Health cluster, providing autonomy to procure construction services. Based on this accreditation HI leads the planning and delivery of major capital works across NSW Health and may also provide assurance services to local health districts or specialty health networks for their construction procurement valued over \$1.3 million.

3. Cover Note

3.1 Policy

HI aligns all procurement activities with the NSW Procurement Policy Framework. It aims to instil a procurement system that delivers value for money, aligns with business needs, improves service delivery, leaves a lasting skills legacy and supports a competitive NSW economy. HI implements the NSW Government procurement system for construction. This includes a range of frameworks based on the procurement type and contract value. HI has an internal procurement document hierarchy consisting of an overarching Direction and supporting procurement procedures (generally known as a 'Procurement Manual') supported by flowcharts, training materials and forms.

The NSW Health Procurement (Goods and Services) Policy was updated in 2022 to determine that HI must treat elements of its capital works projects as goods and services and procure accordingly (refer also to separate NSW Health submission relating to goods and services). Previously, HI had treated all elements of capital works projects as construction and procured through its Construction Procurement Accreditation.

HI believes there is opportunity in the NSW Government Policy Framework to provide greater clarity in what is considered construction and should be procured via the Construction Procurement Accreditation and what is considered as goods and services and should be procured via the Goods and Services Procurement Accreditation. NSW Health has taken steps towards clarifying its requirements in relation

to the goods and services elements, but there would also be benefit in a consistent approach across NSW Government infrastructure delivery agencies and in turn a consistent message and approach with the infrastructure industry partners that tender for NSW Government infrastructure projects.

The NSW Health Chief Procurement Officer represents NSW Health at the Procurement Leadership Group (PLG) and HI receives Procurement Board direction relevant to construction via the Construction Leadership Group (CLG), NSW Public Works or buy.nsw.

3.2 Record Keeping

In line with the Government Information (Public Access) Act 2009, HI contracts valued over \$150,000 are disclosed on eTenders. HI has an electronic procurement management system recording the sourcing and contract management activities including supplier performance updated throughout the life of the contract. Additionally, HI will be incorporating its Consultants in Construction providers through NSW Health's upcoming Vendor Management System.

3.3 Governance

HI has an internal governance framework that defines and allocates accountabilities, communication pathways, responsibilities, and oversight for HI procurement. *The Procurement Steering Committee* (PSC) fulfils several key functions including tracking and influencing outcomes related to social and sustainable procurement policies, as well as reviewing the self-attestation reporting metrics for maintenance of HI's construction procurement accreditation. *The Procurement Leadership Group* and *Tender Selection Committee* report to the PSC. Other supporting committees drive continuous improvement and best practice.

3.4 Procurement officials

HI has an internal team of experts with specific capabilities in construction procurement and contract administration. HI operates a distributed procurement model: project delivery resources carry out the lead procurement roles, with procurement resources providing expertise, advice, and assurance to support the processes. HI has workforce development programs to uplift procurement capabilities across project delivery resources. The skills shortage in infrastructure (including procurement) is significant and worsening at a national, state and local level. HI is focused on retention and expansion of its current team but this is challenging in the competitive environment. In infrastructure delivery, pay rates exceed the available range for NSW Government payroll positions; a high contingent workforce is required so that sufficient talent is attracted and retained to support the ongoing delivery of the NSW Health capital program.

3.5 Contribution to government-wide reform

HI is a member of the NSW Government CLG, led by Infrastructure NSW (INSW), established to drive reform across the government in the development, procurement and delivery of infrastructure and building projects. HI also participates in the Construction Industry Leadership Forum (CILF), a joint forum of leaders from industry and the Victoria and NSW public sectors. The CILF aims to improve collaboration and action around procurement and the delivery of major government infrastructure projects. HI is a member of the Construction Industry Culture Taskforce (CICT), a collaboration between the NSW and Victorian public sectors and leaders from industry and academia. The CICT has developed a Culture Standard to support a construction industry and this drives several of HI's social impact objectives.

3.6 Prequalification schemes and standard contract forms

HI leverages effective Whole-of-Government Consultants in Construction schemes (SCM1191 and SCM11061) for its consultant procurements. Leveraging these schemes is effective for major consultant procurements, however they do not extend to some of the smaller (by expenditure) disciplines or include regionally based suppliers, many of which are critical for HI projects but also provide better value for

money. Mandating use of the schemes may be counter-productive when works are to be undertaken in regional and rural locations as they can preclude the engagement of local providers. They limit the autonomy of accredited agencies to develop fit-for-purpose procurement strategies in the NSW devolved procurement model. HI has developed its own Consultant Services Agreement contract form to ensure the value for money and policy compliance requirements are captured and appropriately aligned to the HI capital program.

HI established its own Construction Services Contractor Procurement List in 2020 for its procurement of Contractors (Builders) for construction and related work valued at over \$9 million. The prequalification ensures the capability, including financial capacity, of building contractors to undertake construction projects for HI. HI uses a standardised whole-of-government contract form for its construction work, referred to as a GC21 Edition 2. HI has tailored GC21 templates to suit HI's program delivery, including HI preliminaries and HI general conditions, as well as special conditions where required. Close collaboration with NSW Public Works, administrators of the whole-of-government standard contract form, has ensured that emergent amendments are updated in a standardised manner. This has enabled consistency for agencies and industry alike.

3.7 Tender Selection Criteria

HI tenders include both non-price and price components. The allocation of non-price weightings to social outcomes in the overall assessment is a sound proven strategy that HI supports and has adopted since 2016-17. Weightings are adjusted based on the nature of the procurement, a risk-based assessment of the project and services procured.

The non-price criteria are consistent across the *Consultants in Construction* tenders and generally include Project Plan; Experience of Key personnel; Organisational Experience; Risk Management; Resource Schedule; Training, Diversity and Aboriginal Participation.

The non-price criteria are consistent across the *Contractors* tenders and generally include Program Information; Project Key Personnel and Industry Referees; Site Establishment and Construction

Methodology including Design Management; Aboriginal Participation and Training; Work Health & Safety; Environmental Sustainability; Wellbeing.

3.8 Social Impact

HI's social impact approach is aligned with the NSW Government construction procurement framework. HI is committed to supporting diversity in the construction sector and has built many elements into its procurement processes to thoroughly embed social impact objectives into its project delivery culture. Through its influence on the construction workforce, which is a significant scale across the HI program, HI has the opportunity to influence social outcomes across NSW and this has been a very high priority for HI over the years. Key initiatives include:

Contractor Workforce Wellbeing

A Wellbeing schedule is included in HI's construction tenders to encourage contractors to put forward innovations that improve the wellbeing of their workforce. HI's '[Project 5: A weekend for every worker](#)' trialled a 5-day (versus 6-day) work week and succeeded in opening to patients on time and on budget. Following this success, HI has in excess of 25 construction contracts working a 5-day work week with contractors across all tiers of the industry.

Training and Workforce Participation

The NSW Government Infrastructure Skills Legacy Program (ISLP) aims to address skills shortages and increase diversity in the construction sector. HI partners with key stakeholders and the contractor to promote apprentice and learning worker targets. HI regularly monitors contractors progress of skill development against tender commitments. HI has also implemented workforce training targets in its consultants' contracts; requiring the consultant teams to commit to training and engagement of younger people within their own workforce.

