



## NSW Government Procurement: Small and Medium Enterprises Policy Framework

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# 1 Overview

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The *NSW Government Procurement: Small and Medium Enterprises Policy Framework* is a key Government procurement reform commitment. It aims to maximise opportunities for Small and Medium Enterprises (SMEs) to participate in government procurement.

The policy improves access to government procurement, opens up opportunities, supports competition and reduces the administrative burden on SMEs engaged in delivering goods and services to the NSW Government.

The policy, developed through consultation with industry and agencies, significantly enhances support to SMEs by:

- Increasing direct opportunities for SMEs to gain government business. Mechanisms include SME targeted supplier panels and prequalification schemes, and government exemptions to purchase goods and services directly from SMEs, regardless of some existing government contracts.
- Providing SMEs with greater access to government procurement opportunities, such as simpler contracts and contracting processes, SME opportunity statements and SME participation plans.
- Removing or minimising barriers to government procurement opportunities through greater and more targeted communication and transparency of procurement opportunities (such as SME online portals, awareness road shows, and SME helpdesk advice and support).

SMEs and industry will benefit through easier, simpler and more attractive opportunities to supply goods and services to Government.

Agencies will benefit through better services delivery, greater transparency and better value for money.

Agencies and industry will both benefit through a more open, transparent process for business to engage with Government and a procurement landscape that allows for greater competition and innovation in service delivery outcomes.

Senior level commitment is a key part of implementing the Government procurement reforms. The NSW Procurement Board, comprising Directors-General of principal departments, oversees the reforms.

The policy will be implemented progressively as part of the reform of government procurement. It will be reviewed after 12 months to assess its effectiveness and adjusted as required.

## 2 SMEs and Government procurement

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Small businesses are key drivers for the NSW economy, employing more than 1.8 million people in metropolitan and regional areas. Currently, there are around 580 SMEs engaged in whole-of-government (State) contracts. SMEs make up 80 percent of tender respondents.

The NSW Government's procurement policy recognises that value for money is about broader economic benefit and not just the lowest price. Key principles underpinning the policy are value for money, efficiency and effectiveness, probity and equity and effective competition.

Government procurement has changed rapidly and continues to do so. Procurement is one of the top value creators in any business or government agency, and fundamental to government service delivery.

The NSW Government is adopting a revised approach to procurement that aims to:

- achieve better value for money and budgetary outcomes from government procurement
- achieve a government-wide strategic approach to procurement, fostering procurement as a business enabler through planning and oversight
- reduce administrative costs and duplication of the procurement function across government
- reduce red tape, improve competition and simplify access to government business for the supply community, especially SMEs and regional businesses
- simplify the regulatory and governance frameworks for government procurement, with an increased focus on compliance, probity and equity
- Build procurement competence and professional development across government.

The NSW Procurement Board, comprising Directors-General of principal government agencies, provides the governance and operating structure for NSW Government procurement.

The Procurement Board is establishing an Industry Advisory Group to advise on procurement strategies and how to assist SMEs to deliver goods and services to government.

## 3 Key objectives and principles

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### 3.1 Policy objectives

The key policy objectives are to:

- recognise local industry capability and enhance industry competitiveness
- give SMEs greater opportunities to access government goods and services procurement and compete on a value for money basis
- make doing business with government simpler, easier and more attractive.

### 3.2 Policy principles

The *NSW Government Procurement: Small and Medium Enterprises Policy Framework* applies the following principles:

- ensuring open and transparent process for business to engage with government
- supporting competition and innovation
- creating full and fair access to all business
- supporting probity and equity in all its procurements
- ensuring value for money (including whole of life costs).

The policy is consistent with international treaty obligations, including international free trade agreements.

### 3.3 Policy scope

The *NSW Government Procurement: Small and Medium Enterprises Policy Framework* applies to goods and services procurement.

SMEs are defined as small and medium enterprises from NSW, other states and territories of Australia and New Zealand, with up to 200 full-time equivalent employees.

