

Health and Safety:

A Good Practice Procurement Guide for Improving Health and Safety

2019

Government Health & Safety Lead

ACKNOWLEDGEMENTS

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- > Department of Corrections
- > Ministry of Business, Innovation and Employment
- > Ministry of Education
- > New Zealand Transport Authority
- > WorkSafe New Zealand
- > CosmanParkes
- > Construction Health and Safety New Zealand
- > Business Leaders' Health and Safety Forum
- > New Zealand Council for Trade Unions

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FOREWORD

For a small country, we do a lot of purchasing in a wide variety of industries. In fact, Government agencies spend approximately \$41 billion a year on procurement. Government can leverage this spending to achieve outcomes beyond the goods and services being purchased. Achieving public value means ensuring that when we engage suppliers, the health and safety of New Zealanders is prioritised.

New Zealand continues to have a high rate of work related harm, but by working together we can help to prevent work related injuries and illness. The Government in its *Health and Safety at Work Strategy 2018-2028* sets out a plan to become leaders in this critical area, growing a robust, healthy and safe environment for all New Zealanders. The way we procure will contribute to this vision.

The 4th Edition of the Government Procurement Rules, the Government Procurement Charter, and the Supplier Code of Conduct all reinforce the expectation that government agencies will engage with businesses that have good practices, including suppliers and sub-contractors that comply with all relevant health and safety requirements.

As Government, we want to be exemplars for health and safety not just in our sector, but in New Zealand. In this way, government agencies can influence and change behaviour and practices to improve health and safety outcomes across industries.

Evidence shows that lifting health and safety performance not only improves health and safety outcomes, but also those around quality, cost savings and the effectiveness of the services we're procuring. This guide has been developed to support those who are responsible for the purchasing within their organisations as well as those who are already well versed in health, safety and wellbeing processes. It aims to help them understand why health and safety can be an important consideration in procurement and how to incorporate it into each phase of procurement. It asks agencies to take an approach that is proportional to the risk.

Significant work has gone into making this guide a clear blueprint for those who use it. We would like to thank the Department of Corrections, Ministry for Business Innovation and Employment, Government Health and Safety Lead, Ministry of Education, New Zealand Transport Authority, WorkSafe New Zealand, CosmanParkes, Construction Health and Safety New Zealand, Business Leaders' Health and Safety Forum and the New Zealand Council for Trade Unions for their important contribution to this guide. We are confident the information contained in this guide will be a valuable tool for agencies and the wider sector.



RAY SMITH
**Government Health
and Safety Lead**
Director General,
Ministry for Primary
Industries



CAROLYN TREMAIN
**Government
Procurement Lead**
Chief Executive, Ministry
of Business, Innovation
and Employment

QUICK GUIDE

IMPROVING PROCUREMENT OUTCOMES THROUGH HEALTH AND SAFETY

Prioritising good health and safety practices as a strategic objective in procurement makes good business sense. It delivers harm reduction, cost savings, enhanced organisational performance and long-term financial gain.

WHAT SHOULD YOU FOCUS ON?

PLAN

Evaluate health and safety risks in procurement

Consider suppliers, product options, processes for delivery and how people, particularly the end user, and the product/service may interact in your environment. This may require delivering health and safety training to people in procurement roles.

Cultivate effective relationships

Build relationships based on: trust, commitment, interdependence, cooperation, communication and joint problem solving.

Map roles and responsibilities

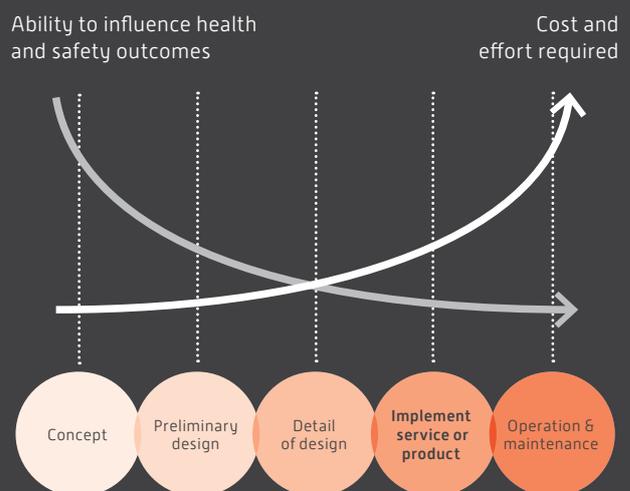
Clearly define and effectively communicate roles and responsibilities for you and your suppliers.

Develop a plan

Provide clear and concise information and set standards relevant to your agency's risk appetite. Understand your agency's capability, experience and what it takes to drive good health and safety outcomes in procurement.

Reflect health and safety in the design and the entire lifespan of the procurement

Consider how healthy and safe practices can impact outcomes at all stages of procurement, particularly the earlier stages such as design. Also consider the cost of correcting health and safety oversights at the start of the procurement process vs the end.



Adapted from Szymberski, R, [1997], Construction Project Safety Planning. TAPPI Journal, 80 [11], 69–74

This guide is useful for:

- > people undertaking procurement
- > people managing health and safety
- > issuers of grants and subsidies.

HOW TO USE THIS DOCUMENT

Those who are new to considering H&S in procurement may wish to use this quick guide to initially consider how applying a health and safety lens can improve procurement outcomes.

