

Procurement Policy

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1. Introduction

icare ensures that public money is spent fairly and efficiently, and for the long-term benefit of everyone in NSW. icare must comply with a range of legislative and policy requirements. This policy is aligned to and consistent with the [NSW Government Procurement Policy Framework](#) and the [Public Works and Procurement Act 1912](#).

This procurement policy is a core component of icare's Procurement Framework and outlines minimum standards required to be implemented when procuring goods and services.

“ We spend scheme funds with integrity and transparency. Every procurement decision we make places public interest above personal interest and is guided by the key principles of value for money, fair and open competition, easy to do business, innovation and economic development, social outcomes and sustainability. ”

- icare Board Statement

This policy outlines the framework for icare Procurement activities. Please ensure that you refer to this policy in conjunction with the Purchase to Pay Policy, the Procurement Approvals Framework, and the icare Delegations Policy and Instrument.

2. Purpose

This policy sets out the objectives, principles and requirements that apply to each step of the procurement process. The purpose of this policy is to ensure all procurement processes are implemented consistently across all businesses within icare in the delivery of icare's statutory functions.

3. Scope

This policy applies to all icare staff procuring goods and/or services for or on behalf of icare and the schemes and entities that icare provides services to or acts on behalf of, including the Workers Compensation Nominal Insurer (Nominal Insurer).

This policy should be read in conjunction with icare's policies specifically:

- [Conflict of Interest Policy](#)
- [Delegations Policy and Instrument](#)
- [Procurement Approvals Framework](#)

If a procurement involves any Material Outsourcing activities, icare's [Material Outsourcing Policy](#) sets out additional principles and governance obligations which must be complied with. Materiality assessments must be conducted, and outcomes of assessments must be approved by the Risk Management Team.

Further information on how to source goods and services at icare is provided on HUGO's [procurement pages](#).

4. Key Concepts

4.1 What is Procurement?

Procurement “refers to a process that begins with the basic 'make or buy' decision, and then spans the 'whole life' of supplier arrangements. It includes the definition of business needs, designing and implementing arrangements, monitoring and managing contract and supplier performance, and reviewing outcomes to assess the effectiveness of arrangements” (NSW Government Procurement Policy Framework).

4.2 Government Procurement Accreditation

icare is currently working towards gaining procurement accreditation established under the NSW Procurement Board. Accreditation will enable icare to autonomously procure to a set maximum contract value through a program that:

- Establishes minimum standards for managing procurement activities
- Manages risks
- Promotes the delivery of outcomes towards strategic priorities
- Drives continuous improvement and capability development across the sector

While icare’s accreditation process is underway, icare has an Unaccredited Agency status and is required to undertake [concurrency procedures](#) for procurement of goods and services for values of \$680,000 (excl GST) and over if not using a whole of government scheme or panel arrangement.

4.3 Procurement Central

icare’s source to management system, Procurement Central, must be used for all new procurement activities where the total contract value (TCV) is \$150,000 (inclusive of GST) or above. The system enables the capture and streamlining of procurement sourcing activities such as planning, tendering, evaluation, contract award and execution and contract management. Use of the system provides procurement efficiencies as well as reporting and tracking, compliance, transparency, and probity.

For further information and user [how-to-guides](#), visit HUGO’s procurement pages.

4.4 Total Contract Value

A procurement’s total contract value (TCV) is the value of the goods or services over the life of the contract. This includes the value of any options, extensions, or renewals.

5. Policy Principles

5.1 Approved Procurement Arrangement

5.1.1 Use of existing icare or Whole of Government contracts and prequalification schemes

Before going out to market to procure goods or services, icare business units should check with Procurement for any existing whole of icare contracts. It is also strongly recommended to check BUY.NSW for whole of [government contracts](#) and [prequalification schemes](#). Where there is a mandated contract or prequalification scheme, icare must use these arrangements regardless of value, unless special procurement approval is obtained as set out in the [Procurement Approvals Framework](#).

5.1.2 No Order Splitting

icare business units must not split orders to avoid procurement threshold levels and/or governance arrangement.

5.1.3 Others

For other aspects of the Approved Procurement Arrangement, icare staff must review and comply with Procurement Board Direction [PBD 2021-04 Approved procurement arrangements](#).

icare has adopted the Plan, Source, Manage approach as the recommended best practice procurement sector wide. Details are in section 6 in this policy.