### 3.4 Implementation strategies

The following five implementation strategies will deliver the *NSW Government Procurement: Small and Medium Enterprises Policy Framework*:

1. creating the best opportunities for local companies to do business with Government
2. making it easier to do business with Government
3. making it cheaper to do business with Government
4. giving better advice to and communicating more clearly with business
5. simpler government procurement.

## 4 Implementation strategies

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### 4.1 Creating opportunities for local companies to do business with Government

All agencies need to be aware of the impact their procurement action will have on SMEs. Accordingly, agencies will identify SME capability and prepare an [SME Opportunities Statement](#) during the procurement planning stage.

The [SME Opportunities Statement](#) identifies the suitability of the procurement for SMEs and the opportunities it presents for them. This includes SMEs as direct suppliers to government or as part of the supply chain providing goods and services to government.

[SME Participation Plans](#) will be required for contracts valued at \$10 million and above.

Tenderers will prepare [SME Participation Plans](#) to show how their tender will support local industry, including jobs, skills and capability development.

### 4.2 Making it easier to do business with Government

A major step in helping SMEs access government work is to simplify sourcing mechanisms and contract terms and conditions. This will be achieved in four ways:

- exempting government agencies from requirements to purchase from State contracts for small purchases on the proviso that the suppliers' rates for the goods or services are reasonable and consistent with normal market rates
- using simpler documents for low value, low risk procurement - the Government has developed simpler documents including short-form contracts with more realistic terms and conditions and risk allocation suitable for SMEs
- using SME targeted supplier panels and prequalification schemes as these schemes allow SMEs to self register for low risk work up to \$50,000
- adopting online procurement technology solutions to streamline and improve government procurement processes - electronic procurement, such as eTendering, and eCommerce, reduces process time and costs for SMEs.

### 4.3 Making it cheaper to do business with Government

The NSW Government is committed to making it cheaper for business to sell goods and services to government, including through the following means:

- agencies are to pay small businesses within 30 days or else automatically pay interest on the outstanding amount - the Government recognises that a predictable cash flow is vital for small businesses and the 30 day payment policy introduces a fairer prompt payment system
- agencies are required to use purchasing cards for low value transactions (currently up to \$3,000) and replace cheques with electronic payment methods where applicable, as these are cost effective ways to purchase goods and services for low value/high volume transactions while maintaining appropriate management controls
- progressively removing the supply management fee from State contracts as they expire, as the fee has been an administrative burden on business and potentially led to higher prices for government purchases.

### 4.4 Better communication and advice to business

The Government will create new resources that SMEs will be able to use to learn about government procurement and to apply to deliver goods and services to government, including:

- publicising government procurement opportunities on the [NSW eTendering](#) website, which automatically provides users with free notifications of tender opportunities and allows for self-registration to make it simpler and cheaper for SMEs
- the Government's one-stop procurement website, [ProcurePoint](#), now includes a specific section aimed at SMEs and gives access to all government procurement information and opportunities for buyers and industry
- the NSW Procurement helpdesk provides assistance and information to government agencies and industry on a wide range of procurement services, contracts and products and will provide more focussed advice to support SME access to government procurement (1800 NSW BUY (679 289) or email [nswbuy@services.nsw.gov.au](mailto:nswbuy@services.nsw.gov.au))
- The Office of the NSW Small Business Commissioner supports small businesses by providing dispute resolution services, delivering quality business advice through [Small Biz Connect](#) and speaking up for small business within government.

Agencies will give adequate notice of all major purchases so that industry can plan for participation in government procurement. For complex tender submissions this will include a briefing for potential providers.



Agencies will also provide unsuccessful tenderers with information that allows them to improve their competitiveness. Information disclosure should be timely and consistent with Government disclosure requirements.

## 4.5 Simpler government procurement

A new governance structure under the NSW Procurement Board and operating framework for government procurement makes procurement easier for government buyers and more attractive for suppliers. Procurement is one of the top value creators in any business or government agency, and fundamental to government service delivery.

*Applying these strategies throughout the procurement process*

These five strategies will be integrated into all aspects of Government's procurement process - covering planning, sourcing, tendering and communication.