Diversity, inclusion and participation of disadvantaged groups

The Aboriginal Procurement Policy outlines targets and spend requirements that are embedded into contractor procurement processes. HI has also implemented Aboriginal Participation targets for consultants; requiring consultant teams to commit to Aboriginal employment within their own workforce. Most HI projects have escalated contracted targets for 'Aboriginal Participation' with an average of 6.3% achieved in FY23. All of HI FY23 projects exceeded the minimum requirement of 1.5%.

The ISLP's '[Women in Construction](#)'⁵ (WIC) initiative is aimed at increasing the number of women in construction. The NSW Government is trialling minimum targets across a portfolio of government infrastructure projects. The trial targets are 4% of the trades workforce to be women and 7% of the project workforce to be women in non-traditional roles. HI is playing a leading role in supporting this important initiative through piloting the WIC focused ISLP program at six regional and metropolitan health capital projects.

Local Suppliers and Small to Medium Enterprises (SMEs)

NSW construction procurement policy does not incorporate a requirement to engage local resources or SMEs, however HI uses its tenders for regional projects to assess tenderers commitment to and use of local resources. Incorporating local resources and subcontractors in teams is scored favourably. In regional projects, HI has observed larger contractors using local subcontractors or other local resources and this assists in development of local capabilities. Contractors working in regional locations also use local suppliers for non-construction related services such as catering, accommodation, deliveries, etc. Additionally, for all construction tenders above \$5M, HI informs the [Industry Capability Network](#) (ICN) when going to market and provides ICN with Tenderer details to help them connect local suppliers with the tenderers.

⁵ <https://www.nsw.gov.au/employment/women-construction>

Appendix B10 – NSW Police Force

Accredited Agency Submission



1. Executive Summary

The document outlines an overview of the NSW Police Force (NSWPF) procurement practice for both Goods & Services, and Construction Procurement within the context of the NSW Legislative Council parliamentary inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales.

NSWPF is accredited at Level 2 for both Goods and Services, and Construction Procurement under the respective NSW Government Procurement Board accreditation schemes. As an accredited agency, NSWPF is fully committed to complying with the NSW Government Procurement Policies Framework and guidelines implemented under the NSW Public Works and Procurement Act 1912.

As a specialist agency, NSWPF spend can be broadly separated into 2 categories. The first is the general agency spend, which is predominately purchased against the applicable whole of government contracts, prequalification schemes and/or supplier panels. The second category is the agency specific spend, which supports the specific operational policing outcomes of the agency via front-line officers. Due to the unique and specialist nature of this spend it is typically acquired under NSWPF specific contracts.

NSWPF fully endorses the NSW Government's policies in support of social development and using its considerable purchasing power to help empower and develop communities and industry in NSW and Australia as a whole. NSWPF welcomes the opportunity to make a submission to NSW Treasury as part of a submission to the Legislative Council Standing Committee on Social Issues regarding this topic.

2. NSW Police Force Procurement

2.1 Overview

As outlined in the 'Our Focus Our Future' Corporate Plan, the NSW Police Force vision is 'A Safer NSW', and our purpose 'Working with the community to reduce violence crime and fear'. In support of that vision and purpose it is critical that all corporate services/support commands are aligned and staffed to deliver the equipment, facilities, and services to front line policing commands.

Working as an accredited agency within the NSW Government devolved procurement structure for agencies, the following principles underpin the operations of the Strategic Procurement.

- NSWPF complies with NSW Government procurement policies and guidelines
- Within the NSWPF, Strategic Procurement is responsible for, and compliance with, the procurement process and governance in the agency
- NSWPF should use and leverage all NSW Government contracts and prequalification schemes established by NSW Procurement / Department of Customer Service whenever they are in place. Further, NSWPF should look to partner with other Stronger Communities/Emergency Services agencies whenever possible
- Within the 'centre-led' procurement operating model within NSWPF, the Strategic Procurement team is responsible for development/sign-off of the sourcing strategy for all key acquisitions, and have oversight or lead all strategic tenders/contracts over \$150K
- All acquisitions and competitive market engagements performed by the agency should be managed within a robust process that ensures a transparent and 'probity rich' outcome.

As part of the NSW Government accreditation obligations, as well as the agency specific process requirements, NSWPF has implemented the appropriate supporting governance, systems, and reporting frameworks across both PPG and FABS commands to ensure ongoing compliance to both NSW Government and NSWPF specific policies and process guidance.

2.2 Goods and Services Procurement

NSWPF obtained NSW Government goods and services accreditation in 2018 and has successfully re-attested annually thereafter. The procurement process in NSWPF is managed through a 'centre-led' operating model with the Strategic Procurement command acting as the 'Head of Profession' within the agency and responsible for the development of, and subsequently overall compliance with, all of the applicable government and agency procurement policies and guidelines.

The Strategic Procurement team (14 staff) moved to being primarily 'category aligned' in 2019 and has driven an end-to-end category management approach for procurement in NSWPF. This has strengthened the category subject matter expertise and specialisation within the team and enabled tighter linkages with the NSW Government contracts and scheme owners.

This structure has also strengthened the alignment with the operational commands within the NSWPF which is also 'command aligned' and centralises the purchasing of all major acquisitions within that operational command. For example, only Fleet Command can purchase vehicles, only Aviation Command can purchase planes and helicopters, and only Technology Command can approve any IT related purchase. This structure and governance approach has delivered strong outcomes to these commands, noting that the operational commands act as the 'Contract Owner' for finalised agreements, supported by the procurement function as needed.

The 3rd party spend profile within NSWPF is typically categorised into 2 segments:

- i. Spend leveraging NSW whole of government contracts, prequalification panels and schemes. This includes spend within the ICT, Telco, Fleet, Indirect Spend, and HR/Services space. Whole of government arrangements are used whenever possible and appropriate.
- ii. Specialist operational type spend categories not able to be purchased against whole of government arrangements. These can include acquisition type programs such as helicopters, specialist armoured vehicles, weapons, and specialist ICT programs. These contracts are considered agency specific and always managed/led by the Strategic Procurement team.

In addition to the above points, with regards to overall governance and operational structure within the centre-led model, the following key points are noted:

- Strict financial and contract signatory delegations are in place across the agency with all contracts going through a chain of command approval (RMS system) for approval and contract sign-off, with Strategic Procurement in the default approval chain
- All market engagements over \$150K are reviewed and approved by Strategic Procurement for process compliance
- All market engagements over \$500K are managed/run or oversight provided by Strategic Procurement
- All 3rd party contracts are managed within the Contract Portal system, which is owned by Strategic Procurement, with monthly reporting sent to all contract owners regarding contract management/expiry etc
- The monthly 'Procurement Dashboard' and quarterly 'Social Procurement Dashboard' are generated and published by Strategic Procurement
- Monthly and quarterly governance reporting, including independent peer review process, GIPA testing etc is owned by Strategic Procurement

Through independent NSWPF compliance audit reviews, participation in multiple DCS gateway reviews, and accreditation compliance activities, the view is that the current structure and approach for procurement within NSWPF is effectively managed and delivers the required outcomes in support of operational policing.