5.2 Sustainable Procurement

Sustainable Procurement is defined as 'procurement that has the most positive environmental, social and economic impacts possible over the entire lifecycle'. (ISO20400)

icare staff should consider embedding sustainable procurement practices into all procurement beginning at the planning stage to align with Environmental, Social, and Governance principles. Best practice includes ensuring commodities have end of life strategies and innovation considerations in specifications and contract management stages. [Buying Sustainability](#) is strongly recommended which also comply with other whole of government policies.

5.3 Direct Negotiations

NSW Government's default position is to conduct an open and competitive procurement process. icare should conduct an open tender process for all its procurement needs that are outside of existing whole of government arrangements but may from time to time resort to direct negotiations. icare staff should review the [whole of government's approach to managing direct negotiations](#) and must obtain an approval as set out in the [Procurement Approvals Framework](#).

5.4 Foreign Exchange (FX)

The [NSW Government Foreign Exchange Risk Policy](#) sets out the core requirements and relevant guidance for Government Entities to manage FX risk exposures, including those exposures arising before or after committing to a sale, purchase, or certain other government transactions.

icare should consult with Treasury and TCorp for procurement with values at \$500,000 (excl GST) and over:

1. where all or some components are denominated in a foreign currency; or

2. denominated in A\$ where goods and services are sourced outside of Australia.

5.5 Whole of Government Policies

5.5.1 SME and Regional Procurement Policy (SME Policy)

icare is required to comply with all whole of government policies which are also embedded in the [NSW Government Procurement Policy Framework](#). The [SME Policy](#) aims to increase SME participation in procurement opportunities within the NSW Government and improve economic, ethical, environmental, and social outcomes through a range of initiatives. icare must apply the policy to all goods and services procurement activities commencing from 1 July 2021.

icare may negotiate directly with and engage an SME or regional supplier, for goods and services up to \$150,000 (excl GST), including where there is a whole-of-government arrangement in place.

For goods and services contracts valued at \$3 million (excl GST) or more, icare must include in the non-price evaluation criteria as a minimum:

1. 10% allocated to SME participation, and
2. 10% allocated to support for the NSW Government's economic, ethical, environmental, and social priorities.

Suppliers are required to submit an SME and local participation plan, referencing SME and NSW specific content. Reporting is required to be submitted quarterly through the [reporting.buy.nsw portal](#).

Guidance on application, SME participation plan, evaluation criteria, and reporting can be found in [BUY.NSW](#). icare Procurement is the first point of contact for enquiries relating to the SME Policy.

5.5.2 Aboriginal Participation Policy (APP)

icare must apply the [APP](#) to all relevant procurement activities commencing from 1 January 2021. For the purpose of this policy, an Aboriginal business is one that has at least 50% Aboriginal ownership and that is recognised through an appropriate organisation, such as Supply Nation or the NSW Indigenous Chamber of Commerce.

icare may negotiate directly with an Aboriginal business for all procurements up to \$250,000, (excl GST) even if there is a mandated prequalification scheme or panel in place.

icare must include minimum requirements for 1.5% Aboriginal participation in all contracts valued at \$7.5 million (excl GST) or above by requiring one or a combination of the following:

1. at least 1.5% of the contract value to be subcontracted to Aboriginal businesses
2. at least 1.5% of the contract's Australian based workforce (FTE) that directly contribute to the contract to be Aboriginal or Torres Strait Islander peoples*
3. 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.

Training Services NSW has established the Aboriginal Participation Fund to receive payments when a supplier does not meet contracted Aboriginal participation requirements.

All contracts with Aboriginal businesses are encouraged to be disclosed even where these are below the Government Information (Public Access) Act 2009 contract disclosure threshold.

Suppliers are required to report quarterly on the progress against their commitments in the Aboriginal Participation Plan. Reporting is required to be submitted quarterly through the [reporting.buy.nsw.portal](#). icare Procurement is the first point of contact for enquiries relating to the APP.

5.6 When to Engage icare's Procurement Team

The Procurement team is responsible for oversight of market engagement for all sourcing and related planning activities, particularly when determining an appropriate procurement approach, based on the value and risk profile. They must be engaged at the planning stage of your procurement and prior to market engagement, where the value of the arrangement is greater than \$150,000 (incl GST).