The full guide can be used to provide a more detailed explanation.

CHECKLIST

Evaluate health and safety risk

- ✔ Consider the different contexts, activities, environments, people or groups that impact workers and procurement end-users.
- ✔ Calculate the level of health and safety risks of the procurement.
- ✔ Consider other benefits that can be gained from the procurement.

Roles and responsibilities

- ✔ Identify where health and safety duties are shared with your supplier.
- ✔ Clearly define and agree roles and responsibilities for your agency and the supplier.
- ✔ Consider how the supplier's health and safety performance will be measured.

Relationships

- ✔ Consider how you will manage relationships before and throughout the procurement.
- ✔ Consider effective two-way communication channels with all relevant stakeholders (not just suppliers).
- ✔ Consider the six key areas for positive relationships – trust, commitment, interdependence, cooperation, communication, joint problem solving.

Procurement planning and evaluation

- ✔ Ensure you have the right people in the right roles for the procurement.
- ✔ Understand your procurement needs before you start, including any pre-work.
- ✔ Determine what your minimum health and safety standards are.
- ✔ Consider health and safety risks through the entire life of the procurement; scoping, building, implementation and maintenance.
- ✔ Consider where innovation may enable or improve health and safety standards.

QUICK GUIDE

As government we should be leading procurement best practice

WHAT SHOULD YOU FOCUS ON?

SOURCE

Approach and evaluation criteria

Appropriate criteria should be set for supplier pre-qualification, tender and performance indicators.

Submission evaluation

PROCUREMENT HEALTH AND SAFETY RISK

	Low	Medium	High
Recommended range for weighting the tender score	5 – 10 %	10 – 15 %	15 – 20 %
You may require mandatory health and safety standards and weighted criteria depending on the nature of the procurement			

CHECKLIST

Procurement approach and evaluation criteria

- ✓ Conduct market sounding (if local capability or capacity is limited).
- ✓ Share your procurement business case, risk assessment, threats and benefits with suppliers where appropriate.
- ✓ Ask suppliers for a health and safety plan that sets out how their work may impact the health and safety of everyone affected by the project.
- ✓ Clearly articulate and link your expectations for procurement with key performance indicators, suppliers' health and safety plans and how they will be assessed when tendering.
- ✓ Conduct appropriate due diligence on suppliers during the pre-qualification and tender stage(s).
- ✓ Consider how the type of contract you use will drive health and safety performance and behaviour.
- ✓ Consider what makes good health and safety measures and develop appropriate KPIs.

Submission evaluation

- ✓ Consider health and safety weightings appropriate to risk in tender evaluations.
- ✓ Carefully consider any competitive suppliers and whether there are undesirable underlying reasons giving them advantage.
- ✓ Consider what can be done to lift the health and safety performance of suppliers who don't immediately meet your pre-qualification or tender requirements.
- ✓ In high-risk procurements ensure an executive staff member is appropriately involved in supplier selection.

WHAT SHOULD YOU FOCUS ON?

MANAGE

Contract management

Weave clear health and safety objectives into the procurement discussions.

Ensure the supply chain is clear on your health and safety expectations and intended procurement outcomes.

Monitor and assess performance through supplier self-assessments, agency/principal assessments and independent assessments.

Clearly link assessment to health and safety expectations, the supplier's performance indicators and plans.

Supplier evaluation and contract closure

Consider whether the procurement process achieved its goals? If not, what should be done to improve?

CHECKLIST

Contract management

- ✔ Establish regular two-way communication channels that cover health and safety matters.
- ✔ Establish regular updates on health and safety performance of suppliers during and after the procurement to gain adequate assurance.
- ✔ Challenge information provided to confirm health and safety assurance, particularly for critical risks and controls.
- ✔ Ensure that both parties are aware of their areas of good performance as well as underperformance and how these can be addressed together.
- ✔ Reiterate the link between the agency's health and safety expectations, KPIs, plans and how the supplier is being evaluated.

Supplier evaluation and contract closure

- ✔ Undertake a post-implementation review to ensure that health and safety objectives have been achieved and opportunities have been realised.
- ✔ Share learnings from the review with the relevant people in the organisation and the relevant supplier(s).
- ✔ Store learnings in a way that can be effectively accessed and used for future procurements.



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FULL GUIDE

This guide provides general practical guidance to individuals involved in any type of procurement to enhance outcomes for government organisations.

Procurement covers all aspects of the acquisition and delivery of goods or services, spanning the whole contract life cycle from the identification of needs to the end of a service contract, or the end of the useful life and subsequent disposal of an asset. Procurement in this guide also refers to the issuing of grants and subsidies.

This guidance is aligned to the 4th edition of the New Zealand Government Procurement Rules.

WHY HEALTH AND SAFETY MATTERS IN PROCUREMENT

Government agencies undertake a significant amount of procurement, giving them the ability to improve the lives of New Zealanders by protecting them from harm. Doing so also helps agencies to achieve one of the government's set priority outcomes for agencies to leverage from their procurement activities: *Improving conditions for workers and future-proofing the ability of New Zealand businesses to trade.*

Government agencies also have an obligation under the *Health and Safety at Work Act 2015* (HSWA) to ensure, so far as is reasonably practicable, the provision and maintenance of a work environment that is without health and safety risks.

Health and safety is an imperative. But beyond that, as government agencies and public servants, we have a duty to lead by example. Building health and safety into all our work, into every contract, sets an example of the good practice we want to achieve.

