

HPV Health Purchasing Policy 1.

Procurement Governance

Establishing a governance framework for procurement

25 May 2017

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Health Purchasing Policies are made by the Health Purchasing Victoria (HPV) Board in accordance with s134 of the *Health Services Act 1988 (the Act)*. All Schedule 1 and 5 public hospitals and health services as listed under *the Act* must comply with these policies which are legally binding, effective from date of publication in the Government Gazette.

The Health Purchasing Policy framework is based upon the VGPB supply policies, and must be complied with in conjunction with any relevant provisions of the current Victorian health policy and funding guidelines.

1. Introduction

- 1.1. This policy outlines the requirements for establishing a governance framework to monitor and manage procurement across a health entity. The policy is mandated for all Schedule 1 and 5 public hospitals and health services (as listed in the *Health Services Act 1988* (Vic), hereafter referred to as 'mandated health services').
- 1.2. The Procurement Governance policy has three components:
 - a. Procurement governance framework - establishes processes, authorities, accountabilities and relationships for mandated health services to manage an efficient and effective procurement function
 - b. Evaluation and compliance - outlines the role of Health Purchasing Victoria's (HPV) Board in ensuring mandated health service compliance with the Health Purchasing Policies
 - c. Procurement complaints management - establishes how complaints or a concern raised by a supplier in relation to the process and probity applied by a mandated health service, when carrying out a procurement activity, is managed
- 1.3. Figure 1 illustrates the end to end procurement process model. The Procurement Governance policy applies to the entire process.

Figure 1: Procurement Model



2. Procurement governance framework

- 2.1. Governance can be defined as the processes by which a mandated health service holds itself accountable and ensures its procurement decisions and processes are justifiable and defensible.
- 2.2. The Chief Executive Officer of a mandated health service (CEO) is responsible for establishing and implementing the health service's procurement governance framework. The CEO must set up the governance framework before undertaking any procurement activity.
- 2.3. In establishing a governance framework, the CEO must ensure roles and responsibilities are clearly identified and defined, procurement strategies and plans are developed, implemented and monitored for compliance.

Roles and responsibilities

- 2.4. The CEO of the mandated health service must establish the role of Chief Procurement Officer (CPO) that has visibility and oversight of the entire non-salary spend profile of the health service. This includes, but is not limited to, consumable supplies including prostheses and pharmaceuticals, capital equipment, information technology supplies and services, engineering, facilities management and support services, and professional and clinical services.
- 2.5. The CPO, or a senior executive assigned to this role, must:
 - a. hold a qualification in procurement or hold qualifications with a definable procurement component; or
 - b. have experience and expertise in managing a procurement function (or have access to procurement expertise and advice) that matches the health service's procurement profile

Note 1. The CPO must be a senior executive, or the role may be incorporated into the role of an existing senior executive, such as the Chief Financial Officer (CFO), or the Chief Executive Officer (CEO).

- 2.6. The CPO must:
 - a. provide expert advice and guidance to the CEO or the health service's Board, where the CEO in a smaller health service takes on the role of CPO, on matters related to the procurement governance framework and any strategic procurement initiatives
 - b. endorse major procurement categories
 - c. oversee the development, application and on-going assessment of the governance framework for approval by the CEO or the health service's Board, where the CEO in a smaller health service takes on the role of CPO, including:
 - i. assessing the capability of the health service and developing plans to improve capability to ensure it is appropriate for the scope, nature and complexity of the procurement activity carried out by the health service
 - ii. identifying major procurement categories for the health service
 - iii. reviewing performance in procurement and capability at regular intervals and report annually to the CEO or Board
 - d. ensure that all procurement activity applies strategies, policies, procedures, practices and probity that comply with HPV policies and any other requirements in the *Health Services Act 1988* (Vic), the statutory or policy requirements of other governing bodies, or imposed by the CEO/Board through an instrument of delegation

- e. ensure that the complaints management and reference group establishment process demonstrates due process and integrity
- f. develop a procurement strategy for the health service
- g. ensure that probity is maintained in all purchasing, tendering and contracting activities of the health service through the implementation of a probity assurance framework
- h. ensure there are processes in place to maintain the security of confidential and commercially sensitive information to which the health service has access further to their tendering, purchasing and contracting activities

2.7. The CEO may establish a procurement steering committee. The role of the procurement steering committee is to coordinate procurement activity across the mandated health service by involving departmental heads representing the various supply chains present in the health service.

Developing a procurement strategy

2.8. The governance framework is underpinned by a procurement strategy for the mandated health service. This strategy provides an overview of the organisation's procurement profile and includes the following components:

- a. Procurement Activity Plan - detailing a list of all anticipated procurement activities that the health service anticipates taking to market in the next 12-18 months
- b. Capability Development Plan - that identifies the steps to be taken to improve capability within the health service to be able to undertake all the procurement needs of the entity
- c. Supplier Engagement Plan - that documents all the processes, systems and communication strategies to maintain good relationships with existing and prospective suppliers
- d. Contract Management Strategy - that provides a framework, based on the spend profile of the health service, for how procurement categories and individual procurement will be managed at the contractual stage

Details for developing these four respective components are available in the respective guides, available at the Health Purchasing Victoria website at <http://www.hpv.org.au>.

Note 2. The Procurement Activity Plan details all anticipated procurement activities for at least the next 12 to 18 months, enabling health services to plan their allocation of resources and to inform the market. The Procurement Activity Plan is based on the best available information and must be reviewed at least annually to keep the market informed of changes or developments. A high level summary plan must be published on the mandated health service's website to improve transparency for suppliers.

