



issues background

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Government procurement in NSW

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1. INTRODUCTION

The O'Farrell Government has introduced a number of legislative and policy reforms to government procurement in NSW. According to the NSW Government, the [new policy framework](#):

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

While the reform process is [ongoing](#), key changes have already been implemented. This backgrounder sets out the regulatory framework for government procurement and lists key sources including NSW and Commonwealth government policies, parliamentary committee reports, and journal articles. A timeline identifies key policy developments, together with reports that have informed the reform process. For copyright reasons, links to journal articles and media are only available through the Parliament's Intranet. Note that this Issues Backgrounder does not cover local government procurement or procurement in the private sector.

2. REFORM TIMELINE

July 2010	Corruption Risks in NSW Public Sector Procurement: Consultation Paper [link] Independent Commission Against Corruption
Feb 2011	Financial Audit, Volume One 2011: Compliance Review Report – Procurement Reform of e-Procurement and e-Tendering [link] New South Wales Auditor-General's Report, Audit Office of New South Wales
July 2011	Corruption Risks in NSW Public Sector Procurement: The Management Challenge [link] Independent Commission Against Corruption
	Corruption Risks in NSW Public Sector Procurement: Recommendations to Government [link] Independent Commission Against Corruption
	Corruption Risks in NSW Public Sector Procurement: Suppliers' Perceptions of Corruption [link] Independent Commission Against Corruption
Sep 2011	Performance Audit – Prequalification Scheme: Performance and Management Services [link] New South Wales Auditor-General's Report, Audit Office of New South Wales

Government procurement in NSW

Jan 2012	NSW Government Procurement Discussion Paper [link] Department of Finance & Services
	NSW Commission of Audit – Interim Report: Public Sector Management [link] NSW Government
Feb 2012	Performance Audit – Managing IT Services Contracts [link] New South Wales Auditor-General’s Report, Audit Office of New South Wales
Mar 2012	Rail infrastructure project costing in New South Wales [link] Legislative Council General Purpose Standing Committee No. 3
May 2012	NSW Commission of Audit – Final Report: Government Expenditure [link] NSW Government
	NSW Government ICT Strategy 2012 [link] NSW Government
Nov 2012	NSW Procurement Reform: Strategic Directions Statement [link] NSW Procurement Board
Jan 2013	NSW Government Procurement: Small and Medium Enterprises Policy Framework [link] NSW Department of Finance & Services
Mar 2013	Procurement and Management of ICT Services in the NSW Public Sector [link] Legislative Assembly Public Accounts Committee
May 2013	Examination of the Auditor-General’s Performance Audits April 2011 – September 2011 [link] Legislative Assembly Public Accounts Committee
July 2013	Goods and Services Procurement Policy Framework [link] NSW Procurement Board
Sep 2013	NSW Government ICT Strategy: Implementation Update 2013-14 [link] NSW Government

3. NSW

LEGISLATION

On 24 February 2014, the [Government Sector Employment Act 2013](#) repealed the [Public Sector Employment and Management Act 2002](#):

- Chapter 7 and Schedule 2C of the *Public Sector Employment and Management Act 2002*, which deal with the procurement of goods and

services, were transferred with minor amendments to Part 11 and Schedule 5 respectively of the *Public Works Act 1912*, now titled the [Public Works and Procurement Act 1912](#);

- The *Government Sector Employment Act 2013* also repealed the [Public Sector Employment and Management Regulation 2009](#). The Regulation was replaced by the [Public Works and Procurement Regulation 2014](#).

With only minor amendments being made to the procurement related provisions in the Public Sector Employment and Management Act 2002, the Second Reading [debates](#) on the *Government Sector Employment Act 2013* made no reference to the procurement issue.