Sometimes agencies need to engage suppliers to do work which can be inherently high-risk, thereby putting workers at risk. For example, engaging a helicopter supplier to fly towards a burning forest and assist with extinguishing fires.

Prioritising good health and safety standards as a strategic objective makes good business sense; meaning agencies can meet their ethical and legal obligations to prevent harm to contractors, staff and the public.

Delivering good health and safety standards in procurement

The procurement of products and services is done to fill a capability gap in an organisation. It also provides benefit to the supplier.

In procurement there are two principles that aim to deliver good health and safety standards:

- > Plan and manage for great results
- > Get the right supplier.

HOW GOOD HEALTH AND SAFETY PRACTICE HELPS PROCUREMENT

Evidence suggests that effective integration of health and safety by getting the right supply chain and effectively planning and managing health and safety into procurement, drives enhanced performance around:

- ✔ productivity
- ✔ quality
- ✔ short and long-term financial gain.

In the case of government, this means more effective and efficient public services as well as improved outcomes for New Zealanders.

It is easier to influence changes at reduced effort and cost earlier in the process, so considering health and safety implications through the procurement process and the life of products saves money.

The relationship between the influence over health and safety standards and the relative cost at each stage of the design and procurement process is sometimes known as Safety in Design. This is illustrated in the diagram below.

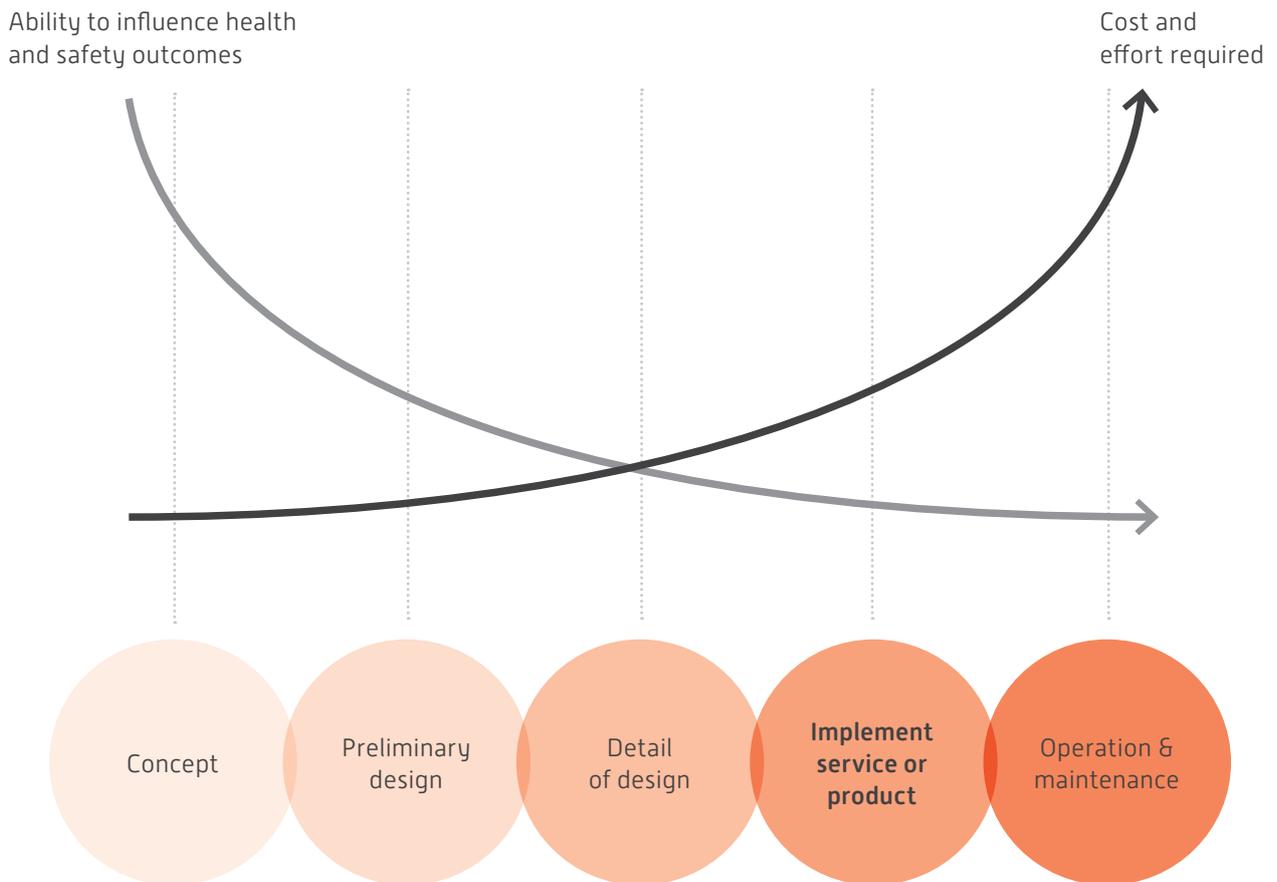
TIP: Design with health and safety in mind as business as usual is hard to change.

HOW HEALTH AND SAFETY IN PROCUREMENT HELPS NEW ZEALANDERS

By incorporating good health and safety throughout the procurement process government agencies can:

- ✓ be better employers
- ✓ be leaders in this area
- ✓ help to ensure that people go home healthy and safe each day.