2.3 Construction Procurement

NSWPF obtained NSW Government construction accreditation in 2022 following submission in 2021 and completed its first re-attestation submission in 2023.

Within a centralised model, all property related matters in NSWPF, including Construction and Facilities

Management are managed through the Police Property Group (PPG) led by an Assistant Commissioner and a team of seven property specialists.

With regards to overall operational structure and governance within the centralised model, the following key points are noted.

- The NSWPF has a Master Services Agreement (MSA) with Downer as single service provider for the delivery of capital construction projects for the agency. Downer undertakes and manages all procurement activities relating to major construction projects on behalf of NSWPF in compliance with NSW Procurement policy and guidelines framework
- PPG maintain a full-time Director of Property Project Management, along with a full-time Project Manager, supported by contingent labour project managers as required, depending on need/scale of the programs underway
- NSWPF has an MSA with Jones Lange LeSalle (JLL) for delivery of services relating to facilities management across the organisation. PPG has a full-time Director of Property Portfolio and two Asset Managers to maintain oversight of facilities management including maintenance, leases and cleaning of the NSWPF property portfolio
- PPG maintain a Director of Property Contracts and Business Management and a Contract Administrator to provide centralised oversight, governance, and compliance regarding both MSAs
- Governance of both MSAs is maintained through a three-tier governance framework at operational and strategic levels. Key performance indicators and key deliverables are measured, monitored and reported to the Property Executive Steering Committee
- PPG maintains a governance framework that ensures management of both service providers to ensure compliance with all NSW Government laws and policies.
- In line with NSW Procurement policy obligations, the MSAs in place with both service providers contain specific contract deliverables and measurables regarding social outcomes including Aboriginal Participation and engagement of local/SME providers in the respective supply chains

2.4 Specific Reference to the Inquiry ToR

With regards to specific terms of reference for the inquiry, in addition to the above agency background positioning, NSWPF would like to add the following comments for consideration by the Committee:

- NSWPF supports the NSW Government's policies regarding social and sustainable procurement and recognises the value that increased engagement with local small and medium businesses, indigenous owned business, and disability enterprises brings to the communities in which those businesses
- The current devolved model of procurement within NSW is seen as effective for NSWPF and provides the agency with access to appropriate contracts and schemes to support a significant portion of the current spend. It has enabled the NSWPF Strategic Procurement team to become an exceptionally strong support function, primarily focussed on the operational specific procurement requirements and acquisitions for the agency
- It is noted that increased effectiveness and social procurement participation in the whole of government arrangements (contracts, panels, & schemes) would help the agency more readily support those initiatives
- It is to be noted that a significant portion of the NSWPF specific spend that supports frontline operational policing and/or specialist technical operations is bespoke in nature with very limited opportunity for increased local/SME/social procurement participation. These acquisitions are often acquired from suppliers that specialise in policing or emergency services products, technologies and/or services
- From a budgetary perspective, it is recognised that in the cases where a locally manufactured/sourced product is available and a viable option to meet the needs, there is often a cost differential that needs to be considered at the agency level. While ideally locally sourced products will not cost more, the reality is that with strict budget limitations it is a factor that needs to be considered.
- NSWPF fully supports the drive to increase local and social procurement outcomes in NSW, it

should be noted that within the evaluation plans for agency specific and specialist type acquisitions, increased weighting, or additional criteria for 'social imperative' type evaluation criteria within tender processes is not always appropriate or in some instances may not be possible at all. NSWPF also notes that, where an exemption may exist to engage directly with a social/local enterprise, the requirement of achieving value for money for NSWPF still needs to be satisfied.

Appendix B11 – TAFE NSW

Accredited Agency Submission



1. Executive Summary

This submission outlines TAFE NSW's procurement practice and its impact on social development for the people of New South Wales. As the leading vocational education provider, TAFE NSW operates a strategic procurement structure in alignment with NSW Government strategies. With almost 400,000 students served annually, TAFE NSW plays a critical role in shaping the workforce of the future. TAFE NSW is a Level 2 accredited agency for construction procurement and for Goods and Services, has a comprehensive procurement framework embedded within the organisation that's supported by a centralised team of qualified and capable procurement professionals. TAFE NSW has invested in SAP Ariba as the eProcurement platform to guide process efficiencies and compliance within procurement to pay and source to contract.

TAFE NSW leverages its procurement practice to promote social and sustainable outcomes, prioritising local and regional engagement, opportunities for Aboriginal Businesses and opportunities for apprentices.

This submission is written on behalf of TAFE NSW and has been drafted by TAFE NSW Procurement. The submission includes information relating to:

- The Procurement operating model;
- The Procurement Framework at TAFE NSW; and
- Procurement's social priorities, initiatives and benefit.

2. TAFE NSW Response

2.1 How is TAFE NSW structured or devolved to manage procurement?

About TAFE NSW

TAFE NSW is the leading provider of vocational education and training in Australia, annually serving almost 400,000 students. With 156 learning locations across New South Wales, it emphasises quality workforce preparation through high-quality, personalised education and training. Strong industry partnerships are maintained to ensure practical training for students, which contributes to their job readiness. Adapting to social, sustainable, and ethical needs is a key focus, particularly improving opportunities for quality training and workforce participation. With a trusted history spanning over 130 years, TAFE NSW plays a critical role in skilling the state's workforce, particularly in delivering practical skills training to over 70 percent of apprentices in the trades segment.

Procurement Structure

The Procurement branch of TAFE NSW operates within a centre-led structure, supported by approximately 30 staff and led by the Director, TAFE NSW Procurement. It comprises three portfolio teams;

- Procurement Capability and Governance - Embed procurement capability and governance through the Procurement Framework and eProcurement Systems.
- Corporate Services Procurement - Partner with business stakeholders to develop and implement category plans for corporate goods and services and ICT procurement.
- Property & Construction Procurement - Partner with business stakeholders to develop and implement category plans for construction and property procurement.

NB: The Property Procurement team consists of a total of five (5) category managers and procurement specialists who support the TAFE Infrastructure team to deliver construction, capital works, facilities management, and asset management programs.

2.2 How does TAFE NSW ensure governance and oversight with NSW Government-wide laws, policies, and guidelines?

Accreditation & Governance Oversight

TAFE NSW ensures compliance with NSW Government laws, policies, and guidelines through adherence to the *NSW Government Procurement Policy Framework*, aligning its own Procurement Policy and operations with the highest level of agency accreditation for procurement. The Director Procurement Capability and Governance has accountability for ensuring that Policy is appropriately aligned and that any changes are quickly and clearly incorporated into both Policy and operational procedures. As an accredited Agency TAFE NSW has been independently assessed as having the appropriate processes, systems, controls, and governance in place to promote government priorities. Each year TAFE NSW must provide a self-attestation to ensure it has maintained the required level of capability in its people, processes, and technology. The accreditation promotes principles of transparency and accountability and assists TAFE NSW in continuing its dedication to the ongoing improvement of its procurement practices.