In 2012, Chapter 7 of the *Public Sector Employment and Management Act 2002* (now Part 11 of the *Public Works and Procurement Act 1912*) was amended by the [Public Sector Employment and Management Amendment \(Procurement of Goods and Services\) Act 2012](#). The amending Act also inserted Schedule 2C into the original Act. The amendments replaced the State Contracts Control Board with the NSW Procurement Board. They also transferred the provisions dealing with competitive neutrality in the tendering process to the Public Sector Employment and Management Regulation 2009. Further information on the amending Act may be found here:

- The [First Print](#) of the *Public Sector Employment and Management Amendment (Procurement of Goods and Services) Bill 2012*, with Explanatory Notes
- The [Second Reading](#) speech
- Parliamentary debates in the [Legislative Council](#)
- In [Committee](#), the Opposition moved [four amendments](#), none of which carried. The Greens moved [two amendments](#), none of which carried.
- Parliamentary debates in the [Legislative Assembly](#)
- The [Public Sector Employment and Management Amendment \(Procurement of Goods and Services\) Bill 2012](#) as passed by both Houses

PARLIAMENT

Committees

[Examination of the Auditor-General's Performance Audits April 2011 – September 2011](#)

Legislative Assembly Public Accounts Committee
May 2013

[Procurement and Management of ICT Services in the NSW Public Sector](#)

Legislative Assembly Public Accounts Committee
March 2013

[Rail infrastructure project costing in New South Wales](#)

Legislative Council General Purpose Standing Committee No. 3
March 2012

[Report on Environmentally Sustainable Procurement](#)

Legislative Assembly Public Accounts Committee
March 2010

NSW Parliamentary Research Service

[Unsolicited proposals](#) (2013)

[Public Private Partnerships in NSW: a timeline and key sources](#) (2011)

NSW PROCUREMENT BOARD AND THE DEPARTMENT OF FINANCE & SERVICES

Policies

[Goods and Services Procurement Policy Framework](#)

NSW Procurement Board
July 2013

[Statement on Value for Money](#)

NSW Procurement Board
July 2013

[Prospectus of Savings Opportunities in 2013: NSW Government Contracts](#)

NSW Procurement Board
February 2013

[NSW Government Procurement: Small and Medium Enterprises Policy Framework](#)

NSW Department of Finance & Services
January 2013

[NSW Procurement Reform: Strategic Directions Statement](#)

NSW Procurement Board
November 2012

[NSW Government Procurement Guidelines: Tendering Guidelines](#)

NSW Government
December 2011

[NSW Government Procurement Guidelines: Procurement Planning](#)

NSW Government
December 2006

[NSW Government Code of Practice for Procurement](#)

NSW Government
January 2005

NSW Procurement Board Directions

The NSW Procurement Board has the power to issue directions to agencies that set rules and guidelines around the procurement of goods and services by agencies.

[Publishing procurement plans on the eTendering website](#) (2013-06)

[Engagement of probity advisers and probity auditors](#) (2013-05)

[Scope for government agencies to support Aboriginal businesses](#) (2013-04)

[Approved procurement arrangements from 1 July 2013](#) (2013-03)

[Statement on the Promotion of Competition](#) (2013-02)

[Compliance](#) (2013-01)

[Multi-agency access arrangements \(authorising of prequalification and registration schemes, standing offers, and panel contracts\)](#) (2012-07)

[Use of Procure IT when entering into an arrangement with a supplier for the procurement of ICT goods and services](#) (2012-05)

[Obligation by government agencies to use whole-of-government contracts](#) (2012-02)

[Procurement of goods and services on behalf of other government agencies](#) (2012-01)

Board Directions related to construction procurement:

[Project Bank Accounts](#) (2013-02)

[Financial Assessments](#) (2013-01)

Programs

The NSW Government administers two procurement accreditation schemes: the [Agency Accreditation Scheme for Goods and Services Procurement](#); and the [Agency Accreditation Scheme for Construction](#). Under these Schemes, NSW Government agencies are able to undertake different levels of procurement based on assessed capability.

The NSW Government [Gateway Review System](#) helps agencies improve their procurement discipline and achieve better service results from their activity. Reviews are conducted by experienced procurement practitioners who are not involved in the project.