By lifting the health and safety performance of their procurement, government agencies can also lift the performance of health and safety across New Zealand through private sector partners who meet government's standards.



Adapted from Szymberski, R, [1997], Construction Project Safety Planning. TAPPI Journal, 80 [11], 69–74.

CASE STUDY

Ministry of Education

The Ministry of Education used procurement processes that focused on clear sourcing requirements, working with suppliers to enhance capability and risk management. This delivered a number of benefits to the Ministry:

- ✓ enhanced performance of suppliers
- ✓ improved management confidence in contractor capability
- ✓ improved health and safety conversations as part of business as usual activity.

Read more on the [Government Health and Safety Lead website](#).

ACHIEVING BETTER PROCUREMENT THROUGH A HEALTH AND SAFETY LENS

Making health and safety part of the overall procurement process involves considering health and safety implications in each phase from start to finish. Health and safety isn't something that can be reliably 'bolted-on' at the end (or any other phase on its own).

Understand the level of health and safety risk

To apply the correct management or approach to health and safety it is important to understand the context of the risk within your agency.

For example, purchasing brooms for use in a corporate office presents a different level of risk to purchasing brooms to be used in correctional facilities. In each case a different approach to managing risks in procurement is applied.

Consider the overall risk profile

Health and safety risk should be considered as one dimension of an overall risk profile that each procurement represents. There will be other potential risks such as financial, operational, and reputational risk. But health and safety considerations are no less important when the procurement financial cost is low.

Focus on relationships

Positive and collaborative relationships are critical to achieving the best procurement outcomes. Focusing on creating, maintaining and enhancing collaborative working relationships with suppliers drives a culture of delivering healthy, safe, quality, and timely results. By fostering positive partnerships agencies can maximise opportunities to access health and safety capabilities that they may not have and learn from each other.

Consult, cooperate and coordinate

Two-way communication along the supply chain enables consultation, cooperation and coordination at each stage of procurement. An absence of this is a key cause of health and safety failures.



Section 34 of HSWA requires all organisations to consult with other organisations with the same duty of care.



Work with relevant people

Involving the right people throughout the procurement enables diversity of thought and well informed decisions to be made. Agencies can have a range of health and safety knowledge, skills, experience and expertise within their teams. Frontline staff exposed to the risks, frontline managers, health and safety representatives and unions may have different perspectives due to their exposure and knowledge of risk. This makes each of them relevant when considering health and safety.

Be dynamic and flexible

It's important to have processes and procedures in place, but it's equally important to be dynamic and open to situational variations. When unique challenges are identified, unique responses may be required. This should be done in consultation with the relevant stakeholders, including suppliers and knowledgeable experts.

Before starting a procurement, consider whether:

- > the benefits of the procurement outweigh the expected health and safety risks
- > there is sufficient health and safety capability, capacity and expertise to undertake the procurement
- > responsibility for the health and safety of workers and others can be easily met through the whole life of the procurement and the entire contractor supply chain
- > the primary duty of care is being met under the *Health and Safety at Work Act 2015*
- > consider how the procurement may change and how your plan needs to be flexible and dynamic.

If any of these considerations can't be met, then changes may need to be made in order to undertake procurement that adequately ensures health and safety.

MORE INFORMATION

For more information about primary duty of care, take a look at **WorkSafe New Zealand's website**.



PLAN

Before approaching and selecting a supplier

Your procurement plan should:

- > **Evaluate the risks:** understand what health and safety risks are being created by this procurement activity and assess the level of risk for this procurement.
- > **Establish how effective relationships will be built:** how two-way communication processes and expectations for effective relationships throughout the procurement process will work.
- > **Make roles and responsibilities clear:** identify appropriate roles and responsibilities for you and your supply chain.

EVALUATING HEALTH AND SAFETY RISKS IN PROCUREMENT



CHECKLIST: Evaluating health and safety risk

- ✓ Consider the different contexts, activities, environments, people or groups that impact workers and procurement end-users.
- ✓ Calculate the level of health and safety risks of the procurement.
- ✓ Consider other benefits that can be gained from the procurement.

Identifying and evaluating health and safety risks early on in the procurement enables better opportunities to manage the risks. This means lower risk of harm through more optimal controls and lower costs compared to addressing the issue downstream during implementation or post-implementation.

Some health and safety risks can be managed or designed out at an early stage with little effort or cost by carefully considering:

- > supplier options
- > product options
- > delivery processes
- > ongoing maintenance or delivery of a product
- > interaction or impact of the end user with the new product or process.

For example:

- > when engaging social workers to support New Zealanders back into the workforce, risks such as violence and aggression should be considered
- > the design of a new carpark building should consider any blind corners that can increase the risk of collisions.

Supply chains

Health and safety risks, along with the methods for effectively controlling them, can vary depending on the type of supply chain required. Consider things such as:

- > the activities that suppliers will be required to undertake and different types of risk involved
- > the environment your supplier will work in
- > other people or groups inside and outside the organisation that the work may impact
- > the impact on end-users
- > the period of time that the whole procurement life will cover
- > how the procurement will be operationalised, e.g.
 - » design-implement (typical for services)
 - » design-implement-maintain (typical for products)
 - » design-build-implement-maintain (typical for infrastructure).
- > the most appropriate contract type to deliver the best outcomes

- > the need for any temporary works, such as temporary fences, bridges, access roads or scaffolding, and how these may create health and safety risks
- > how appropriate design can solve your health and safety challenges.