Planning	Sourcing	Tendering	Communication
<ul style="list-style-type: none"> <li>▪ Agency procurement plans includes SME Opportunities Statement</li> </ul>	<ul style="list-style-type: none"> <li>▪ Exemption provisions</li> <li>▪ Purchasing Cards (PCards)</li> <li>▪ SME targeted panels/ prequalification schemes</li> <li>▪ Contract structuring</li> </ul>	<ul style="list-style-type: none"> <li>▪ eProcurement</li> <li>▪ SME Participation Plan</li> <li>▪ 30 day payment</li> </ul>	<ul style="list-style-type: none"> <li>▪ Advance notice</li> <li>▪ Briefing/ debriefings</li> <li>▪ Website</li> <li>▪ Helpdesk</li> </ul>

## 5 Key action elements explained

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### 5.1 SME Government exemptions

Government agencies located in non-metropolitan areas can purchase goods and services valued up to \$5,000 (including GST) from any source, despite those goods and services being available on specified whole-of-government contracts, provided that the supplier's rates for the goods or services are reasonable and consistent with normal market rates.

This means that agencies are able to purchase goods and services of up to \$5,000 (including GST) directly from local suppliers in regional areas, who are usually SMEs. This may include sourcing food and produce locally where possible.

### 5.2 Simpler supplier panels arrangements and pre-qualification schemes

The Government is moving away from its traditional reliance on period contracts with fixed supplier panels where these lock out other suppliers and do not demonstrate value-for-money. More pre-qualification schemes, with simple self registration, for low risk goods and services up to a prescribed threshold, allow SMEs to gain easier access to government. As the risk increases, and for work over the threshold, some assessment is required.

These arrangements benefit SMEs by removing excessive tendering requirements and the need to be on fixed term panel contracts.

Prequalification schemes do not lock businesses out in the way that a fixed-term panel contract often can.

The consultant performance and management prequalification scheme is being improved to:

- give SMEs easier access to government business
- open it up to more suppliers and broaden categories
- reduce the burden and time taken to assess applications
- address insurance and liability rates
- recognise prior registration with other jurisdictions
- reduce the complexity of engaging with government
- provide self registration through an online portal.

Similarly, for ICT Services the current 2020 contract is a “locked” standing offer panel contract which has been in place for over three years. Unless there is a fresh intake to this contract, new suppliers could not access the contract and supply services to Government. They are

locked out for the term of the contact. Moving this contract to a pre-qualification scheme will mean that new suppliers can apply to be added to the panel at any time.

The following initiatives will be implemented:

- a scheme for consultants for purchases up to \$50,000 will be established, which will have reduced insurance requirements and will remove the need to sign a contract each and every time an engagement occurs
- a similar prequalification scheme will be put in place for ICT Services
- a new print management prequalification panel will commence, opening up the market for SME print suppliers.

### 5.3 30 day payment scheme

The Government recognises that a predictable cash flow is vital for small businesses. The 30 day payment policy, implemented from July 2011, introduces a fairer prompt payment system for small businesses working with government agencies. The [30 Days to Pay](#) policy applies to small businesses with an annual turnover of \$2 million or less and supports small businesses by ensuring they are paid in a timely manner. From 1 January 2012 government agencies that do not pay within 30 days are obliged to pay interest on the outstanding amount.

### 5.4 Simpler contract documents

A major step in helping SMEs to access government business is to simplify sourcing mechanisms (including tendering) and contract terms and conditions. These include suppliers' issues (for example insurances, liabilities and complexity), as well as an overall consideration of contracts' architecture and commercial reasonableness.

The Government is developing simpler documents, including short-form contracts with more commercially reasonable terms and conditions and a risk allocation suitable for SMEs. Specifically, the contracts will set reasonable insurance requirements for SMEs (and dispense with some onerous ones) so that SMEs are not priced out of the market.

The express obligation to "push down" contract terms from a principal to a subcontractor SME will be removed for low value procurements.

Specific measures to be taken include:

- a plain English set of terms and conditions for simple purchases up to \$50,000
- a new short-form, plain English contract for use on pre-qualification schemes for purchases up to \$50,000
- a new short-form, plain English Procure IT Version 3 contract for goods and services purchases up to \$50,000.