[Prequalification Schemes](#) identify suppliers who have been pre-approved to work for the NSW Government. There are currently ten Prequalification Schemes:

- Three construction Prequalification Schemes:
 - [Prequalification Scheme for Contractors and Best Practice Accreditation Scheme](#);

- [Prequalification Scheme for Consultants in Construction;](#)
- [National prequalification system for non-residential building;](#)
- [Contingent Workforce;](#)
- [Executive Search;](#)
- [Financial Assessment Services;](#)
- [ICT Services;](#)
- [ITS 2573: Operational Telecommunications Equipment, Infrastructure and Services;](#)
- [Motor Vehicles;](#) and
- [Performance and Management Services.](#)

TREASURY

Policy & Guidelines Papers

[Total Asset Management \(TAM\) Submission Requirements](#)
Policy & Guidelines Paper tpp13-03
October 2013

[NSW Government Procurement Policy](#)
Policy & Guidelines Paper tpp04-01
July 2004

[Guidelines for Assessment of Projects of State Significance](#)
Policy & Guidelines Paper tpp02-4
July 2002

Treasury Circulars

[Total Asset Management \(TAM\) Submission Requirements](#), TC 13/08, Oct 2013

[Submission of Business Cases](#), TC 12/19, Oct 2012

[Annual Reporting on Payment of Accounts](#), TC 11/21, Dec 2011

[Implementation of Penalty Interest on Late Payment Accounts](#), TC 11/20, Dec 2011

[Use of Purchasing Cards and Electronic Payment Methods](#), TC 11/15, Dec 2011

[Payment of Accounts](#), TC 11/12, July 2011

[Gateway Review System](#), TC 10/13, Nov 2010

DEPARTMENT OF PREMIER AND CABINET

Circulars

[Prequalification Scheme: Audit and Risk Committees](#), C2009-13, May 2009

[The Roads And Traffic Authority \(RTA\) as a Contractor to Agencies](#), C2008-40, Oct 2008

[Prequalification Scheme: Performance and Management Services](#), C2008-34, Sept 2008

[Motor Vehicle Policy](#), C2007-54, Dec 2007

[Department of Commerce as a Contractor to Agencies](#), C2006-55, Dec 2006

[Motor Vehicle Policy – Requirements for CEOs](#), C2004-19, July 2004

[Incorporation of Petrol/Electric Hybrid Motor Vehicles into the Government Fleet](#), C2003-32, Aug 2003

[Motor Vehicle Policy](#), C2002-45, Sept 2002

Guidelines

[Guidelines for the Engagement and Use of Consultants](#), July 2004

Memoranda

[Implementation guidelines for procurement of publicly funded construction services](#), M2013-04, May 2013

[Government Advertising Reform](#), M2012-12, Oct 2012

[Open Government](#), M2012-10, Aug 2012

[Use of Biofuels](#), M2012-08, 2012

[NSW Government Tenders advertised on <https://tenders.nsw.gov.au> only](#), M2011-16, Sept 2011

[Exemption from Procurement Policy for Disability Organisations](#), M2010-06, June 2010

[Sustainability Policy for NSW Government](#), M2008-28, Dec 2008

[Public Disclosure of Information arising from NSW Government Tenders and Contracts](#), M2007-01, Jan 2007

[NSW Procurement Reforms](#), M2006-11, July 2006

[New Arrangements for Government Media Monitoring](#), M2004-02, May 2004

[Government Waste Reduction and Purchasing Policy](#), M2003-05, May 2003

[Engagement and Use of Consultants](#), M2002-07, June 2002

[Australian and New Zealand Government Procurement Agreement](#), M1998-07, Apr 1998

INDEPENDENT COMMISSION AGAINST CORRUPTION

[Managing IT Contractors, Improving IT Outcomes](#)

August 2013

[Corruption Risks in NSW Public Sector Procurement: The Management Challenge](#)

July 2011

[Corruption Risks in NSW Public Sector Procurement: Recommendations to Government](#)

July 2011

[Corruption Risks in NSW Public Sector Procurement: Suppliers' Perceptions of Corruption](#)

July 2011

[Corruption Risks in NSW Public Sector Procurement: Consultation Paper](#)

July 2010

[Profiling the NSW Public Sector II – Report 3: Differences Between Local and State Government](#)

April 2010

[Profiling the NSW Public Sector II – Report 2: Comparison of 2001 and 2007 Organisation Responses](#)

May 2009

[Profiling the NSW Public Sector II – Report 1: Results for the NSW Public Sector as a Whole](#)

May 2009

Further ICAC information on procurement, including relevant ICAC investigations, can be found [here](#).