Determining the realistic potential for harm

When evaluating the potential for harm, it's critical to ensure that the right people are involved to consider foreseeable outcomes. This could include:

- > operational staff
- > unions
- > management
- > health and safety specialists and representatives.

It may also require input from the contractor once selection has been made.

Before controls are applied, it's important to consider the inherent risks and determine the potential severity of those inherent risk.

To determine the severity of harm consider:

- > what type of harm could occur (health as well as safety). **Approximately ten health-related fatalities occur for every safety-related fatality in New Zealand¹.**
- > what factors could influence the severity of the harm
- > where in the procurement process do the key health and safety risks exist
 - » Goods: is the risk in the manufacture, delivery, use or disposal
 - » Services: where are the services being delivered, who will be impacted.
- > are specific expertise, tools or processes required to assess severity
- > how many people could be exposed to the hazard
- > who is at risk – the installer, the maintainer, the customer or all
- > could one failure lead to another failure
- > could a small event escalate to a much larger event with more serious consequences.

Consider whether the potential harm could result in:

- > Minor injury / illness /first-aid injury or
- > Serious injury / illness or fatality.

EXAMPLE

Procuring a roofing contractor to undertake roofing repairs on a facility may result, in the worst case scenario, where a worker falls from height or develops silicosis from dust exposure, so a harm severity of 'fatality' would be appropriate.

Determine the likelihood of the identified potential harm occurring

When evaluating the likelihood of the identified harm occurring, consider:

- > whether the context of this harm is relevant to your organisation's objectives
- > what local or international data indicate to be the likelihood of harm occurring
- > whether the likelihood of harm is so low that it is not relevant for risk management
- > what previous experience your organisation has contracting or performing this type of work
- > how often people are exposed to hazards
- > the track record and capability of the proposed supplier – what is their injury record when performing similar work?

Consider whether the likelihood of potential harm identified is:

- > likely to occur (50% chance or more)
- > unlikely to occur (less than 50% chance).

Calculate the risk

When calculating health and safety risks, use the highest possible level of risk in evaluating the overall profile, especially if there is a risk of serious injury or death.

Prior work may be needed to conduct an accurate risk assessment. For example a geotechnical assessment may be required when working with construction suppliers.

By plotting the severity and probability on the matrix below, you can identify the approximate level of risk that a procurement creates.

If your procurement risk is medium or high, a more robust risk assessment should be undertaken.

¹ [worksafe.govt.nz/laws-and-regulations/operational-policy-framework/worksafe-positions/work-related-occupational-health](https://www.worksafe.govt.nz/laws-and-regulations/operational-policy-framework/worksafe-positions/work-related-occupational-health)



Health-related causes of harm should be a key consideration when calculating risk. Health related harm can result from risks including, but not limited to: hazardous substance and dust exposure, fatigue and mental health risks.

TIP: Lower your risk profile

Procuring work from professional service providers and contractors who effectively incorporate health and safety in their operations can lower your risk profile. These include, but aren't limited to consultants, architects, quantity surveyors, cleaning contractors.

You can lower your risk profile by engaging one large supplier, rather than engaging with multiple suppliers individually. This can be achieved when larger suppliers, who sub-contract specialist work to smaller suppliers, have superior resources and experience managing smaller suppliers/ subcontractors.

Likelihood	Likely 50%+	Medium Risk	High Risk
	Unlikely <50%	Low risk	Medium Risk
		Minor Injury / Illness / First-aid injury	Serious Injury / Illness or Fatality
		Harm Severity / Worst Case	

Health and safety controls should be proportional to the level of risks, rather than the financial value of the procurement.

Financial or administrative costs for health and safety controls may be high relative to the overall cost of the work, but if the risk is also high (with potential for serious injury or death), it still delivers appropriate value to government and ultimately to New Zealand.

Take advantage of opportunities to share and learn

Managing risks appropriately in your environment can enable positive outcomes. Engaging a supplier with a high level of health and safety awareness and risk management can enhance the health and safety maturity of your organisation.

Sharing skills and knowledge across agencies and suppliers not only minimises risks, but benefits all New Zealanders and the market of suppliers – particularly in regional areas.

The full benefits of knowledge sharing and positive outcomes are achieved when opportunities (positive risks) are managed and controlled similar to threats (negative risks).

The risk matrix framework below can be used to determine opportunities and enable the implementation of controls to increase the likelihood and benefits of an opportunity.

Likelihood	Likely	Medium Risk	High Risk
	Unlikely	Low Risk	Medium Risk
		Minor benefits	Significant benefits
		Benefit / Best Case	

MORE INFORMATION

Need more help?

If your agency is planning to procure for high-risk work, you may wish to discuss this with the government's functional leads for **Procurement** and/or **H&S**.

ACHIEVING EFFECTIVE RELATIONSHIPS



CHECKLIST: Relationships

- ✓ Consider how you will manage relationships before and throughout the procurement.
- ✓ Consider effective two-way communication channels with all relevant stakeholders (not just suppliers).
- ✓ Consider the six key areas for positive relationships – trust, commitment, interdependence, cooperation, communication, joint problem solving.

Having strong relationships with suppliers enables easier collaboration and is often key to achieving good health and safety outcomes.