## 5.5 Online procurement technology solutions and PCards

Online procurement technology solutions reduce process time and costs and streamline and improve government procurement processes. SMEs will find it simpler and faster to get information, learn about supply opportunities and engage with agencies by using online procurement tools.

Purchasing cards (PCards) are a cost effective way to purchase goods and services for low value / high volume transactions while maintaining appropriate management controls. This makes payment terms immediate, reducing administrative costs and removing another burden for small businesses.

Shortly, a new online platform will be rolled out which enables SMEs to register with NSW Procurement. This system will be used for the supply of goods and services through pre-qualification schemes or to utilise the exemptions described above.

The platform will enable SMEs to register with basic information including the types of goods or services they provide, and the areas in which they operate. It will be particularly useful for local tradespeople and suppliers.

Agencies will then be able to use the system to search for suppliers and issue requests for quotations to a group of suppliers who provide the services in that region.

## 5.6 SME communication, advice, helpdesk and website

Establishing a continuing program of SME-focused communication and advice increases industry awareness and supports industry planning to capitalise on government business opportunities.

This program includes:

- giving adequate advance notice to industry of major purchases to enable planning for participation in government procurement
- providing briefings for potential providers for complex tender submissions
- debriefing unsuccessful tenderers to improve their competitiveness.

Further opportunities include the establishment of agency forward procurement plans under the direction of the Procurement Board, and outcomes of ongoing industry engagement through the Industry Advisory Group established under Government's new operating model.

The Government procurement website is being updated into a single procurement site with clear guidance material for suppliers. [ProcurePoint](#) is a one-stop shop which improves communication and access to government procurement information and opportunities for buyers and industry.

[ProcurePoint](#) contains a specific section for SMEs, written in a way that is simple to follow and providing links so that SMEs can register using an agency's procurement platforms.

Government procurement opportunities are publicised on the Government [eTendering](#) website. The NSW [eTendering](#) system is used by the public sector to advertise opportunities for suppliers to bid for government business. It covers the tendering life-cycle by listing:

- proposed tender opportunities
- current tender opportunities
- closed tender opportunities
- awarded tenders
- archived tender opportunities that were awarded or those that would not normally lead to an award (such as an Expression of Interest (EOI)).

The [eTendering](#) system automatically provides users with free notifications of tender opportunities. Self-registration capabilities in the system, especially for low risk work categories, make it simpler and cheaper for SMEs.

The dedicated NSW Procurement helpdesk (1800 679 289) provides more focused advice to support SME access to government procurement.

## 5.7 Contract structuring principles

Contract structuring guidance to facilitate [SME Opportunities Statements](#) and [SME Participation Plans](#) will set out a set of key design principles which address the needs of SMEs and that need to be considered when designing procurement strategies. These design principles will be used to guide the development of panel contracts, prequalification schemes and other sourcing strategies to ensure that the interests of SMEs are considered properly when contracts are designed.

This guidance will build on the recent legislative reform to replace public tendering with standing offer panel contracts as the default form of government procurement in NSW. The guidance will ensure that in moving away from this "one-size fits all" approach, the impact of procurement options on SMEs is properly considered and evaluated.

During the contract planning stage, Government agencies will release a [SME Opportunities Statement](#). The Statement will identify the suitability and opportunities of the procurement for SMEs. This includes SMEs as direct suppliers to government or as part of the supply chain providing goods and services to government.

Agencies will identify the impact of their procurement action on SMEs and, where recommended by the [SME Opportunities Statement](#), identify sourcing options and establish specifications and evaluation procedures that minimise costs to tenderers and provide SMEs with the opportunity to compete on the basis of value for money.

Importantly, agencies must compare their procurement strategy with the [SME Opportunities Statement's](#) checklist to see if it contains practices which could adversely impact on small business, and the reasons why that is the case. For example, agencies would be required to explain why they have insurance levels higher than a recommended minimum level, or justify why they have a requirement for state wide supply.