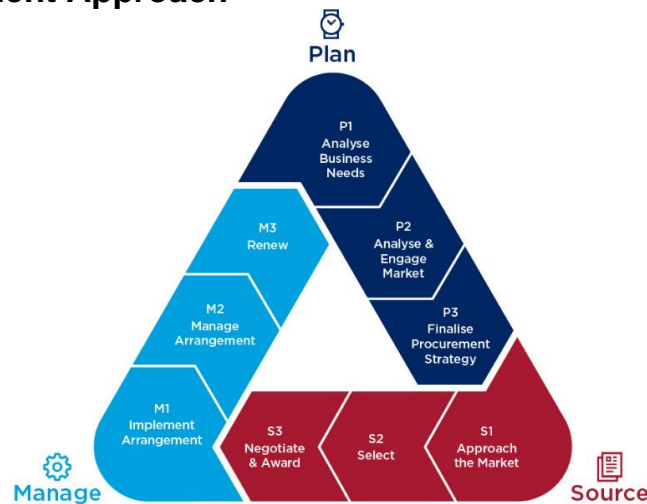
icare staff are encouraged to commence all new procurement activities where the value of the arrangement is greater than \$150,000 (incl GST) by creating a project on Procurement Central. They will then be assigned a procurement officer in the system.

For procurement of goods and services under \$150,000 (incl GST), [self-service options](#) are outlined on HUGO.

The team can be contacted at procurement@icare.nsw.gov.au

6. Procurement Approach and Objectives

6.1 Model Procurement Approach



icare has adopted the best practice procurement approach recommended to all government agencies as a structured set of activities that demonstrate the embedment of procurement objectives. It has three main stages:

6.1.1 Plan Stage

Each business unit should plan their strategies by first analysing the need for goods and services taking account historical buying behaviour and spend data to develop a baseline. This spend baseline will assist in determining risks and the possible contractual framework appropriate for the business. Stakeholders and supplier engagements are critical at this stage to validate the spend. Market analysis should also be conducted at this stage to understand icare's spend relevance compared with the rest of the industry. Outcomes of these activities become the procurement strategy to be fulfilled in Procurement Central.

6.1.2 Source Stage

This stage is the market approach stage, where all policy considerations mentioned in this document must be done prior to selecting an option to invite suppliers to participate in the procurement activity. The default position is as discussed in section 5 in this policy, however there are other non-traditional market approaches that can be used depending on the nature of the goods and services to be procured and concurrence given to icare by NSW Procurement. Key deliverables in this stage include a clear RFx document, an approved assessment plan that reflect the procurement strategy, and a committed resource to undertake the sourcing process. At the end of the sourcing process, a clear recommendation on supplier selection must be submitted to relevant delegate to award the contract. Importantly, contract details must be disclosed per GIPA requirement within 45 days of the contract becoming effective.

6.1.3 Manage Stage

Manage is the implementation and ongoing management of the contract which involves onboarding the supplier/s selected, transition of goods and services if it is a new supplier, establishment of processes, performance metrics and ongoing reporting, improvements, and innovation.

All procurement activities in icare must follow the procurement objectives set out in this section.

6.2 Procurement objectives

6.2.1 Value for Money

Value for money requires a balanced assessment of a range of financial and non-financial factors, including quality, cost, fitness for purpose, capability, capacity, risk, and total cost of ownership.

6.2.2 Fair and Open Competition

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

6.2.3 Easy to Do Business

Making government procurement reduces the cost to serve for both icare and suppliers. Streamlined and accessible processes lower barriers to participation and expand opportunities to a broad supply base, especially small and medium businesses.

6.2.4 Innovation

Industry engagement and flexible procurement practices assist icare to adopt innovative services and solutions, supporting supplier innovation in government supply chains. Two levels of market engagement where icare can encourage innovation include:

1. At the sourcing level – by adapting sourcing methods to facilitate innovation and collaboration with suppliers.
2. At the contract management level – by developing supplier relationships that deliver value beyond the contract.

6.2.5 Economic development, social outcomes and sustainability

Use procurement to support small and medium sized businesses, Aboriginal businesses, regional businesses, disability employment organisations and social enterprises.

6.2.6 Maintaining probity and fairness

Probity is defined as the ethical, transparent and principled work. As procurement is

susceptible to corruption and maladministration, all icare staff must always act fairly and be seen to act fairly. To have a probity rich procurement process, icare policies around code of conduct and conflict of interest must be adhered to throughout the plan, source and manage steps. It is also important to adhere to the rule to never accept gifts or benefits from suppliers.

7. Governance

7.1 Legislative Governance

7.1.1 Public Works and Procurement Act 1912

icare and each of the statutory schemes that it provides services to must comply with the [Public Works and Procurement Act 1912](#) (the PWP Act). The PWP Act provides the legislative framework for procurement and establishes the NSW Procurement Board and, its objectives and functions and defines the procurement obligations of NSW government agencies.