Relationships become increasingly important as the level of risk increases.

Effective relationships are two-way and are maintained on a regular basis. Mutual respect can be built between all parties by looking for opportunities throughout the procurement process to collaborate, coordinate and cooperate.

Relationship building starts well before the procurement process and is just as important in one-off transactions as it is in ongoing procurement arrangements. This is an important part of MBIE's market engagement guidance.



TIP: Start working on your relationships before your documents.

Early phases of procurement establish the formal expectations, responsibilities and opportunities to cooperate and collaborate before issues arise.

There are six key areas for creating and maintaining positive relationships.

1. Trust – trust that the other side can be relied upon, the relationship will not be exploited, and extra effort will be consistently made. This trust should be warranted through verification and not done blindly.
2. Commitment – for the relationship to endure, there must be a complete commitment to jointly risk, share and win together.
3. Interdependence – acknowledgement that both the government agency and supply chain need each other to be successful in achieving their shared goals.

4. Cooperation – recognition that achieving these mutual goals through collaboration and cooperation is a result of integrated self-interests and not based upon altruism.
5. Communication – communication is accurate, relevant, open and timely.
6. Joint problem solving – problems are solved openly and together.

These six areas of focus are interconnected – trust is easier to establish with accurate and relevant communication.

CASE STUDY

Transpower

When Transpower looked into the poor safety performance of their tower painting contractors, they realised they had a commercial problem, not just a safety problem.

Transpower recognised that a new approach based on respect, collaboration and building long-term relationships was necessary.

Read more on the [Zero harm website](#)

MORE INFORMATION

For more information on relationship management, see [MBIE's guide for contract and relationship management](#).

DEFINING CLEAR ROLES AND RESPONSIBILITIES



CHECKLIST: Roles and Responsibilities

- ✓ Identify where health and safety duties are shared with your supplier.
- ✓ Clearly define and agree roles and responsibilities for your agency and the supplier.
- ✓ Consider how the supplier's health and safety performance will be measured.

Working with suppliers can be complex and dynamic.

Agencies engage suppliers because they have capability that agencies don't have and are often the experts in their particular area. For this reason, agencies should partner with suppliers, rather than micro-manage how they do their job.

During the early phases of procurement, each party should establish their expectations and work together to agree on and define clear responsibilities.

Often critical activities can be misinterpreted as someone else's responsibility – WorkSafe New Zealand has accepted enforceable undertakings from organisations who've failed to do this effectively.

Identifying critical activities and overlapping duties (refer to page 18), and assigning roles and responsibilities at the start is crucial when working together to manage any risks.

Suppliers should also be clearly informed about how their health and safety performance will be measured.

Government agency's roles and responsibilities

Everyone involved in a procurement has a level of responsibility to ensure a healthy and safe workplace. These responsibilities are often ongoing and should ideally be flexible, based on the nature of the supply chain.

Note: this list of roles and responsibilities is not exhaustive.

Chief Executive

- > Gain assurance on the systems and processes in place to ensure health and safety in procurement.

H&S Governance Committee

- > Ensure significant procurement activities are aligned to the agency's strategic health and safety direction.

- > Ensure the executive responsible and procurement teams are held accountable for the health and safety outcomes of procurement activities.
- > Ensure key information from procurement activities is recorded and stored for future use.

Executive responsible for ongoing relationship with the supply chain

- > Ensure relationships are maintained between the government agency and the supply chain.
- > Gain assurance that the supply chain has the capacity to work safely and are doing so, particularly for high risk procurements.
- > Ensure the right procurement approach is in place.
- > Select the supplier for high-risk procurements, such as the use of helicopters, or a significant construction project.
- > Make it clear who owns the critical risks and who is directly responsible for their critical controls.

Head of procurement function

- > Undertake initial risk assessments.
- > Ensure that health and safety performance is evaluated and maintained throughout the procurement.
- > Ensure that suppliers are adequately engaged with.
- > Ensure that the right procurement practices are followed.

Contract manager

- > Get assurance that the supply chain understand the risk share arrangements, terms of the contract, the formal and informal expectations. [See risk share allocation on page 19.]
- > Ensure the supply chain fully understands the agency and it's context, to enable the supply chain to keep the agency and all workers safe.

- > Provide support to the supply chain.
- > Maintain relationships with operational and managerial staff employed by supply chain.
- > Monitor contract performance and progress.
- > Provide assurance to senior leadership that the supply chain has the capacity to, and is, working safely – particularly for high risk procurements.
- > Review procurement outcomes to ensure that intended benefits are realised.

Health and safety representatives

- > Review the health and safety risks and assist with assessment of medium and high-risk procurements.
- > Provide advice on controls to reduce health and safety risks at each stage of procurement.
- > Assist with monitoring of the supply chain.

External professional service providers

This group includes external project managers, architects and consultants that assist with project delivery or an entire procurement process.

- > Agree on the specific roles, responsibilities and objectives as appropriate to the function of the role.
- > Report to the government agency's procurement and health and safety functions on supply chain performance.
- > Where the level of risk is high, report to the executive group.

Supplier roles and responsibilities

To clearly define the roles and responsibilities of suppliers, it's important to first understand their role and how they're connected to the agency. This will also help to understand the overlapping health and safety duties that exist and the types of supplier relationships.