2.9. The CEO must ensure that the procurement strategy is reviewed annually to confirm alignment with the procurement profile of the mandated health service and broader government objectives.

Note 3. The extent of information captured in the procurement strategy will depend on the spend profile of the individual health service. Where a health service chooses to share or outsource aspects of their procurement responsibilities to other health services, this may significantly simplify the procurement strategy.

3. Evaluation and compliance

- 3.1. The HPV Board, or its delegate, in accordance with the *Health Services Act 1988* (Vic) may require the CEO to audit compliance with HPV purchasing policies and directions and provide an audit report to the HPV Board or delegate.
- 3.2. Health services are required to comply with HPV reporting requirements to assist HPV in its role of ensuring probity and implementing and reviewing policies and practices to promote best value in health sector procurement.
- 3.3. Specific health service reporting requirements include:
 - a. the provision of audit reports detailing the outcomes of audits of compliance with HPV purchasing policies and directions as requested by the HPV Board in the HPV Audit Schedule or as part of a separate request in accordance with clause 3.1 above.
 - b. an annual attestation of compliance with the HPV Health Purchasing Policies in the health services' annual report of operations identifying any material non-compliance issues. The attestation must be made by the CEO and follow the form prescribed by HPV in its guidance material.
 - c. an annual self-assessment submitted to HPV regarding the health services:
 - i. compliance with the HPV Health Purchasing Policies identifying all non-compliance issues and remedial actions relating to the issue(s); and
 - ii. compliance to HPV collective agreements identifying all non-compliance and remedial actions relating to the issue(s)
 - d. regular status reports to HPV on the health services' compliance with HPV collective agreements as per the obligations set out in *HPV Health Purchasing Policy 5. Collective Purchasing* identifying any non-compliance issues and remedial actions relating to the issue(s)
 - e. an ongoing obligation to report to HPV material non-compliance issues that arise in relation to the HPV Health Purchasing Policies as soon as the health service becomes aware of the issue, and remedial actions relating to the issue(s)
 - f. annual submission of health service activity reports, including:
 - i. details of all procurement activities that the health service anticipates taking to market in the next 12-18 months
 - ii. details of all current contracts in place at the health service at the time of submission
 - iii. details of all on-selling arrangements that relate to HPV contracted products or services as per clause 2.6 (j) of *Health Purchasing Policy 5. Collective Purchasing*
 - g. other specific reporting requirements communicated to health services in advance of the requirement
- 3.4. Health service audit reports and annual attestations of compliance with the HPV Health Purchasing Policies must be verified by the health service Board.

Note 4. Mandated health services may use the services of the HPV Secretariat to regularly review policies and processes to ensure compliance with Health Purchasing Policies.

4. Procurement complaints management

- 4.1. A procurement complaint is an issue or concern expressed by a supplier in relation to the process or probity applied by a mandated health service when carrying out a procurement activity. The complaint should be a letter, email or fax lodged with a mandated health service's CPO.
- 4.2. The mandated health service must develop a procurement complaints management policy that sets out the process and procedures for addressing complaints, or ensure that procurement complaints are managed according to this policy in their general complaints management policy.
- 4.3. The investigation of a complaint and subsequent response must be overseen by a person not involved in the subject matter of the complaint. A mandated health service's procurement complaints management policy must be published in a public domain and easily accessible to a complainant.
- 4.4. The procurement complaint management policy must outline:
 - a. how the investigation will be dealt with including any specific processes defined in an individual procurement activity or contract
 - b. what documentation the organisation requires from the complainant in terms of scope and format
 - c. contact and lodgement details for all documents
 - d. timelines for conducting the investigation and providing a response
 - e. the range of outcomes available to the organisation in responding to a complaint
 - f. the escalation process for a review by HPV, should the findings and actions taken by the organisation not resolve the matter to the satisfaction of the complainant
 - g. other government bodies that may be able to assist
- 4.5. Mandated health services are to inform the HPV Board within five working days of any complaint that could not be resolved to the satisfaction of both parties.
- 4.6. The health service must maintain a register and report annually to their Board the following information in relation to each complaint received:
 - a. procurement activity to which the complaint relates
 - b. status of the complaint confirming whether it:
 - i. was resolved
 - ii. is still under investigation
 - iii. could not be resolved

Referring a complaint to the HPV Board for review

- 4.7. A complainant can refer a complaint to the HPV Board for review if not satisfied with the findings and actions of the mandated health service involved. This could be related to the management of the complaint or the application of the Health Purchasing Policies.
- 4.8. Complaints submitted to the HPV Board must be lodged by letter, email or fax within 10 working days of the receipt of the findings by the organisation to:

The Chair
HPV Board
Health Purchasing Victoria
Level 34, 2 Lonsdale Street
Melbourne Victoria 3000

- 4.9. The complainant must provide the following material:
 - a. evidence that the mandated health service did not correctly apply Health Purchasing Policies in relation to a procurement activity
 - b. evidence that the mandated health service's complaints management procedures were not applied correctly
 - c. a copy of all relevant correspondence between the complainant and the mandated health service in relation to the nature of the complaint
 - d. any additional material requested by the HPV Board to assist it in its findings
- 4.10. The HPV Board:
 - a. will inform the mandated health service and complainant of its findings and any further action it intends to take in relation to the matter
 - b. can require the CEO to audit its application of Health Purchasing Policies in relation to the procurement activity
 - c. can inform the Minister of Health of its review of a complaint and advise the Minister of further action that could be taken
 - d. may note the outcome of a review in relation to any complaint in its annual report to Parliament