TAFE NSW places significant emphasis on robust governance structures to effectively guide, control, and oversee crucial decisions related to procurement activities. Various governance forums are attended by procurement leaders such as the Director, TAFE NSW Procurement, and the Director, Property & Construction, to collectively exercise control over vital procurement decisions and activities. These forums govern Procurement strategy at a whole of government level and also include numerous in-house forums to guide planning, project management, and budget oversight across strategic infrastructure projects.

Procurement processes undergo routine governance audits conducted both internally by the Internal Audit and externally by the Audit Office of NSW. The systematic control of procurement decisions is evidenced across all stages of the procurement cycle, with clearly defined approval gates specified in the TAFE NSW Procurement policy and the Delegations Manual.

Procurement maintains a series of data insight and compliance reporting dashboards that are regularly analysed and shared with key stakeholder groups.

2.3 Describe TAFE NSW's procurement policies and process

People, Processes, and Technology Integration

The TAFE NSW Procurement function consists of appropriately qualified, experienced and capable procurement professionals. Every position within the team has a Role Description with clearly articulated responsibilities and capabilities that align to the Public Service Commission (PSC) framework.

TAFE NSW invests in lifelong learning of its employees and members of the procurement team has participated in the CIPS Corporate Award Advanced Practitioner Program, Diploma of Procurement and Contracting, Graduate Programs, and the provision of cross-functional opportunities for career growth through talent pools.

The TAFE NSW Procurement Framework aligns to the *NSW Government Procurement Framework* and consists of Procurement Policy. Procedures and supporting guides. All documentation is available on the TAFE NSW intranet and is reinforced through ongoing annual training facilitated by the procurement team. The Procurement Framework was last updated in July 2023. To support enterprise alignment with the Procurement Framework, TAFE NSW has implemented eProcurement Technology (SAP Ariba, Fieldglass and Concur) which streamlines processes, enhances governance and compliance, drives electronic workflows and enables accurate data and reporting.

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2.4 How TAFE NSW tracks and influences outcomes related to Social and Sustainable procurement policies.

Social and Sustainable Procurement Initiatives

TAFE NSW proactively collaborates with diverse markets and suppliers to enhance their readiness to meet our current and future business needs. TAFE NSW Procurement has established procedures and supporting reference guides that encourage better social, economic, and labour market outcomes. Examples include:

- #firstconsider exemption to buy direct from Aboriginal Business <\$250K
- TAFE NSW Aboriginal Participation Strategy,
- Statement of Business Ethics
- Modern Slavery Statement; and the
- Social Procurement buying guide.

As part of all significant procurement (>\$250,000) social criteria are included as a mandatory evaluation weighting. Furthermore, TAFE NSW complies with NSW Government Policy and requires suppliers to provide local and aboriginal participation plans when projects are above the identified threshold.

TAFE NSW actively invites local suppliers, and small to medium enterprises to participate in sourcing events and promotes a Buyers' Guide for Supporting Small Business, equipping employees with resources to prioritise small business proposals. In recent times, TAFE NSW has conducted a comprehensive construction supplier due diligence program, engaging with over 60 contractors in NSW to assess supply market capabilities, receive industry feedback, and to inform value for money and social outcomes for future opportunities.

Leading by example, across training and workforce participation, TAFE NSW initiates projects aligned with multiple government priorities, such as the [Social Housing project in Dubbo](#), and the [Social and Affordable Housing in the Newcastle and Hunter Region](#) where trades apprentices will contribute to building social housing. Aboriginal, Social and Regional Participation Plans are utilised to gauge supplier intentions a gain future commitment. On award, these plans are implemented via practical steps during contract management such as monitoring, and impact measurement to showcase value for money, social benefits and foster community engagement.

When a significant contract is entered into, TAFE NSW appoints a dedicated contract manager to ensure the contract meets all its negotiated deliverables and benefits - including delivery on forecast social outcomes. TAFE NSW and its suppliers follow reporting requirements from 'NSW Buy' to track and measure participation through the online reporting tool. To compliment the NSW Government Spend Cube, TAFE NSW also manages its own data dashboards and reports on social benefit achieved through procurement.

This focus on supplier diversity, directly translates into positive impact on social outcomes, achieving **\$238,384,014** of social and sustainable priority spend in FY23, broken down in the table below.

Social priority	Actual spend FY23	% of total spend FY23
Aboriginal Businesses	\$17,536,452	2.6%
Small, Medium Enterprises	\$220,717,073	33.2%
Disability Enterprises	\$55,218	0.01%
Social Enterprise	\$75,272	0.01%

TAFE NSW's impressive track record of tracking and influencing social outcomes has been recognised by leading social enterprise advocates such as Supply Nation. In September 2023 TAFE NSW received the prestigious 'Government Member of the Year' accolade at the Supply Nation Connect 2023 Supplier Diversity Awards. This distinction highlights TAFE NSW's commitment, active engagement, and leadership in advancing supplier diversity - particularly in encouraging growth within the Aboriginal business sector. In FY23, TAFE NSW demonstrated a commendable 1.67% increase in expenditure with Aboriginal businesses.

Beyond the procurement process, TAFE NSW recognises the significance of bringing social enterprises,

small and regional business along on its journey through general training and capability uplifts that support their growth and sustainability. In-house, there is an emphasis on educating buyers and Finance Delegates about the positive impact of engaging with industry, promoting social and sustainable outcomes, and regional participation as part of their public duties. Streamlining procurement processes, prioritising small businesses, and advocating for increased regional engagement are targeted strategies at TAFE NSW. Additionally, opportunities are being progressed to digitise and simplify registration and supply processes for businesses working with NSW Government, reducing red tape, unnecessary paperwork and manual steps.

2.5 Provide specific information to assist the inquiry

Specific References for the inquiry

The terms of reference for the inquiry direct the Committee's attention to some specific aspects of procurement activity that actively contribute to fostering positive social and sustainable outcomes through public procurement. This may include implementing a variety of strategies such as:

1. **Policy support:** Using centralised policies and guidelines that do not conflict but work in unison to grow social and sustainable outcomes by developing favourable thresholds for social enterprises and small business, and or introducing exemptions for direct engagement.

Response: TAFE NSW has exemptions in place, allowing first consideration of Aboriginal businesses and Social Enterprises up to \$250,000 or direct engagements to any limit for Disability Enterprises. This concept is marketed internally at TAFE NSW as '#firstconsider' to raise awareness.

2. **Buyer guidance:** Issuing guidance at a whole of NSW Government level to provide a category view of how buyers can prioritise supplier diversification decisions based upon objective data insights, capability assessments and performance examples.

Response: TAFE NSW supports its buyers engaged in procurement, to achieve value-for-money and social benefits. This includes hosting a comprehensive intranet-based framework of procedures and help collateral, and facilitating over 100 annual training sessions for buyers to attend at will, covering various procurement aspects - including several dedicated sessions on social procurement.

3. **Supplier guidance:** Bringing suppliers along on the journey to achieve better social and sustainable outcomes by equipping them with the right knowledge, tools, and resources. This may also mean providing valuable feedback to suppliers, particularly in the case of unsuccessful bids, to foster continuous improvement and enhance future opportunities.