Overlapping duties

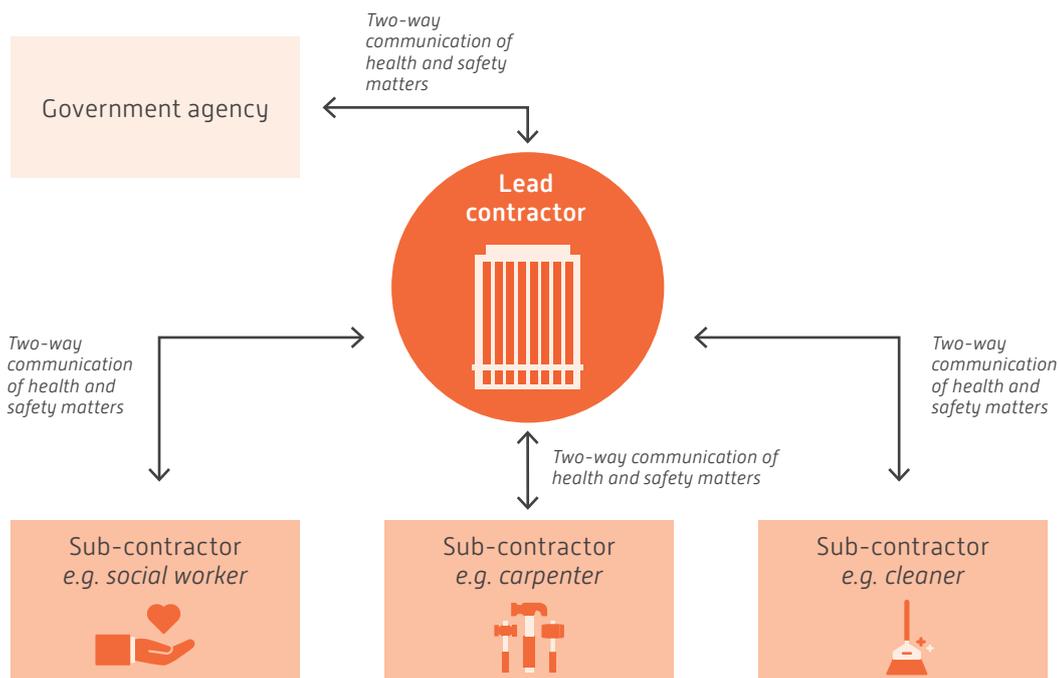
Overlapping duties exist when two or more businesses are working together at the same location or through a contracting supply chain. Health and safety duties overlap because these businesses can influence the health and safety risks affecting themselves and each other.

Better health and safety results are typically seen when an agency governs health and safety, rather than attempting to directly manage the health and safety of their supplier.

In these instances, agencies are responsible for health and safety standards and must work with the supplier to identify and manage the risks. To do this effectively, agencies need to consult, cooperate and coordinate regularly with the supply chain.



Agencies cannot contract out of their health and safety responsibilities by engaging a supplier.





The process of identifying overlapping duties should begin during the planning stage to identify risks, be confirmed with suppliers during selection, and continuously reaffirmed during the implementation of the procurement.

It's also important to consider how any overlapping duties will vary depending on the different type of procurement being undertaken. For example:

- > a new fleet of vehicles may create overlapping duties in product design and maintenance
- > cleaning contracts may create overlapping duties with regard to design of services, implementation and both organisation's operations
- > a new building may create overlapping duties with regard to design, implementation, both organisation's operations and maintenance.

To avoid confusion around who does what, be up-front about who's responsible for specific tasks and ensure that overlapping duties are appropriately actioned.

Each task should be undertaken by the party who has the greatest influence and control over health and safety standards.

A party can have influence and control over:

- > the work tasks
- > the workplace
- > the workers.

All parties should:

- > discuss what work activities are being carried out
- > agree on the level of influence and control each business has
- > agree on who will manage what and how it will be managed
- > regularly monitor how things are going.

MORE INFORMATION

For more information on overlapping duties, see **WorkSafe New Zealand's guidance**².

Risk allocation

A government agency cannot contract out of its duty of care to workers, including suppliers.

The allocation of each health and safety risk should be agreed between the government agency and the supplier and allocated to the party who can:

- > identify the risk
- > control the risk
- > gain benefits, incentive or innovation from managing that risk.

The below table contains information on the types of workplace relationships that you may encounter in a government agency. The following matrix can be used to assist you in determining whether an agency or a supplier should be agreed as responsible for leading the different parts of health and safety within the procurement.

CASE STUDY

Z Energy

Z Energy created a responsibility map of its supply chain and a framework of the different relationships it held with its partners.

By doing this, Z Energy was able to improve operational risk management, use resources better, enhance relationships and reduce legal risk.

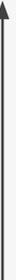
Read more on the **Zeroharm website**.

The table on the next page contains information on the types of workplace relationships that you may encounter in a government agency. The following matrix can be used to assist you in determining whether an agency or a supplier should be agreed as responsible for leading the different parts of health and safety within the procurement.