It is noted that the [SME Opportunities Statement](#) is an additional reporting requirement, the impact and effectiveness of which needs to be properly assessed. These Statements will be trialled for 12 months and then assessed. If they are not effective, stronger measures may be considered.

[SME Participation Plans](#) will be required for contracts valued at \$10 million and above.

Tenderers will prepare SME participation plans to show how their tender will support local industry, including jobs, skills and capability development. The [SME Participation Plans](#) will be considered by government agencies at the tender evaluation stage and, if successful, become part of the contract.

[SME Participation Plans](#) support a competitive process by allowing agencies to identify competitive local suppliers. The plans also support local industry supply chains. NSW, with the Commonwealth and other States and Territories, is a signatory to the *Australian Industry Participation National Framework* which encourages the adoption of consistent industry participation plans.

## 5.8 Unbiased specifications and evaluation procedures

Tender features that can act as impediments to SME industry participation include:

- complex and lengthy documentation
- insurance and indemnity conditions that exceed the risk to Government
- lack of flexibility in setting supply volume requirements
- extended geographic supply coverage, for example the requirement for State-wide delivery
- unnecessarily short supply or service response times.

Tender specifications will need to be designed to provide opportunities for SME suppliers by ensuring they are tailored to actively encourage tender responses.

Where the products and/or services may be too large for one SME to undertake alone, these enterprises should be given the opportunity to prepare tender responses by forming consortia and joint ventures.

Specifications should concentrate on outcomes (rather than technical requirements) and be designed to invite and encourage innovative solutions.

During the procurement planning process, particularly for larger or higher risk procurements, it is essential that agencies consider the direct effect of contract decisions on SMEs. Strategies to assist SMEs include simplified procurement procedures, removal of biases against small and medium enterprises in tender documentation, prompt payment of accounts, and seminars for prospective service providers on doing business with government.

## 5.9 Identification of industry capacity and effects of procurement action

As a general requirement, agencies will ask businesses to provide tender responses which maximise the use of Australian or New Zealand content supplied by SMEs. Tender responses are assessed on the basis of best value for money.

Agencies may contact the NSW Industry Capability Network (ICN) to determine whether it can help to identify SME industry capability and capacity. The ICN matches SME capability to government procurement opportunities and assists tenderers to prepare SME Participation Plans. The ICN promotes Australian industry by providing a technical service to buyers. It nominates competitive manufacturers of locally made goods and services across all industry sectors and major projects.

Where the procurement may have an impact on SMEs the agency should research the economic environment and the industry and include the likely effects in the agency's procurement plan.

The impacts of procurement action can be diverse and varied and include:

- industry capacity
- investment
- employment
- technology
- research and development
- exports
- track record, such as past performance, particularly in the achievement of economic and social outcomes.

## 5.10 Actions to encourage industry participation

The following actions support SME participation and will enhance equity and transparency of NSW Government procurement action:

- advance notice of tenders
- unbiased specifications and evaluation procedures

- identification of industry capacity and industry effects of agency procurement
- provision of information to unsuccessful tenderers.

### 5.11 Presentations to suppliers

The Government will give metropolitan and regional presentations to SMEs. These events will give Government the opportunity to present and discuss its procurement opportunities for SMEs and explain and discuss its procurement system.

### 5.12 Advance notice of tenders

Providing advance notice of planned tenders gives prospective service providers (particularly SMEs) the opportunity to ensure they have the appropriate capability and capacity to undertake the contract.

Advance notice of tenders may be provided by:

- advertising on the e-tenders web site
- posting advanced tender information on a notice board at the head office of the agency concerned
- providing up-to-date information on the internet.

Agencies are not to seek tenders unless they propose to proceed with the contract. Advance tender information should only be published once an agency has made that decision. This minimises the cost to service providers of doing business with government.

### 5.13 Provision of information to unsuccessful tenderers

This is very important for service provider development. Providing service providers with information as to why they were unsuccessful with their tender response, and giving constructive suggestions on how their tender responses could be improved in future, can give substantial benefit to an SME and the agency.