Response: TAFE NSW supports suppliers via a dedicated Supplier Resources Hub on its website which includes information on sustainable procurement and demonstrates its commitment to supporting and achieving sustainable and social objectives through procurement processes.

4. **Sharing supplier Information:** Leveraging portals like *Supplier Hub* to centralise supplier information, integrate data with agency ERP finance systems, and flagging attributes of suppliers who do business with NSW Government. Streamlined communication will allow opportunities for sharing success stories thereby increasing opportunities.

Response TAFE NSW consistently reviews the categorisation of social enterprises within its taxonomy. This systematic approach helps identify suppliers within scope, and facilitates the improved tracking of expenditure and outcomes.

5. **Comprehensive scopes of work:** Developing comprehensive scopes of work that mitigate risk pricing, encouraging agencies to share the risk associated with contract deliverables and timeframes with social, local, and small to medium suppliers.

Response: TAFE NSW influences social outcomes through the inclusion of mandatory social criteria in tenders. By weighting the importance of these and other criteria, TAFE NSW encourages suppliers to actively contribute to social development and diversity, local jobs, and sustainability.

6. **Benefits development:** Establishing a robust benefits methodology that is consistently applied and serves as a reliable framework to showcase financial and non-financial advantages of engaging with diverse suppliers. This includes the benefits and participation of disadvantaged groups including women and minorities.

Response: TAFE NSW actively tracks and measures social benefits using its own framework which allows buyers to measure their performance both qualitatively and quantitatively.

7. **Recognition of sub-contracting:** Acknowledging how sub-contracting can provide additional opportunities for social enterprises to showcase their capability, without increased administrative burden, and formulating guidelines to prioritise participation across these arrangements.

Response: TAFE NSW promotes subcontracting to social enterprises through Aboriginal, SME and Local Participation Plans and encourages the support of the Infrastructure Skills Legacy Program to increase the number of apprentices on construction sites.

8. **Contract management support:** Increasing efforts in contract management to actively support and partner with social, sustainable, and small businesses throughout the contract lifecycle, ensuring their success and sustainability.

Response: TAFE NSW implements Aboriginal, SME and Local Participation Plans for goods and services contracts above \$3m and for construction contracts above \$7.5m.

3. Challenges

TAFE NSW does encounter challenges in improving social, sustainable, and regional participation through procurement. Project objectives, often large in scale, sometimes limit flexibility for small business involvement due to associated risks and costs. Compliance with regulatory procurement policies sometimes conflicts with the focus on social, sustainable, and ethical outcomes.

Challenges also arise from inconsistent reporting practices, although the situation has improved with the reporting.buy.nsw portal governing social participation reporting.

Constraints are present in government panels and schemes, where prequalified suppliers who are legitimate social enterprises are lost in long lists of suppliers. While Enforceable Procurement Provisions (EPP) sometimes include exceptions, open and competitive sourcing mandates can limit engagement with social, sustainable, and local business opportunities.

Finally, the procurement process can pose hurdles for small businesses, requiring significant resource and time investments in proposal submissions.

Navigating these challenges demands a strategic approach to optimise opportunities for broader social and sustainable outcomes within NSW Government procurement.

Appendix B12 – Department of Communities and Justice

Accredited Agency Submission

1. Executive Summary

The submission outlines the New South Wales (NSW) Department of Communities and Justice (DCJ) procurement practices and their impact on social development of the people of NSW.

DCJ is the lead agency in the Communities and Justice portfolio (formerly “Stronger Communities Cluster”). DCJ aims to achieve a safe, just, and inclusive NSW by operating an effective legal system; increasing access to social and affordable housing; protecting children and families; addressing domestic and family violence; promoting public safety; reducing reoffending; and supporting community harmony and social cohesion.

We work with the community, our non-government partners and other agencies to improve outcomes for:

- people experiencing or who have experienced domestic and family violence
- people who have experienced sexual assault
- young people and adults in contact with the justice system
- people experiencing or at risk of homelessness and people in need of safe and affordable housing
- vulnerable children and young people
- people with disability
- Aboriginal people, who are overrepresented across all our services
- people from culturally and linguistically diverse backgrounds.

DCJ welcomes the opportunity to make a submission to the Standing Committee on Social Issues in relation to its inquiry into the ‘procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales’.

This submission provides background information and context on the DCJ’s procurement practices, governance, and the influence and outcomes related to social and sustainable procurement policies. The submission also outlines how the DCJ’s procurement practices impact on the social development of the people of NSW. This submission has been approved by DCJ’s seven Ministers.

2. DCJ procurement structure and practices

Procurement within NSW government operates within a devolved model, with the NSW Procurement Board setting the government-wide strategic approach to procurement. In this devolved model, agencies are responsible to conduct their own procurement activities in accordance with the NSW *Public Works and Procurement Act 1912 (the PWP Act)*.

DCJ is an agency as defined in the PWP Act and operates under the NSW government devolved model. In accordance with the PWP Act, Section 174, Procurement of goods and services by government agencies, the Procurement Board has established a scheme under which a government agency accredited by the Board may procure goods and services for that agency or for other government agencies, subject to any terms and conditions of its accreditation.

DCJ has attained and retained Level 2 in Goods & Services Accreditation (attained in 2017), and Construction Accreditation (attained in 2022). To maintain DCJ’s level of accreditation, we undergo an annual program to assure our capability and capacity to deliver value for money, efficiency, and effectiveness through government procurement.

Within DCJ there is a central strategic procurement team responsible for Goods and Services procurement reporting to the Chief Procurement Officer (CPO) and a team responsible for Construction procurement reporting to the Executive Director of Infrastructure and Assets, both fall within the Corporate Services Division. DCJ also has specialist satellite procurement teams involved in the procurement of Corrective Services and Human Services. Contract management responsibilities sit with the business unit that owns the contract in this devolved model.

Procurement addressable spend is defined as external spend where the supplier(s) used, the price and/or the overall value can be impacted by the procurement function. In FY23 DCJ’s procurement addressable spend was \$4.5 billion including goods and services, construction, and human services.

- Goods & Services – \$1.59 billion

- Human Services - \$2.3 billion
- Construction - \$680.6 million

Approximately 46% of goods and services spend was with suppliers from a whole of government arrangement, while approximately over 95% of construction procurement is conducted via whole of government panels and prequalification schemes.

DCJ utilises whole of government panels and prequalification schemes where possible. At times whole of government arrangements cannot be used due to the unique services that DCJ provides such as goods and services for correctional centres or engagements with non-governmental organisations for human services. In these instances, bespoke engagements with the market are required as DCJ are likely to be the only agency to use these.

2.2 Department of Communities & Justice Agency Portfolio

DCJ is the lead agency for the portfolio of agencies in the Department of Communities & Justice Agency Portfolio. The Chief Financial Officer (**CFO**) of DCJ is a member of the NSW Procurement Board, while the CPO is a member of the Procurement Leadership Group (**PLG**).

Both the CFO and CPO represent the Portfolio of agencies at the respected boards.