HPV Health Purchasing Policy 2. Procurement Strategic Analysis

Determining the market dynamics, complexity of procurement and aligning capability

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1. Introduction

- 1.1. This policy outlines the requirements for determining the complexity level of procurement activities undertaken by a health service, and assessing the capability level needed to match the complexity of a procurement activity. The policy is mandated for all Schedule 1 and 5 public hospitals and health services (as listed in the *Health Services Act 1988* (Vic), hereafter referred to as 'mandated health services').
- 1.2. The Procurement Strategic Analysis policy covers three components:
 - a. Complexity assessment - complexity in procurement refers to the various internal and external factors that impact the intricacy and scope of requirements and/or issues involved in a procurement activity
 - b. Market analysis review - market analysis is the systematic review of the characteristics, capacity and capability of the supply market in order to understand the extent to which the market meets the needs of the health service
 - c. Capability assessment - indicates the level of capability in a mandated health service. Procurement capability is about matching the people, resources, systems and processes to the requirements of procurement activity, ensuring sufficient expertise and other resources are in place to carry out the procurement successfully to achieve best value outcomes

Note 1. Mandated health services may choose to establish a regionally based centre for expertise, to support procurement where an individual health service's capability is limited.

- 1.3. The assessment of complexity and capability focus on the category level of procurement and should take place early in the procurement process (Opportunity Assessment). However, the assessments should be reviewed throughout the procurement process as additional considerations and more detailed information is obtained from the engagement, analysis and sourcing strategy stages.
- 1.4. Figure 1 illustrates the end to end procurement process model and highlights the areas (steps 1 to 4) of the process to which this policy applies.

Figure 1: Procurement Model



2. Complexity assessment

- 2.1. Complexity assessment involves an analysis of the market and other factors influencing the various areas of spend of a mandated health service to inform the procurement process.

Initial complexity assessment

- 2.2. Mandated health services must assess the complexity of a procurement activity before it begins. Prior to the assessment, mandated health services must identify its procurement spend profile; where the health service's non-salary spend is categorised based on common supply and demand drivers and suppliers.
- 2.3. The assessment of complexity must initially be applied to:
- a. relevant categories of procurement
 - b. any individual procurement activity that:
 - i. does not fall into a category of procurement; and
 - ii. is strategic or of high risk to the business of the health service
- 2.4. Carrying out an assessment of complexity at the category level can identify individual procurements and strategic or high risk procurements that require further individual complexity assessment. An assessment of complexity involves:
- a. setting out the business requirements of the goods or service being purchased including the importance/criticality to the organisation and any risks involved
 - b. identifying and measuring the internal and external factors that affect the procurement
 - c. assessing the capacity, capability and motivation of the market to supply the goods or service (see section 3. Market analysis review)
 - d. setting out the value created by the procurement to the health service and analysing opportunities to improve value for money
 - e. analysing the opportunities for aggregating purchasing demand
 - f. analysing the opportunities within the procurement category or activity to improve the outcomes for local businesses and small to medium enterprises to participate in government procurement
 - g. investigating the best way to approach the market that is both cost effective to suppliers and buyers and considers opportunities for local businesses to participate

Complexity matrix

- 2.5. The outcome of the complexity assessment will allocate procurement categories and individual procurements into one of four categories of complexity, and guide the market and contract management approach for each category. HPV collective agreements may occur in categories in the leveraged, focused and strategic quadrants.

Complexity Quadrant	Description
Transactional	Small value and low-risk transactions where approved suppliers (e.g. HPV collective agreements) are not available or viable.
Leveraged	Frequently used goods/services in a competitive marketplace that are procured by an individual mandated health service or whole of health sector, where the mandated health service has the ability to drive value.
Focused	Procured goods/services where a limited number of suppliers are available or where novel commercial arrangements are in place.
Strategic	Goods/services in a competitive market that are high value, where business criticality is high, and/or where the good/service is of State significance.

Note 2. Details for how to complete a complexity assessment are detailed in the respective guide and tools available at the Health Purchasing Victoria website at www.hpv.org.au.

- 2.6. The mandated health service's Chief Procurement Officer (CPO) is to be consulted when determining the optimal approach to market for any procurement identified as strategic or high risk to the organisation. Consideration should also be given to engaging a probity advisor or probity auditor.
- 2.7. Where there is an existing HPV collective agreement in place for an identified category, mandated health services must observe the rules of use for the agreement. This may include a requirement to complete an assessment of complexity for an individual procurement under the agreement.

3. Market analysis review

- 3.1. Market analysis involves an assessment of the market dynamics, which informs the assessment of the complexity of the procurement activity and helps determine the best way to approach the market (taking into consideration market risks and any alternative solutions). It can also determine the viability of a procurement requirement.
- 3.2. The objective of market analysis is to understand the capacity of the market to supply the goods or services required in relation to:
 - a. suppliers and their market share
 - b. competition in the market, including potential for new entrants
 - c. product lifecycle
 - d. availability of substitutes for the good or service
 - e. cost model and drivers
 - f. market share represented by the health service's forecast demand
 - g. robustness of the supply chain
- 3.3. For each individual procurement activity, a mandated health service must:
 - a. consider the outcome of the initial complexity assessment to determine if the assessment at the category level establishes the basis for being able to approach the market
 - b. conduct further market analysis to improve understanding of the capability and capacity of the market to supply and to identify opportunities for market based solutions
 - c. reassess each procurement requirement with regard to the market analysis
 - d. undertake further complexity analysis at the level of the individual procurement activity where either:
 - i. the category assessment provides insufficient detail to determine the optimal approach to market; or
 - ii. the rules of use of an HPV collective agreement require it
 - e. consider engaging an independent probity advisor or probity auditor based on the complexity of the procurement and the risk to the organisation
 - f. prepare a statement of grounds, or business case, which supports the decision to proceed with the procurement and identifies the optimal market engagement strategy
 - g. consider how assets associated or accrued as part of the procurement activity will be managed and/or disposed
- 3.4. The mandated health service's CPO is to be consulted when determining the optimal approach to market for any procurement identified as strategic or high risk to the organisation. The approach to market must be approved according to the mandated health services procurement governance framework.