### 5.14 Feedback to suppliers to Government

The buying agency can also give service providers information on their current performance to assist them to continuously improve their performance and become more competitive.



## 6 For more information

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The NSW Procurement helpdesk can provide assistance and information on a wide range of procurement services, contracts and products. The helpdesk is available at 1800 NSW BUY (679 289), fax: 02 9372 8687 or email [nswbuy@services.nsw.gov.au](mailto:nswbuy@services.nsw.gov.au).

The Office of the NSW Small Business Commissioner supports small businesses by providing dispute resolution services, delivering quality business advice through [Small Biz Connect](#) and speaking up for small business within government.

## 7 Document Control

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### 7.1 Document version control

Version	Status	Date	Prepared By	Comments
1.0	Approved	14/12/12	DFS	
1.1	Approved	18/1/2013	DFS	Published on ProcurePoint

### 7.2 Review date

This policy will be reviewed in quarter 4, 2013.

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

## 8 Implementation timetable

Policy strategy	Intended outcome	Implementation
<b>Implemented or announced policies</b>		
Agencies to pay small businesses within 30 days or else automatically pay interest on the outstanding amount.	Fairer prompt payment system for small businesses working with government agencies.	Implemented
Agencies required to use purchasing cards (PCards) for transactions under \$3,000 and to replace cheques with electronic payment methods where applicable.	PCards makes payment terms immediate, reducing administrative costs and removing another burden for small businesses.	Implemented
Local Schools Local Decisions provides for local school decisions for purchases up to \$5,000 (including GST).	The policy increases opportunities for schools to use local contracts. Local business will be the direct beneficiaries of this policy improving business turnover and reducing administration costs.	Implemented
From 1 July 2012, removal of State Contracts Control management fee from state as they expire.	The fee removal will significantly reduce red tape and costs on SMEs and remove a key barrier for SMEs to contract with government.	Being implemented
<b>New policy strategies</b>		
Government exemptions	Extending Government exemptions means that purchases of up to \$5,000 (including GST) can be made directly from local suppliers in non-metropolitan areas without reference to certain State contracts.	Q4 2012
New approaches to Government supplier panels and pre-qualification schemes	SME targeted supplier panels and prequalification schemes benefit SMEs by removing excessive tendering requirements and the need to be on fixed term panel contracts.	Q1 2013
Simpler documents for low value, low risk procurement	Removes barriers and increases opportunity for SMEs to access government procurement so they are not priced out of the market.	Q1 2013
Contract structuring guidance to facilitate SME Participation Plans and SME Opportunity Statements	The Guidelines will set out a set of key design principles which address the needs of SMEs and that need to be considered when designing procurement strategies. They will be used to guide the development of panel contracts, prequalification schemes and other sourcing strategies to ensure that the interests of SMEs are considered properly when designing contracts.	Q1 2013
Simplified SME Participation Plans	SME Participation Plans support a competitive process by allowing agencies to identify competitive local suppliers. The Plans also support local industry supply chains.	Q12013

Policy strategy	Intended outcome	Implementation
Online procurement technology solutions	Online procurement technology solutions reduce process time and costs and streamline and improve government procurement processes. SMEs will find it simpler and faster to get information, learn about supply opportunities and engage with agencies. The NSW Procurement Board is introducing NSWBUY	Q1 2013
Better communication with and advice to business	Better communication to businesses and enhanced transparency of NSW Government procurement actions increases industry awareness and supports industry planning to capitalise on government business opportunities. Establishing a continuing program of SME-focused communication and advice, increases industry awareness and supports industry planning to capitalise on government business opportunities. These include: tender briefings/debriefings to engage with SMEs; Government business awareness road shows in metropolitan and regional centres; and a dedicated DFS procurement helpdesk for SMEs to provide focused advice and support to SMEs.	Q1 2013
NSW Procurement helpdesk	The NSW Procurement helpdesk will provide more focused advice to support SME access to government procurement and provide a contact point for SMEs seeking help with government procurement.	Q1 2013
Government procurement website	The website is a one-stop shop which improves communication and access to government procurement information and opportunities for buyers and industry.	Q4 2012