Further ICAC information on conflicts of interest, including relevant ICAC investigations, can be found [here](#).

NSW AUDITOR GENERAL

[Performance Audit – Government Advertising 2012-13](#)

September 2013

[Performance Audit – Managing IT Services Contracts](#)

February 2012

[Performance Audit – Prequalification Scheme: Performance and Management Services](#)

September 2011

[Performance Audit – Government Expenditure and Transport Planning in Relation to Implementing Barangaroo](#)

June 2011

[Financial Audit, Volume One 2011: Compliance Review Report – Procurement Reform of e-Procurement and e-Tendering](#)
February 2011

[Performance Audit – Helicopter Emergency Medical Service Contract](#)
September 2010

[Performance Audit – Government Advertising](#)
December 2009

INFORMATION & COMMUNICATIONS TECHNOLOGY (ICT)

[NSW Government ICT Strategy: Implementation Update 2013-14](#)
NSW Government
Sept 2013

[NSW Government ICT Strategy 2012](#)
NSW Government
May 2012

[Information and Communications Technology \(ICT\) Capital Investment Process](#)
NSW Treasury, Office of Financial Management, Policy & Guidelines Paper
November 2006

PUBLIC PRIVATE PARTNERSHIPS

[NSW Public Private Partnerships Guidelines](#)
NSW Government
August 2012

[Unsolicited Proposals: Guide for Submission and Assessment](#)
NSW Government
January 2012; Updated August 2012

[Accounting for Privately Financed Projects](#)
NSW Treasury, Office of Financial Management, Policy & Guidelines Paper
June 2006

MEDIA RELEASES

Gladys Berejiklian, [Tender out to deliver and operate Sydney's Light Rail Network](#),
Media Release, 7 March 2014

Andrew Stoner and Katrina Hodgkinson, [\\$560,000 water treatment plant for Grabine State Park](#),
Media Release, 5 March 2014

Gladys Berejiklian, [More parking spaces for Rockdale customers](#), Media Release, 13
February 2014

Jillian Skinner, [Milestone reached in \\$80 million Kempsey Hospital redevelopment](#),
Media Release, 4 February 2014

4. COMMONWEALTH

AUSTRALIAN NATIONAL AUDIT OFFICE

[Developing and Managing Contracts](#)

Australian National Audit Office, Better Practice Guide
February 2012

[Better Practice Guide on the Strategic and Operational Management of Assets by Public Sector Entities](#)

Australian National Audit Office, Better Practice Guide
September 2010

[Planning and Approving Projects](#)

Australian National Audit Office, Better Practice Guide
June 2010

[Fairness and Transparency in Purchasing Decisions](#)

Australian National Audit Office, Better Practice Guide
August 2007

DEPARTMENT OF FINANCE

[Commonwealth Procurement Rules](#)

Department of Finance and Deregulation
July 2012

[Guidance material](#)

Department of Finance

[Finance Circulars - Procurement](#)

Department of Finance

INFRASTRUCTURE AUSTRALIA

Infrastructure Procurement and Delivery

[A Review of Project Governance Effectiveness in Australia](#)

Caravel Group
March 2013

[Efficiencies in Major Project Procurement: Volume 2: Consultation Outcomes Report](#)

Infrastructure Australia
June 2012

[Efficiencies in Major Project Procurement: Volume 1: Benchmarks for Efficient Procurement of Major Infrastructure](#)

Infrastructure Australia
June 2012

[PPP Procurement: Review of Barriers to Competition and Efficiency in the Procurement of PPP Projects](#)

KPMG

May 2010

National Public Private Partnership Policy and Guidelines

[National Public Private Partnership Guidelines: Roadmap for applying the Commercial Principles](#)

Infrastructure Australia

February 2011

[National Public Private Partnership Policy Framework](#)

Infrastructure Australia

December 2008

[National Public Private Partnership Guidelines: Overview](#)

Infrastructure Australia

December 2008

[National Public Private Partnership Guidelines: Volumes 1 to 7](#)