Note 3. Refer to *Health Purchasing Policy 4. Contract Management and Asset Disposal* for more information on asset disposal.

4. Capability assessment

- 4.1. The Chief Executive Officer of a mandated health service (CEO) must ensure that the organisation has, or has access to, an appropriate level of procurement expertise, resources, systems and processes that enable procurement activities to be completed successfully.
- 4.2. The assessment of capability must:
 - a. be carried out by people with appropriate knowledge and expertise
 - b. identify the capabilities needed to carry out the procurement activity
 - c. identify whether the capabilities in the organisation need to be developed or supplemented to undertake the procurement activity
- 4.3. An assessment of capability may be based on the whole organisation or on particular business units.
- 4.4. Where the mandated health service's capability does not match the procurement complexity, the CEO must ensure the required level of capability is secured from external sources.

Note 4. Health services may access required capability externally or at a regional level. Alternatively the HPV Secretariat should be contacted for advice.

Note 5. Refer to the *Health Purchasing Policy 1. Procurement Governance* for more information on roles and responsibilities.

HPV Health Purchasing Policy 3.

Market Approach

Ensuring fair, transparent and unbiased practices when engaging with the market

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1. Introduction

- 1.1. This policy outlines the requirements for approaching the market and engaging with potential suppliers. The policy is mandated for all Schedule 1 and 5 public hospitals and health services (as listed in the *Health Services Act 1988* (Vic), hereafter referred to as 'mandated health services').
- 1.2. The Market Approach policy is made up of three components:
 - a. Market approach - provides minimum requirements for engaging and sharing information with potential suppliers, in a fair and transparent manner
 - b. Evaluation, negotiation and selection - provides minimum requirements for evaluating, selecting and negotiating agreements with suppliers, fairly and equitably
 - c. Critical incident - establishes a transparent process for urgent procurement needs in the case of a clinical, operational or State health emergency
- 1.3. Figure 1 illustrates the end to end procurement process model and highlights the areas (steps 5 and 6) of the process that this policy applies to.

Figure 1: Procurement Model



2. Market approach

- 2.1. Analysis of the business requirements, the market's ability to respond and the complexity of a procurement activity, will guide the sourcing strategy including the market approach.
- 2.2. In addition to achieving the optimal value for money outcome, the market approach process must ensure all potential suppliers are treated fairly, have access to similar information and that standards of probity, confidentiality and security are applied in the conduct of all actions between the mandated health service and suppliers.
- 2.3. Mandated health services must develop and apply an appropriate market approach that:
 - a. encourages participation from the market segment relevant to the procurement activity
 - b. adopts a market engagement strategy that is cost effective for buyer and supplier
 - c. applies a market approach that engages with potential suppliers in a fair and equitable manner, and eliminates unnecessary barriers to participation by Small to Medium Enterprises (SMEs) and local businesses
 - d. have processes in place to ensure the confidentiality and security of bids from suppliers
 - e. provides sufficient time for potential suppliers to prepare a submission taking into account the complexity of the procurement activity and market factors
 - f. makes any material change to a procurement requirement available to all suppliers selected or registered to participate in the procurement process

Invitation to supply

- 2.4. When requesting the market to provide information or bid for a procurement activity, a mandated health service must detail requirements that:
 - a. clearly identify the conditions for participation
 - b. foster innovative or alternative supply solutions, where appropriate
 - c. structure specifications that have relevance to SMEs and local businesses, where appropriate
 - d. specify applicable broader government policy and Australian standards and/or regulations, where relevant, including any supplier charters or codes of conduct
 - e. develop an evaluation plan for carrying out supplier selection
 - f. specify the criteria and weightings to be used when evaluating submissions
 - g. indicate if the selection process will apply a process for shortlisting
 - h. do not adopt processes, technical specifications, conditions or a market engagement strategy that unfairly precludes relevant suppliers from participating in the potential supply arrangement

- 2.5. A mandated health service must provide the following minimum information:
- a. name and address of your organisation
 - b. headline details of the supply requirement
 - c. process timelines
 - d. address/site/method where documentation can be obtained
 - e. address/site/method where further information will be provided (if relevant)
 - f. address/site/method for receiving submissions
 - g. contact details for person(s) managing the market approach

Management of submissions received

- 2.6. A mandated health service must:
- a. provide a secure, physical submission facility and/or facility to receive electronic submissions and allocate responsibility for managing this to a business unit in the organisation
 - b. implement a process to inform suppliers of successfully receiving their submission:
 - i. immediately in the case of an electronic system; or
 - ii. within five working days of submission close in the case of a physical receipt facility
 - c. apply procedures in relation to late submissions that accord with the following protocols:
 - i. late submissions are not to be accepted unless the supplier can clearly document to the satisfaction of the mandated health service's Chief Procurement Officer (CPO) that an event of exceptional circumstances prevailed
 - ii. the CPO must also be satisfied that accepting a late submission would not compromise the integrity of the market approach
 - iii. ensure the details of late submission and the decision-making process for including or excluding late submission are included in the evaluation recommendation

3. Evaluation, negotiation and selection

- 3.1. Evaluation, negotiation and selection involve identifying the supplier(s) offering the best value for money to satisfy the mandated health service's requirements. A mandated health service may decide not to proceed with engaging a supplier if the evaluation and negotiation process cannot satisfy the requirements of the procurement activity.
- 3.2. Evaluating submissions requires high standards of probity and systematic application of evaluation criteria and weightings. Negotiation is an iterative activity conducted after shortlisting suppliers and undertaken when it will potentially add value to the outcome of the procurement activity. Supplier selection establishes a relationship that can deliver value added improvements beyond the requirements of the contract.