The Nominal Insurer is not subject to Part 11 of the PWP Act. However, all procurement for the Nominal Insurer must be conducted as if was subject to Part 11. Any reliance on the Nominal Insurer exemption must be approved by the Board, including any extension or variation of existing arrangements.

7.1.2 Government Information (Public Access) Act 2009

The [Government Information \(Public Access\) Act 2009](#) (the GIPA Act) requires icare and its statutory schemes (including the Nominal Insurer) to publicly disclose details of any contracts entered into with private sector entities, with a total contract value of \$150,000 (incl. GST) or more.

Contracts must be disclosed within 45 working days of the contract becoming effective and effective date must be included in the disclosure. Disclosed contracts are publicly available on the NSW eTendering website.

Section 33 of the GIPA Act sets out the maintenance and updates of the contracts register. Procurement Central also functions as icare's contract register.

Material variations to contracts resulting in changes to the information disclosed previously must also be disclosed. Those changes refer to particulars disclosed in the mandatory practice of the contract disclosure, e.g., class 1, class 2, and class 3 information.

7.1.3 NSW Modern Slavery Act

From 1 January 2022, The [Modern Slavery Act 2018](#) (NSW) requires reasonable steps to be taken to ensure that goods and services procured by and for government agencies are not the product of modern slavery.

The reasonable steps include considerations for modern slavery in all procurement activities such as relevant contract clauses and plans to work with suppliers to address any incidents or occurrence of harm to people in the supply chain. The objective is to educate not to punish.

Guidance can be found in BUY.NSW. icare staff are encouraged to speak to relevant sourcing teams when planning, and to Procurement Strategy & Policy team for general advice.

7.1.4 Enforceable Procurement Provisions (EPP)

[PBD 2019-05 Enforceable Procurement Provisions](#) sets out requirements relating to international procurement agreements which the NSW Procurement Board has specified as enforceable procurement provisions. icare is an agency that is required to comply with the EPP for covered procurements. A covered procurement is procurement of goods or any other services valued at \$680,000 and above (excluding GST).

Key obligations for covered procurement include having an open approach to market and ensuring that specifications do not discriminate against suppliers from any location and do not discriminate against suppliers based on the origin of their goods or services.

Particulars of the Direction is found in BUY.NSW.

7.2 Procurement governance

Procurement in government is overseen by the Procurement Board that has the powers to approve and terminate procurement arrangements. The Procurement Board can issue Procurement Directions from time to time for agencies to adhere to.

At an agency level, icare's CEO is a Procurement Board delegate that can execute procurement decisions consistent with icare's accreditation status. Procurement activities in icare are governed by the [Delegations Policy and Instrument](#) under the oversight of the appointed Chief Procurement Officer.

7.3 Feedback and complaints

Feedback or complaints are handled by strictly following the 6 principles: respectful treatment; information and accessibility; good communication; taking ownership; timeliness; and transparency.

For procurement complaints, the matter should be handled at Contract Manager level first within icare. The Chief Procurement Officer may provide advice for escalated matters unresolved at the first level. It is important that icare as an agency investigates and resolves procurement complaints in a timely manner:

1. For covered procurement under EPP – before a supplier takes the complaint to the Supreme Court.
2. For non-covered procurement – before a supplier takes the complaint externally or to statutory authorities.

Any alleged criminal activity or corrupt conduct should be referred in the first instance to the Group Executive Risk and Governance or the Head of Conduct and Integrity in line with the icare [Reporting Wrongdoing Policy](#). Matters can also be referred to the relevant [statutory authorities](#).

8. Roles and Responsibilities

ROLE	RESPONSIBILITIES
All icare employees	<ul style="list-style-type: none"> • Being aware of the icare procurement policies and procedures • Ensure appropriate financial delegation has been obtained before commencing a procurement activity • Conduct self-serve procurement with some guidance from Procurement for activities under \$150K • Engage Procurement for all new procurement activities with estimated values of \$150K and above and variations of existing arrangements by using Procurement Central • Promptly disclose contracts of \$150K and above (incl GST) and any material variations per GIPA requirements on eTendering website • Act ethically and fairly in all procurement activities
Contract Managers	<ul style="list-style-type: none"> • Manage contract and supplier performance for all assigned contracts, including KPIs and reporting requirements • Ensure adequate planning for expiry or renewal of assigned contracts
Procurement	<ul style="list-style-type: none"> • Conduct spend analysis and market analysis in conjunction with the business needs • Develop market approaches and relevant documentation • Manage the tender activities in conjunction with the business • Manage fulfilment of Procurement Strategic Plan • Provide expert advice and guidance on procurement Monitor procurement risk and emerging trends and manage compliance with this policy • Maintain and continuously review this policy to ensure it meets NSW procurement requirements
Group Executive Team (GET)	<ul style="list-style-type: none"> • Approve high value, high risk procurement strategies in line with the Procurement Approvals