As the lead agency, the DCJ procurement team is responsible to lead category management initiatives by representing the portfolio in category management working groups, provide updates on new policies/procurement, board directions, coordinate and centralise all procurement reporting to NSW Procurement (Treasury).

Procurement representatives from the Portfolio agencies meet once a month to promote collaboration, knowledge sharing, innovation and networking within the portfolio. DCJ also hosts a Procurement forum inviting all procurement resources from the portfolio to attend. The theme for this year's procurement forum was *Procurement's Influence on the Business*, aimed to cover Procurement's strategic role within the organisation to influence and empower business units to make informed decisions in their procurement activities, identify and manage risks, and increase engagement with suppliers.

2.3 DCJ Procurement Governance

DCJ has a procurement policy that outlines the principles and framework including instructions for all DCJ staff involved in procurement activities. The procurement governance framework policy provides information on how procurement is governed within DCJ. These policies are in line with the NSW Government Procurement Framework.

DCJ has a procurement intranet page providing buyers information including tools and templates for procurements of all values.

The central strategic procurement team provides oversight on procurement activities valued at or over \$150,000 (inclusive GST), which includes reviewing documentation to ensure compliance with various policies, schemes and board directions. DCJ has mandated the use of a source-to-contract system for procurement activities of this value. The system workflow guides buyers through the procurement process, including completion of procurement plan and sourcing documentation. Approval workflows have been included in the workflow to enable procurement and financial delegate approvals to be captured at key milestones of each procurement. This aligns with DCJ's Procurement Delegations where procurement endorsement must be provided where procurement contract value is over \$150,000 (inclusive GST) at various stages of the procurement process until contract execution.

For a procurement activity under \$150,000 (inclusive GST), guidance on the self-managed process is provided on the DCJ intranet. Buyers are required to seek financial and procurement delegate approval and maintain records for auditing purposes.

DCJ's Construction Procurement Framework has been developed from the NSW Government Procurement Policy Framework and has been independently assessed as part of the Construction Procurement Accreditation process.

2.4 Tracks and influences outcomes related to Social and Sustainable procurement policies

DCJ supports sustainable procurement which can minimise the environmental impact of public sector organisations, as well as benefiting society, and the natural environment. It can also lead to further the economic, social and environmental development of communities, countries and regions.

DCJ are engaged in several sustainable initiatives such as increasing engagement with Aboriginal owned businesses, Australia Disability Enterprises, Corrective Services Industries, Small and Medium Enterprises and regional businesses.

There are mandated reporting requirements for the Aboriginal Procurement Policy, Small and Medium Enterprises and Regional Businesses Policy, and Modern Slavery. DCJ complies with all mandated reporting requirements.

Support for social and sustainable procurement is incorporated into DCJ's Construction Category Management Plan and is reported on via the Annual Outcomes report for Construction Procurement Accreditation. Over the last three years DCJ has had an average of 85% of its construction contracts with Small to Medium Enterprises and a goal of over 90% by 2025. The use of Aboriginal, regional and local suppliers is actively encouraged throughout the Construction Procurement Process.

Corrective Services Industries (CSI) is embedded in the delivery model as a service provider under the DCJ Infrastructure Support Services (ISS) contract. This initiative offers training pathways and skills development for inmates and youths to support increased employment opportunities post release.

2.5 Procurement Practices that provide impact on the social development of the people of NSW

DCJ has a publicly available position in relation to the 'pricing, procurement and contracting of human services' (<https://www.facs.nsw.gov.au/providers/working-with-us/working-with-you/pricing-procuring-and-contracting-human-services/chapters/how-we-procure-services>). This information provides an overview of DCJ's standard practices for engaging service providers to deliver human services that meet the needs of individuals, families and communities in NSW.

In respect to the delivery of human services, DCJ is committed to working in partnership with Aboriginal communities, providers and key stakeholders to build an Aboriginal human services sector that is viable and delivers desirable outcomes for Aboriginal children, families, and communities. Our procurement processes prioritise:

- identifying and developing Aboriginal service providers
- opportunities to support employment for Aboriginal people
- potential service providers that are culturally competent and can meet the needs of Aboriginal clients and communities
- the strengths, needs and opportunities are identified through engagement with Aboriginal clients and communities.

In relation to the procurement of human services, DCJ decides the most efficient method to use based on the specific circumstances of the service to be funded, considering:

- the nature and complexity of the services to be procured
- the diversity of client and community needs
- the size of the market; that is, the number of service providers with the capacity and capability to deliver the outcomes being procured
- the number of service providers interested in providing the services
- our knowledge of markets in the applicable geographic locations
- the value of the contract and level of program funding
- the length of the contract's term.

DCJ participates in multiple whole-of-government forums and networks to collaborate and share ideas to encourage ethical conduct and promote social development in other jurisdictions such as the Infrastructure NSW Construction Leadership Group, Culture and Diversity Sub-Committee and the Aboriginal Procurement Policy Working Group.

DCJ's procurement process captures risk assessments for Modern Slavery and compliance with our obligations under the Enforceable Procurement Provisions concerning Australia's free-trade agreements.

DCJ would like to thank the Parliamentary Inquiry for giving it the opportunity to make a submission into procurement practices of government agencies in NSW and its impact on the social development of the people of NSW.

Appendix B13 – Water Infrastructure NSW

Accredited Agency Submission



1. Executive Summary

The submission outlines the procurement practices of the Department of Environment (Water Group) – formerly Water Infrastructure NSW – (“DPE Water”) in relation to infrastructure procurement activity in NSW and its impact on social development of the people of NSW.

DPE Water welcomes the opportunity to make a submission to the Standing Committee on social Issues in relation to its inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales’.

This submission provides background information on the structure and governance of procurement activity undertaken by DPE Water and about specific issues raised in the inquiry’s terms of reference.

2. DPE Water Procurement Activity

2.1 Management and governance of procurement activity:

DPE Water (as Water Infrastructure NSW) is an accredited agency for construction procurement under the NSW Accreditation program for Construction. DPE Water conducts all construction procurement activity as an accredited agency in compliance with the NSW Procurement Policy Framework and other whole-of-government and Departmental procurement policies.

DPE Water is not accredited for Goods and Services procurement (which is a relatively small activity within the DPE Water infrastructure delivery business). Goods and Services procurement activity is carried out under assurance and governance arrangements with the DPE cluster procurement function.

Procurement activity undertaken by DPE Water is structured under governance arrangements that provide independent advice in relation to procurement which is separate from project development and delivery activity.

DPE Water policies and processes implement governance and oversight of construction procurement activity that tracks and influences outcomes related to Social and Sustainable procurement policies. In particular, DPE Water monitors, seeks to improve and reports outcomes in relation to the following activity categories to the NSW Procurement Board through the Construction Accreditation Outcomes Report submitted annually as part of the NSW Construction Procurement Accreditation Scheme:

- Capability uplift
- Benefits
- Efficiency
- Quality
- Sustainability

2.2 Specific References to ToR inquiries

The terms of reference for the inquiry direct the Committee’s attention to some specific aspects of DPE Water’s procurement activities. DPE Water’s policies and practices are aligned with and support NSW Government policies with regard to:

- Engaging with small and medium sized enterprises where possible, including direct engagement with suppliers where appropriate and within the financial thresholds set out by NSW Government policies;
- Engaging with regional enterprises outside Metropolitan areas to support local suppliers;
- Compliance with Aboriginal Procurement Policies which mandate indigenous participation in all procurements over certain value thresholds;
- Engaging Aboriginal Owned Businesses, including direct engagement with suppliers where appropriate and within the financial thresholds set out by NSW Government policies;
- Modern Slavery in the procurement supply chain.