Evaluation of bids from suppliers

- 3.3. In preparing for evaluation of bids/information submissions from suppliers, mandated health services must:
 - a. follow an evaluation plan (including the details of an evaluation panel) which reflects the level of risk, complexity and value of the procurement activity
 - b. conduct the evaluation process with probity, fairness, consistency and impartiality and evaluate against the same specified criteria and weighting where provided
 - c. clearly define the role of the probity auditor/probity advisor and/or advisory groups formed to advise and assess elements of a submission
 - d. note and address any real or potential conflict of interest before starting the evaluation process
 - e. separate the roles of the probity auditor and probity advisor for procurement activity that is critical and/or high risk
 - f. document, and be able to defend, all stages of the decision making process
- 3.4. Mandated health services must also ensure that:
 - a. the evaluation process only considers a bid that meets the mandatory conditions of participation in the procurement process
 - b. when alternative offers are encouraged, they are submitted and evaluated together with other conforming offers
 - c. the capability of the people conducting an evaluation or negotiation process is adequate for the complexity of the procurement activity

Negotiation with shortlisted suppliers

- 3.5. Mandated health services must ensure:
 - a. the negotiation process is transparent, recorded and conducted in a manner that is fair and equitable for all parties shortlisted
 - b. negotiation outcomes are clearly defined and documented
 - c. negotiations seeking further information, improvements to a supplier's bid or a best and final offer are conducted in a consistent manner and that any accepted improvements are within the scope of the market approach

Supplier selection

3.6. Mandated health services must:

- a. inform all suppliers of the status of their submissions
- b. create a formal agreement between parties for the selected supplier(s) which clearly outlines the responsibilities of both parties including any commitments made in the supplier response to the invitation to supply concerning delivery of the requirements and performance measures
- c. debrief unsuccessful suppliers in relation to their submission, if requested

4. Critical incident

- 4.1. Critical incident protocols and processes are invoked when a relevant Minister or a Chief Executive Officer of a mandated health service (CEO) declares a critical incident to exist in relation to the operation of procurement processes by reason of at least one of the following:
- a. an emergency within the meaning of the *Emergency Management Act 1986*
 - b. an incident that causes the mandated health service's business continuity plan to be activated
 - c. an incident that represents a serious and urgent threat to the health, safety or security of a person or property
 - d. a situation that represents a serious or urgent disruption to services, including patient care, provided by the health service
- 4.2. In a critical incident, a mandated health service may adopt streamlined and flexible procurement processes to facilitate an immediate response to an emergency, crisis or disaster. If such a process is adopted, the mandated health service must:
- a. take into account value for money, accountability and probity to the extent that they can be applied given the severity and urgency of the incident
 - b. adopt minimum record keeping processes
- 4.3. Mandated health services must adopt a format for recording the following minimum information with a view to being accountable for decisions in relation to:
- a. the good/service being procured
 - b. the purpose of the procurement activity
 - c. the total value of the procurement (including GST)
 - d. the name and contact details of the supplier
 - e. a short summary of the procurement process followed
 - f. contact details of the party managing the procurement
- 4.4. Mandated health services must maintain a register and report annually to their Board the following information regarding procurement activities during a critical incident:
- a. total value of goods purchased
 - b. total value of services purchased
 - c. the nature of the critical incident to which the procurement values relate
 - d. the date at which procedures under critical incidents cease (as defined by the CEO)

Note 1. During a critical incident, all other Health Purchasing Policies do not apply to the extent that the critical incident makes it impractical to apply them.

Health Purchasing Policy 4.

Contract Management and Asset Disposal

Ensuring value for money outcomes are realised with effective and efficient contract management

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1. Introduction

- 1.1. This policy outlines the requirements for contract implementation and management to derive maximum benefit from the procurement outcome. The policy is mandated for all Schedule 1 and 5 public hospitals and health services (as listed in the *Health Services Act 1988* (Vic), hereafter referred to as 'mandated health services').
- 1.2. The Contract Management and Asset Disposal policy covers two components:
 - a. Contract management - the minimum requirements to ensure effective contract management, including the use of Health Purchasing Victoria (HPV) contracts; and
 - b. Disposal of assets - establishes a process and mechanism to manage disposal of assets as part of a whole of life appraisal of the procurement activity
- 1.3. Figure 1 illustrates the end to end procurement process model and highlights the areas (Steps 7, 8 and Category Management) of the process that this policy applies to.