	<p>Framework</p> <ul style="list-style-type: none"> • Role models appropriate behaviours in relation to procurement compliance and the strategic value of strong procurement • Monitors compliance with procurement requirements in their business area
Board Risk Committee	<ul style="list-style-type: none"> • Oversees probity and risk management in relation to the policy requirements • Oversees compliance to legislation relevant to procurement • Reviews and recommends the Procurement Policy for approval and annual review
Board	<ul style="list-style-type: none"> • Approves the use of the NI exemption • Approves the Procurement Policy

9. Non-compliance with this Policy

Procurement maintains an active Procurement non-compliance register via Risk Connect that tracks the actions in response to all reported cases of non-compliant procurement activities by staff across icare. All reports of procurement non-compliance are subject to the principle of procedural fairness, icare's [Code of Conduct and Ethics Policy](#) and [Managing Misconduct Policy](#).

The consequence guidelines below describe the actions taken regarding staff non-compliance in relation to procurement processes, as outlined in icare's procurement policies, procedures and related legislation and regulations. These guidelines apply to all staff involved in any procurement activity on behalf of icare.

Level of Non-Compliance	Potential Actions
Minor <ul style="list-style-type: none"> • Unintentional; • Isolated incident; • Low value, low sensitivity/ reputational risk 	<ol style="list-style-type: none"> 1. Advise the Employee and their People Leader of the incident. 2. Add to the Non-Compliance Register. 3. Direct the employee to procurement policies and resources to build awareness. 4. Recommend appropriate actions to mitigate risks and improve compliance, for example, attendance at Independent Commission Against Corruption (ICAC) training.
Major	<ol style="list-style-type: none"> 1. Add to Non-Compliance Register.
One of the following conditions exist: <ul style="list-style-type: none"> • Suspected intentional • Repeated minor incidence • High value, high sensitivity/ reputational risk 	<ol style="list-style-type: none"> 2. Refer the issue to appropriate person under the Reporting Wrongdoing Policy to be dealt with under appropriate legislation, policies, and procedures.

10. Related Policies and Procedures

icare's Procurement Framework is supported by a number of other icare policies and frameworks which should be reviewed in conjunction with this policy. Key policies include:

- [Code of Conduct and Ethics Policy](#)
- [Conflict of Interest Policy](#)
- [Delegations Policy and Instrument](#)
- [Procurement Approvals Framework](#)
- [Reporting Wrongdoing Policy](#)

11. Contact

Queries in relation to this policy and procedure and any suggestions for improvement or additional matters should be directed to procurement@icare.nsw.gov.au.

12. Version Control and Document History

Document Name & Version	Procurement Policy v2.0
Document owner	Chief Procurement Officer
Approving Authority	icare Board
Last Approval Date	25 August 2022
Review Frequency	Annually
Status	Active

Version	Author	Change Summary	Approval Date
1.0	Michelle Robinson	Initial Document created	29/07/2021
2.0	Chief Procurement Officer	Annual review of the policy, with changes summarised as follows:	25/08/2022
		<ol style="list-style-type: none"> 1. Addition of Introduction section 2. Updates to Scope (section 3) adding references to the Delegations Policy and Procurement Approvals Framework. 3. Updates to Key Concepts (section 4) introducing four (4) new subsections that clearly explains procurement in relation to the NSW Procurement Board Accreditation, icare's default system Procurement Central, and clarification of Total Contract Value. 4. Revision to the Policy Principles (section 5) introducing six (6) new subsections that clearly explain the procurement fundamentals to appropriately address procurement risks, direct negotiations, and compliance with whole of government policies namely SME policy and Aboriginal Procurement Policy. Each sub-section includes substantial content. 5. Section 6 establishes icare's preferred procurement approach based on whole of government best practice, and procurement objectives that must be followed in every procurement activity. 6. Updates to Governance (section 7) under Legislative governance (7.1) clarifying GIPA requirements, 	

		introducing Modern Slavery Act, and Enforceable Procurement Provisions. Introduced two (2) new sections namely: Procurement governance (7.2) and Complaints and feedback section (7.4). Updates to the Roles and responsibilities section (7.5) by adding a table of responsibilities by role type.	
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