In relation to engagement with regional and local enterprises and with indigenous suppliers, we note that:

- DPE Water's procurement activity is widely dispersed across the regions of NSW that it serves and includes staff based in regional offices local to project activity. The majority of our construction work is in regional areas
- As part of our tender evaluation processes we assess the extent to which tenderers intend to use local supply chains and encourage and facilitate participation by indigenous suppliers
- DPE Water maintains a dedicated First Nations Project Engagement team that supports participation of Indigenous communities and suppliers in DPE Water projects.

Appendix B14 – Department of Education / Schools Infrastructure

Accredited Agency Submission



1. Executive Summary

The submission outlines the NSW Department of Education's procurement practices in NSW and its impact on social development of the people of NSW.

The NSW Department of Education (the department) welcomes the opportunity to make a submission to the Standing Committee on Social Issues in relation to its inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales.

This submission outlines the department's procurement practices and outlines the contributions that the department's programs make to the social development of the people of NSW.

2. Department of Education

2.1 Department of Education (does not include TAFE NSW and NESA)

Responsibility

The Department of Education is level 2 accredited for goods and services and fully accredited (no upper value limit) for construction via School Infrastructure NSW (SINSW). The procurement functions for the department for all categories are centralised and sit within School Infrastructure NSW.

The Secretary retains high-level oversight of the department's procurement activities via the Chief Executive School Infrastructure NSW, who holds responsibility for procurement and is a member of the NSW Procurement Board.

The Group Director Procurement performs the role of the Chief Procurement Officer (CPO) who monitors and reports on the department's compliance with the objectives to meet the accreditation requirements. The CPO is the accredited procurement authority for the cluster (including TAFE NSW and NESA).

The CPO is responsible for the assessment, procurement and reporting of the department's professional services and consultancy arrangements.

The department's procurement team works as a centralised advisory arm and provides guidance, systems and processes that deliver value for money. The centralised team manages end-to-end goods and services sourcing activities (including ICT) for procurement activities above \$150,000 (ex. GST). The procurement team manages end-to-end construction sourcing for procurement activities above \$10,000 (ex. GST).

Processes

All construction related procurement sourcing with a value of \$10,000 or above is managed by the department's construction sourcing team. The planning of these procurements sits within the relevant business unit within SINSW, as does the management of the subsequent contracts.

Procurement sourcing for goods and services (including ICT) with a value over \$150,000 (inc. GST) is managed by the centralised procurement team. With guidance and advice from the procurement team (available via the intranet and Procurement Manual), the relevant business unit is responsible for procuring goods and services up to \$150,000. Compliance with the department's Procurement Policy and alignment with the processes outlined in the department's Procurement Manual is the responsibility of the relevant business unit when procuring goods and services under \$150,000 (inc. GST). In the first instance, a request must be initiated through the professional services hub for assessment by the procurement team. This ensures each request is reviewed to determine whether it is seeking a consultant, department-nominated major supplier

or professional services engagement. All consultants and major supplier engagements, regardless of value, are managed by the procurement team. All legal services engagements over \$150,000 are also managed by the procurement team, with engagements under \$150,000 managed by the department's legal division.

The exception to the goods and services process stated above is that all professional services engagements must be approved by the Secretary or Deputy Secretary (depending on value).

The department's procurement team implements governance and oversight in accordance with:

- NSW Government-wide laws, policies and guidelines
- the Public Works and Procurement Act 1912 No. 45
- the Government Information (Public Access) Act 2009 (GIPA Act), which requires all government agencies to disclose certain information relating to government contracts with the private sector valued at \$150,000 (GST incl) or more.
- the Modern Slavery Act 2018 No 30
- the State Records Act 1998
- the NSW Procurement Policy Framework
- NSW Procurement Board Directions and legislations.

Mandated whole of government contract including spend

The department manages 4 whole-of-government contracts. It is important for government agency buyers to refer back to the contract or contract manager for guidance on purchasing, what is covered and what is not covered, as well as warranties. 'Best price clauses' ensure that eligible buyers receive the lowest possible prices for products and services. NSW Government agencies' spend via each contract from 2019-2023 is listed below.

Office supplies contract

This contract is a mandatory, whole-of-government agreement, where all NSW Government agencies must use this contract when buying office supplies. There are 4 suppliers on the contract, including 2 small-to-medium enterprises, one of which is an Indigenous business. Several items are excluded from this contract, as those products are covered by other whole-of-government and client-specific arrangements, such as telecommunications equipment, computer hardware and software. The contract covers:

- stationery
- art and educational supplies
- copy paper
- first aid, medical and personal products
- furniture accessories
- general office supplies
- packaging and hardware (everyday non-bulk)
- promotional and customised products (everyday non-bulk)
- technology and communication devices
- toner and inkjet cartridges
- tea room consumables.

Janitorial and catering supplies contract

This contract covers cleaning equipment and other cleaning consumables and is a mandatory, whole-of-government agreement. There are only 3 approved suppliers in this contract. This contract is mainly used by NSW Health. Other eligible buyers include universities, private schools, private hospitals, charities, local councils and other government jurisdictions. Supplier diversity is made clear in the online catalogues via labels to identify products sourced from certified diverse suppliers like small and medium enterprises (SME), Indigenous businesses (IB) or Australian

disability enterprises (ADE). Products with environmental labels/ecolabels and certifications are also highlighted. Products covered include:

- cleaning chemicals
- cleaning supplies
- laundry chemicals
- washroom consumables
- waste management
- catering supplies
- catering disposables
- cleaning consumables
- tableware
- food labelling and wrapping
- hygiene and personal protection.

Multimedia solutions contract

This contract includes audio-visual and sound system products, projectors, TVs, commercial displays, cameras and accessories. There are 15 suppliers on this contract and most are small-to-medium enterprises. Items can be purchased in bundles or individually. The price quoted will include all costs associated with the delivery of products anywhere within NSW. Installation, decommissioning and extra-training services are available through contracted suppliers. A 'best price clause' is in place to ensure that eligible buyers receive the lowest possible prices for products and services, as well as capped pricing for product and services. Suppliers on this contract also provide a helpdesk during business hours to support buyers with their purchases.

Office and education furniture contract

Products in this contract are suitable for both schools and offices. This contract is a mandatory, whole-of-government agreement. There are more than 50 suppliers on this contract, covering various categories of furniture. A number of the small to medium enterprises on this contract are located in geographically diverse parts of NSW. Delivery, installation and disposal of products is not included in the product price of the furniture items and joinery is not covered by this contract.

This contract includes supplier tiers and each supplier is approved to provide their designated product categories, delivery regions and order value limits. Order value limits are determined by their tier. Delivery must take place between 9.00 am and 3.00 pm. All furniture must be assembled by the supplier on the same day as delivery, unless otherwise requested by the customer.