Figure 1: Procurement Model



2. Contract management

- 2.1. Contract management is the systematic and efficient management of contract creation, execution and analysis for the purpose of maximising financial and operational performance and minimising risk.
- 2.2. Contract management operates at two distinct levels:
 - a. at the level of the organisation as a high level Contract Management Strategy (CMS)
 - b. at the level of individual procurement activity

Contract management at the organisational level

- 2.3. At the mandated health service level, a CMS can identify how individual contracts in a procurement category could be managed. It positions contract management issues at the beginning of the procurement planning cycle and allows for the effective allocation of resources.
- 2.4. Developing a CMS is part of the procurement strategy planning process after identifying procurement categories and carrying out an assessment of complexity.
- 2.5. At a minimum, mandated health services must include the following in its CMS:
 - a. the overall approach that will be used to manage contracts for categories or individual procurement activities in each complexity quadrant
 - b. processes to ensure people with the sufficient capability are allocated to manage each contract
 - c. a description of how performance measures (i.e. Key Performance Indicators) will be established and monitored for contracts in each complexity quadrant
 - d. processes for identifying and managing risks in contracts, including any contingency planning
 - e. processes to ensure any potential additional value is achieved through continuous improvement

Contract management at the individual procurement level

- 2.6. At the individual procurement activity level, contract management is the management of contracts made with the supplier(s) to ensure that goods and services are delivered as agreed over the life of the contract and that value for money is achieved.
- 2.7. Contract management as a function can extend beyond the current term of the contract, where there are on-going obligations associated with the contract, e.g. confidentiality, liability, guarantees, warranties or maintenance agreements.
- 2.8. Consideration of contract management issues is relevant across the elements of market analysis and review and market approach. At the market approach stage of sourcing, it can inform prospective suppliers about the organisation's intended legal arrangement in delivering the procurement requirement, including any performance standards and review mechanisms.

Note 1. Guidelines on developing a contract management plan are available at the Health Purchasing Victoria website at www.hpv.org.au.

Key requirements

- 2.9. A mandated health service must manage its contracts in a manner that is appropriate for the complexity and risk of the procurement activity.
- 2.10. At a minimum, the mandated health service must develop:
- a. a CMS for categories that represent a significant proportion of the health services spend
 - b. a Contract Management Plan (CMP) for each individual procurement activity that is critical and/or high risk
- 2.11. The Chief Executive Officer of mandated health services (CEO) must ensure that:
- a. contracts are managed on behalf of the health service by people with sufficient capability
 - b. contracts clearly define the deliverables, performance standards, and review mechanisms required from the supplier
- 2.12. The mandated health service must:
- a. keep an appropriate record of contracts on a contracts register
 - b. monitor contracts to ensure that key events are managed effectively including:
 - i. the contract expiry date, by initiating any necessary procurement action well in advance of expiry
 - ii. that timely decisions are made with regard to any contract options available
 - iii. the expiry date of insurance or other relevant certificates and that new certificates are obtained prior to expiry
 - c. ensure CMPs are implemented and monitored effectively

Note 2. Refer to *Health Purchasing Policy 1. Procurement Governance* on requirement to report details of contracts.

HPV collective agreements

- 2.13. HPV is responsible for:
- a. establishing HPV collective agreements
 - b. any formal variation of the HPV collective agreements
 - c. managing supplier performance, including resolution of any formal disputes and breaches of contract
- 2.14. Participating health services (see *Health Purchasing Policy 5. Collective Purchasing* for definition) are responsible for:
- a. the day-to-day purchases under the agreements
 - b. resolving any local Service Level Agreement (SLA) or local supplier performance issues that arise
 - c. report as required on supplier performance to HPV

2.15. HPV will:

- a. ensure adequate advance notification to participating health services of the details, including agreement price schedules and key contract terms, for:
 - i. newly established collective agreements
 - ii. agreement renewals, including any options to extend agreements exercised
 - iii. any other variations to agreements, including price variations
- b. provide sufficient time for participating health services to transition to any new agreement
- c. assist participating health services in identifying best value options in HPV agreements
- d. maintain a database of sales activity under HPV agreements, as reported by suppliers and/or health services and regularly share this information with participating health services
- e. where agreed with participating health services, maintain contract performance data reported by suppliers and/or health services
- f. communicate any changes to the rules of use or contract management terms
- g. take the necessary action in the case of a substantial breach of contract by any supplier that cannot be resolved by a participating health service

2.16. Participating health services must:

- a. work pro-actively with suppliers and HPV to transition within the designated timeframes to new HPV collective agreements
- b. communicate their requirements under the agreement directly with suppliers by issuing a purchase order or similar
- c. where indicated in the HPV agreement, establish SLAs with supplier(s)
- d. regularly monitor the performance of suppliers
- e. meet their obligations under the agreements, in particular with respect to payment terms, communication with suppliers and maintaining the security of all confidential and commercially sensitive information as per the terms and conditions of the agreements
- f. immediately notify HPV of any significant breach of the agreement by a supplier that cannot be resolved successfully directly with the supplier

3. Disposal of assets

- 3.1. This policy complements State government asset management policy requirements and the Victorian health policy and funding guidelines.

Note 3. "Assets" in this context include all current and non-current items, as well as consumables, and relates to all assets not dealt with under a separate Act or Government policy (e.g. land).