Infrastructure Australia

December 2008

5. INTERNATIONAL AGREEMENTS

FREE TRADE AGREEMENTS

The NSW Procurement Board observes the following with regard to Free Trade Agreements:

New South Wales participates in the procurement chapters of a number of Free Trade Agreements (FTA), for example Australia - United States FTA, which establish non-discriminatory procurement arrangements between participating parties. The Agreements apply to nominated NSW agencies and to procurements above stated values for construction and for goods and services. Certain goods and services are exempt (including health and welfare services, education services and motor vehicles). For procurements covered under the Agreements, participating governments must treat suppliers of the other Party, and the goods and services of the other Party, the same as domestic suppliers and domestic goods and services. The Agreements are available at www.dfat.gov.au.

AUSTRALIA AND NEW ZEALAND GOVERNMENT PROCUREMENT AGREEMENT

The NSW Procurement Board explains the relevance of the Australia and New Zealand Government Procurement Agreement to NSW Government procurement as follows:

New South Wales is party to the Australia and New Zealand Government Procurement Agreement (ANZGPA) which promotes opportunities for Australian and

New Zealand service providers to compete for government business on the basis of value for money in a single competitive market. Further information on the ANZGPA is available at www.apcc.gov.au.

The ANZGPA is applied to NSW Government agencies via the Ministerial Memorandum [M1998-07 Australian and New Zealand Government Procurement Agreement](#). The Memorandum states:

The overriding aim of the ANZGPA is to promote opportunities for Australian and New Zealand suppliers to compete for government business on the basis of value for money in a single competitive market through closer co-operation of the jurisdictions (the Parties to the Agreement) in the development of procurement policy. This aim will be achieved through providing a mechanism for co-operation by the Parties to work together to achieve the greatest possible consistency in contractual, technical, and performance standards and specifications, and simplicity and consistency in the application of procurement policies, practices and procedures.

Whilst the Agreement provides for certain government business enterprises (e.g. state owned corporations) to be excluded from the application of the provisions of the Agreement, each jurisdiction is required to apply its best endeavours to encourage a wider application of the Agreement, consistent with good commercial practice.

I therefore require all NSW Government agencies (except State Owned Corporations) to implement the principles of the Agreement. In relation to State Owned Corporations, I would urge shareholding Ministers and Boards of State Owned Corporations to give consideration to the principles of the Agreement and the possibility of incorporating them into their statements of corporate intent.

6. MEDIA

[Tainted security firm awarded police contract](#), 9 March 2014, *SMH*

[Electronic procurement systems can help councils cut tender costs](#), 11 February 2014, *SMH*

[Indigenous firms to flourish with BCA help](#), 10 February 2014, *The Australian*

[Maitland's private fears – Hospital may follow Sydney model](#), 13 Jan 2014, *Newcastle Herald*

Additional media articles on procurement can be found [here](#)

7. JOURNAL ARTICLES

[Public Policy and Financial Management Through e-Procurement: A practice oriented normative model for maximizing transformative impacts](#)

Alexandru V Roman; Journal of Public Procurement

Fall 2013

[An Exploratory Study on the Mature Level Evaluation of e-Procurement Systems](#)

Mi Jung Lee; Journal of Public Procurement

Fall 2010

[Comparative Performance of PPPs and Traditional Procurement in Australia](#)

Peter Raisbeck, Colin Duffield and Ming Xu; Construction Management and Economics

April 2010

Additional articles on procurement can be found [here](#).

Author: Daniel Montoya

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For further information please contact the Research Service on 9230 2356

Issues Backgrounders are prepared by the NSW Parliamentary Research Service for Members of Parliament on Bills or subjects of topical importance.

This Issues Backgrounder provides links to parliamentary material, journal articles, media articles and interest group web sites to provide Members with detailed information relating to matters under consideration by the NSW Parliament. Although every attempt is made to ensure that the information provided is correct at the time of publication, no guarantee can be made as to its ongoing relevancy or accuracy. This Issues Backgrounder should not be considered a comprehensive guide to this particular subject and is only a representative sample of the information available. This Issues Backgrounder does not constitute a professional legal opinion.