Office and education furniture covered in this contract includes:

- seating
- workstations, desks and tables
- storage
- soft furnishings, including lounges and booths
- screening and panels, including whiteboards.

NSW public schools make use of the whole-of-government cleaning contract which is managed by NSW Public Works Advisory in the Department of Regional NSW. The NSW Government made a public commitment to review the contracting arrangements for cleaning services in NSW public schools, to ensure cleaning services are reliable, high quality and can be met within existing government resources. To deliver this NSW Government commitment, a Cleaning Services Review Group has been established to conduct the review of contracting arrangements for cleaning services in NSW public schools.

2.2 Specific References to Terms of Reference inquiries

The terms of reference for the inquiry direct the Committee's attention to some specific aspects of the current state of procurement by New South Wales government agencies.

Overview

The department, including SINSW, uses whole-of-government prequalification schemes and contracts. The schemes that have been established provide opportunities for suppliers to work with NSW Government agencies. The construction-related pre-qualification schemes minimise the need to conduct open tenders for construction related work and are used extensively by SINSW.

Reducing the need for open tenders in some cases, especially in the construction space, makes it more cost-effective for businesses to work with the department and lessens the cost of tendering for businesses. The established schemes provide consistency and assurance, ensuring all businesses engaged to work with the NSW Government are using the same terms, conditions and rates, where possible. In many instances, businesses are working under the same contract forms which ensures legislative framework and policy requirements are being met, including social procurement initiatives.

SINSW has teams who conduct capacity and appropriate capability checks on tenderers who will be invited to respond to construction related opportunities. Value for money is assessed as part of the tender process to determine that the work aligns to the specifications and the pre-tender estimate. Throughout the contract management phase, project managers and contract managers ensure that project costs are being managed and are in line with the contract. If a variation is required, an assessment is undertaken to ensure that it:

- aligns to the project requirements
- a new tender is not necessary
- aligns to the pricing submitted during the tender process
- aligns with the relevant scheme conditions and the department's accreditation.

The contract manager also administers the social procurement responsibilities outlined within the contract. This forms part of contractor performance reporting.

The current market has a shortage of experienced tradespersons as well as low levels of material supply in construction. These factors have driven up the costs associated with building, upgrading and maintaining schools over the past 3 years.

Local content is specifically not required for parts and equipment, however many of the services and builders that are engaged are NSW or Australian based businesses. A factor to consider is that for large procurements in excess of \$9.58 million, *Board Direction 2019-02 - Enforceable Procurement Provisions* apply, which impacts the department's ability to specifically request or engage only with Australian based or owned businesses. This does have a potential impact upon local content - if local content were to be mandated, this could be seen to be at odds with the *Enforceable Procurement Provisions*.

Section 171 of the *Public Works and Procurement Act 1912* requires government agencies to obtain the best value for money. The department works to ensure that we are obtaining value for money, with both non-price and price factors assessed as part of tenders. The procurement team works to ensure that a value for money outcome is achieved for all procurements above \$150,000 for goods and services and above \$10,000 for construction contracts. Advice is provided on how to achieve that in the Procurement Manual and intranet for sourcing completed outside of the procurement team (for example, goods and services below \$150,000).

The department is supportive and committed to the social procurement policies. The procurement team continues to ensure compliance with social and sustainable procurement policies and

provides guidance as well as assistance to business units in first considering an Aboriginal business, small business, disability enterprise or a local business for engagement. The department is compliant with its reporting against these policies.

Innovation

The department is looking at ways to promote standardisation of design and construction. SINSW is engaging a manufacturing partner to work across industry, with the aim to implement modern methods of construction. This innovation will allow for off-site manufacturing and on-site assembly, facilitating faster construction of new schools and upgrading of school facilities. This approach will help to achieve better value for money outcomes and help to reduce construction waste and noise/dust/vibrations associated with traditional building methods. Where possible, there are standing offer arrangements in place for kit of parts products. These products can be ordered in bulk and used in buildings that use standard design layouts, such as roof panels, wall panels and columns.

As part of the greater use of modern methods of construction, the department has taken steps to incorporate innovation in its construction approach. The off-site manufacturing and kit of part approach for buildings are forms of innovation and have the potential to develop depth, capability and agility across the supply chain, as well as improving workforce skills in advanced manufacturing.

Subcontracting arrangements

The department does not typically engage under head contractor engagements for construction projects. The department engages the relevant professional service required (for example, architects, engineering, quantity surveyors) to provide greater visibility of progress and deliverables, as well as removing a layer of cost. During construction, the contractor (builder) is engaged for the full services (new build or upgrade to existing facilities) and will engage sub-contractors as needed (for example, concreters, electricians).

When procuring for goods and services (non-construction) sub-contracting is a question asked as part of the tender process and is monitored and managed accordingly.

Social and sustainable procurement policies

The department is committed to ensuring social procurement and sustainable targets are met and enhanced where possible. This ensures the growth and development of small businesses, including Aboriginal businesses, disability enterprises and women-owned businesses. Tender documents are simplified for suppliers and small businesses. In construction, where possible, the department aims to use simpler contract forms such as the Mini Minor Works and the MW21 contracts.

The department is currently in the planning stages for the 4 whole-of-government contracts which have expiry dates in 2024. As part of the procurement planning, social and sustainable and procurement policies are being included (as required and where appropriate). The current office and school furniture contract has both social and sustainable procurement included.

The department has recently established its own facilities maintenance contract for reactive and proactive maintenance services. The school asset portfolio and maintenance needs provide many opportunities for local tradespeople and businesses to work within their local schools.

Under this new process, the department has moved to direct engagement of small businesses (including Aboriginal businesses) to provide these services in their local areas, aiming to appoint school maintenance work approximately 50 km or 30 minutes from the base of the business.

As part of the new contract, SINSW is operating the First Nations Engagement in School Infrastructure program, to increase the involvement of Aboriginal business, people and

communities in school maintenance work. The program aims to reduce the administrative requirements while maintaining oversight to ensure quality and value for money outcomes. Under this program, businesses submit a tender outlining their rates. The department verifies the business registration, insurance and associated documentation, with an Aboriginal team available to assist, if needed.

Additionally, the department has partnered with hipages to make it easier for local tradespeople to access planned maintenance jobs at public schools. Under the Local Trades Scheme, the department submits leads for a selection of planned maintenance work at NSW public schools up to a value of \$50,000. This includes work like painting walls, repairing floor coverings and carpets and other general maintenance like tiling or landscaping.

The department recognises the importance of qualified trades delivering maintenance work at NSW public schools. Licences required to complete jobs in NSW may vary by trade category and hipages has processes in place to confirm and continuously monitor ABNs, licences and solvency information for registered trades working via their platform.

Conclusion

Given the nature of the NSW public education system, with more than 2,200 schools located in all parts of the state, the department uses procurement practices to promote widespread engagement of local suppliers. For school maintenance, the department seeks to work with local trades who are based in local communities in order to be more responsive to the needs of schools and to provide better working conditions for local tradespeople, including faster payment terms.