- 3.2. Mandated health service CEOs must assign responsibility, accountability and reporting requirements, to establish and maintain asset management so as to optimise value for money, minimise risk and sustain maximum service provision.
- 3.3. Disposal of assets should be considered when the asset is identified as being:
- a. obsolete due to changed procedures, functions or usage patterns
 - b. no longer complying with clinical or occupational health and safety standards
 - c. reaching its optimum selling time to maximise returns
 - d. beyond repair
 - e. surplus to requirements
- 3.4. Disposal of assets can present the health service with opportunities to optimise the use of an asset, including:
- a. extending the life of an asset by transferring it to another business unit or organisation
 - b. recovering material for recycling prior to sending the asset to landfill
 - c. transferring assets to not for profit organisations
- 3.5. The disposal of assets is a key consideration in the forward planning of any procurement activity. Assets of (or belonging to, or in the care, custody, or control of) a mandated health service are to be disposed of in a way that takes into account probity, security, sustainability and transparency, as well as environmental and social factors. A mandated health service must develop and apply an asset disposal process that details:
- a. parties/business unit responsible for managing the process
 - b. reasons for disposal
 - c. disposal options appropriate to the nature of the asset and broader government objectives
 - d. management of issues of risk, liability, safety and security
 - e. the process for keeping the health service's assets register up to date
 - f. issues of risk, liability, safety and security associated with the use of an asset by other parties when transferring an asset to another location or entity

- 3.6. The method of disposal will depend on whether the asset can be:
 - a. modified to extend the life of the asset
 - b. transferred to another party
 - c. recycled
 - d. traded-in
 - e. disposed of by way of public auction or public tender
- 3.7. Disposal of assets must be in accordance with the principle of probity, taking into consideration the cost of disposal, to achieve the best value outcome.

Health Purchasing Policy 5. Collective Purchasing

Understanding the requirements for collective purchasing and the obligations under such arrangements

25 May 2017

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Health Purchasing Policies are made by the Health Purchasing Victoria (HPV) Board in accordance with s134 of the *Health Services Act 1988 (the Act)*. All Schedule 1 and 5 public hospitals and health services as listed under *the Act* must comply with these policies which are legally binding, effective from date of publication in the Government Gazette.

The Health Purchasing Policy framework is based upon the VGPB supply policies, and must be complied with in conjunction with any relevant provisions of the current Victorian health policy and funding guidelines.

1. Introduction

- 1.1. The Collective Purchasing Policy outlines the requirements for health services to comply with collective purchasing arrangements set up by Health Purchasing Victoria (HPV), a mechanism to leverage demand and drive a better value for money outcome. The policy is mandated for all Schedule 1 and 5 public hospitals and health services (as listed in the *Health Services Act 1988* (Vic), hereafter referred to as 'mandated health services').
- 1.2. Figure 1 illustrates the end to end procurement process model. Collective purchasing involves all areas of the procurement process.

Figure 1: Procurement Model



2. Collective purchasing

- 2.1. Health Purchasing Victoria (HPV) may choose to enter into collective agreements or arrangements, including joint ventures (e.g. with health services or Department of Treasury and Finance) on its own behalf, or on behalf of one or more Schedule 1 or 5 public hospitals or health services (mandated health services). Mandated health services must purchase from any collective agreement or arrangement entered into by HPV on their behalf.
- 2.2. In addition to mandated health services, other 'health or related services', as defined in the *Health Services Act 1988* (Vic) that meet HPV's defined access criteria can also request to participate in any collective agreements or arrangements entered into by HPV as detailed in clauses 2.8 – 2.11 of this policy. Non-mandated health or related services granted access to HPV collective agreement(s) by HPV are hereafter referred to as 'non-mandated health services'. Mandated and non-mandated health services that are participating in a HPV collective agreement are referred to collectively as 'participating health services'.
- 2.3. The Victorian Government also undertakes aggregated purchasing, through arrangements that take the form of State Purchase Contracts (SPCs) or Sole Entity Purchase Contracts (SEPCs). As outer budget agencies, mandated health services and health or related services can access SPCs and SEPCs (where mutually agreed). HPV may mandate the use of a Victorian Government SPC or SEPCs by mandated health services where:
 - a. HPV has reviewed the terms of the SPC or SEPC and consider the arrangement good value
 - b. HPV has decided not to enter into an agreement in its own right on behalf of mandated health services, by virtue of the existence of the SPC or SEPC

SPC and SEPC contracts mandated by HPV will be published in the Victorian Government Gazette in *Schedule to Health Purchasing Policy 5. Collective Purchasing – HPV mandated SPC and SEPC contracts*.

Note 1. For more information on Victorian Government SPCs and SEPCs, visit www.vgpb.vic.gov.au.

Obligations of mandated health services

- 2.4. Mandated health services are required to:
 - a. abide by the results of the sourcing outcome, which HPV (or its appointed agent) institutes in accordance with this policy, and the terms and conditions of any resulting agreements entered into by HPV (or its appointed agent)
 - b. only purchase from a HPV collective agreement or arrangement, any good or service that has been sourced by HPV
 - c. where HPV has reviewed the terms of a SPC or SEPC and consider the arrangement good value and by virtue of the existence of the SPC or SEPC, decided not to enter into an agreement in its own right on behalf of mandated health services, purchase only from that SPC or SEPC
 - d. report compliance with HPV agreements and provide periodic purchasing and associated details as requested by HPV
 - e. refrain from engaging in any practices that may have a subverting effect on HPV functions, health service obligations under the *HPV Health Purchasing Policies* and HPV collective agreements

2.5. Unless:

- a. a specific agreement applies only to certain hospitals or mandated health services and the mandated health service is excluded
- b. the mandated health service is exempted as per clauses 2.16 – 2.19 of this policy

2.6. Mandated health services are also required to:

- a. assist HPV in identifying potential aggregation opportunities, including:
 - i. informing HPV if any spend analysis or complexity assessment indicates ground for aggregating demand or benefits from HPV involvement
 - ii. working with HPV to collect procurement data to assist in the identification process and to develop the HPV sourcing program
- b. provide input into the development of business cases as requested
- c. nominate participants in consultative and advisory groups, where appropriate, including executive, product or service reference groups or other advisory groups, that will contribute towards:
 - i. the development of specifications
 - ii. the evaluation of bid responses and/or other negotiations with suppliers
 - iii. development of contract Key Performance Indicators (KPIs) and a contract management plan
 - iv. an understanding of health services' resourcing, clinical and operational requirements to enable a successful transition to any HPV collective agreement
 - v. on-going management of the category to optimise contract utilisation and review supplier performance
- d. act as HPV's agent in conducting sourcing activities, where mutually agreed
- e. establish appropriate processes to ensure the security of all confidential and commercially sensitive information; in particular, supplier information
- f. inform HPV where they on-sell, or otherwise provide, goods and services on an existing or new HPV collective agreement to other mandated health services or non-mandated health services that have been approved by HPV to access the relevant agreement
- g. seek approval from HPV to on-sell, or otherwise provide, goods and services on an existing or new HPV collective agreement to health and related services, not currently approved by HPV to access the relevant agreement
- h. ensure agreements are in place with entities in receipt of HPV contracted goods or services that protect the confidentiality of the HPV agreements involved, including pricing
- i. cease, and refrain from commencing, on-selling, or otherwise providing, goods and services on an existing or new HPV collective agreement to non-health entities unless an exemption is granted by HPV for the particular arrangement
- j. report annually, or as otherwise requested by HPV, details of all on-selling arrangements that relate to goods or services under a HPV collective agreement.

- 2.7. HPV may approve arrangements under 2.6(g) or grant an exemption under 2.6(i) at its absolute discretion and subject to any number of conditions.
- 2.8. Where fees or charges are levied for on-selling goods or services, these must comply with the health service's legal obligations under the Victorian Department of Treasury and Finance's Competitive Neutrality Policy and other applicable legislation or policy.

Access by non-mandated health or related services

- 2.9. All non-mandated health or related services are eligible to apply for access to HPV collective agreements. All requests for access must be made to HPV. Where, at the discretion of HPV, access is granted to a non-mandated entity, it must enter into an agreement with HPV to comply with:
 - a. all the requirements of this policy that mandated health services are subject to
 - b. the rules of use established by HPV for purchasing and reporting under the HPV collective agreement to which access has been granted
- 2.10. Details of arrangements for application for access and granting access by HPV are available in the HPV Access to Contracts Policy (available on request from HPV).
- 2.11. HPV may, at its absolute discretion, assign rights of access to collective agreements to non-mandated health or related services. Factors to be taken into account by HPV in exercising this discretion include:
 - a. the factors listed under section 133 of the Health Services Act 1988
 - b. the benefit which would be gained by that agency
 - c. whether there is any disadvantage to mandated health services
- 2.12. The onus of providing evidence to establish whether access should be granted, as may be required by HPV, remains with the non-mandated health service seeking access.

Confirmed annual sourcing program

- 2.13. As part of its procurement activity plan, HPV will, in consultation with stakeholders, develop a schedule of prospective sourcing requirements covering at a minimum twelve months, which will include both "greenfield" categories and currently contracted categories due for renewal, with the intention to supplant (and perhaps expand upon) existing collective agreements.
- 2.14. HPV will publish a schedule of procurement activities derived from the prospective sourcing program, to be known as the 'Confirmed Annual Sourcing Program' (CASP), at least annually for the coming financial year, but more often as may be desirable or necessary to meet the needs of both stakeholders and the market.

Prior to publication the CASP may be amended by HPV to:

 - a. add categories, including any which may be required by government to fulfil a particular need, but which are not subject to consultation or notice as above
 - b. defer previously scheduled categories to a subsequent year
 - c. to remove a category from the CASP
- 2.15. At the date of publication of the CASP for a relevant period, mandated health services may only enter into a new contract, or renew any current contract, with suppliers for categories of goods or services which are the subject of the CASP, where there is a contractual capacity to terminate forthwith any such contract when a relevant HPV collective agreement for the same deliverables is

entered into. This obligation is removed for any category of goods or services removed from the CASP.

Exemptions from HPV collective agreements

- 2.16. The HPV Board, under its powers established in section 134 of the *Health Services Act 1988* (Vic), may exercise its absolute discretion at any time to grant an exemption to a participating health service from any of the provisions of this policy, where it is reasonably established that a special circumstance exists to justify the exemption, with or without condition. HPV will, in exercising its discretion to grant exemptions, have regard to the factors referred to in section 133 of the Act.
- 2.17. Specifically, participating health services may request, and HPV may grant, an exemption from purchasing from an HPV collective agreement as required by this policy in the following circumstances:
 - a. where a participating health service has a current contract in force in respect to the supply of particular goods and/or services at the time notification occurs that those goods and/or services are part of a CASP
 - b. on clinical grounds; i.e. to ensure that patients of the participating health service will receive clinically appropriate treatment or care
 - c. for operational reasons; i.e. to ensure the effective administration of the participating health service
 - d. where there is a significant negative impact on the viability of small or medium sized businesses, or local employment growth or retention
- 2.18. All requests for exemption must be submitted by the Chief Executive Officer of mandated health service (CEO) to HPV in accordance with the "Guide to Exemptions from HPV Collective Agreements". In particular applications for exemption must be accompanied by:
 - a. a statement of the reasons, including reasonable evidence of any arrangement the mandated health service has in place that may impact the relevant HPV collective agreement, or otherwise any reasons effectively preventing it at law from complying
 - b. any supporting documentation or other material which HPV believes is required to assist the making of a decision
- 2.19. HPV must record all requests for exemption and notify the HPV Board in accordance with the agreed delegations of authority for exemption decisions.