2 <https://worksafe.govt.nz/managing-health-and-safety/getting-started/understanding-the-law/overlapping-duties/overlapping-duties-quick-guide>

<https://worksafe.govt.nz/topic-and-industry/building-and-construction/building-health-and-safety-into-contract-management>

Types of supplier relationships

Emphasis of relationships 	<p>We're in it with them</p> <p>Suppliers who will rely on their relationship with an agency for ongoing operations. The agency provides work instructions, support and assets in order for these partners to conduct their business.</p> <p><i>For example a correctional facility owned and run by a third party provider on behalf of the Department of Corrections.</i></p>
	<p>We're connected</p> <p>Suppliers whose manual/physical work will be conducted at an agency's workplace.</p> <p><i>For example an electrician undertaking scheduled maintenance of property owned by a government agency.</i></p>
	<p>We're joined</p> <p>Independent suppliers where an agency has an interest in the operations. The agency owns or leases assets on the supplier's site and issues instructions to the supplier based on the agency's expectations for operations.</p> <p><i>For example a Customs NZ office based in a privately owned airport that operates around other organisations/ Person Conducting a Business or Undertaking (PCBU) such as Ministry for Primary Industries, Civil Aviation Authority, airlines and retailers.</i></p>
	<p>They're the experts</p> <p>Independent suppliers that provide services to an agency at one of the agency's sites under the supplier's control.</p> <p><i>For example a helicopter contractor that transports and drops water on fires on behalf of Fire and Emergency New Zealand.</i></p>
	<p>We're interested</p> <p>Independent suppliers who either:</p> <ul style="list-style-type: none"> > provide products or services to an agency or > receive products or services from an agency. <p><i>For example a staff uniform supplier.</i></p>

3

3 Adapted from the Business Leaders' Health and Safety Forum case study: <http://www.zeroharm.org.nz/assets/docs/case-studies/Z-Energy-Working-with-PCBUs-case-study-aug-2016.pdf>

Once the types of relationships, activities and relevant risks have been considered, use a matrix to help clarify who leads what. Where the risks are high or the operations are complex, it may be useful to integrate duties by embedding a person from the agency into the supply chain.

		Who leads what																
Relationship	Identifying and resourcing H&S needs for the work		Identifying and accounting for any BAU H&S implications		Commissioning the work or worksite		Communicating and engaging with all relevant parties		H&S Management system		Incident and Risk Management		Training		Equipment management		Decommissioning work or worksite	
	Agency	Supplier	Agency	Supplier	Agency	Supplier	Agency	Supplier	Agency	Supplier	Agency	Supplier	Agency	Supplier	Agency	Supplier	Agency	Supplier
We're in it with them																		
We're connected																		
We're joined																		
They're the experts																		
We're interested																		

4

Note: these apportionments of responsibilities are indicative only. Remember that we cannot contract out of our duty of care.

4 Adapted from the Business Leaders' Health and Safety Forum case study: <http://www.zeroharm.org.nz/assets/docs/case-studies/Z-Energy-Working-with-PCBUs-case-study-aug-2016.pdf>

DEVELOPING A PROCUREMENT AND EVALUATION PLAN



CHECKLIST: Procurement planning and evaluation

- ✓ Ensure you have the right people in the right roles for the procurement.
- ✓ Understand your procurement needs before you start, including any pre-work.
- ✓ Determine what your minimum health and safety standards are.
- ✓ Consider health and safety risks through the entire life of the procurement; scoping, building, implementation and maintenance.
- ✓ Consider where innovation may enable or improve health and safety standards.

Get the right people involved from the start

Before undertaking a procurement, you may wish to engage specific professional services to minimise health and safety risks and ensure full benefits are achieved.

Professional services often play key roles that are particularly valuable for large, complex and high-risk procurements and where internal capability and/or capacity is insufficient.

Before engaging them to support a procurement, these individuals or organisations should be vetted to ensure competent advice is provided.

You can find a health and safety advisor in the:

- > Health and Safety Association of NZ's register or;
- > New Zealand Institute of Safety Management's list of graded members.

What does good look like?

Health and safety standards depend on a range of factors such as an agency's risk appetite, the goal of the procurement, the capability of the supplier pool and organisational objectives.

Embedding minimum health and safety standards in procurement ensures that the supply chain can do the job safely.

To achieve any set standards, suppliers need to have access to competent advice, proportional to the risk.

Examples of minimum standards can include:

- > ISO standard 45001
- > ConstructSafe assessment completed
- > SafeTree Professional Forest Worker Certification

Key questions for the agency

Consider your agency's health and safety capabilities and experience with undertaking similar types of procurement.

This capability should be focused on:

- > **Risks:** does the agency have the capability to identify, assess and manage the whole of life health and safety risks created by this procurement?
- > **Relationships:** does the agency have appropriate relationships with all relevant stakeholders and the capability to develop and maintain these relationships?
- > **Resources:** does the agency have the right people, systems and processes to undertake this procurement effectively/safely?

If the answer to any of the above questions is 'no', you may want to consider sourcing the right people, tools, processes and establish the appropriate relationships in order to undertake a procurement that ensures health and safety.

Key questions for suppliers

To play a key role in the management of health and safety risks, a supplier will need to demonstrate their risk management competency and how they plan to manage/mitigate risks.

In a two-stage procurement, an agency may choose to undertake a health and safety assessment as part of the initial stage(s) – pre-qualification.

More complex questions, specific to the job at hand, are better suited to the second stage of a procurement process – Identifying good criteria for tender documents.



Health and safety across the entire lifecycle of the procurement

To achieve the full benefits of a procurement it is important to recognise health and safety risks through the 'whole life' of a procurement from scoping, design, build, to implementation and maintenance.

Thinking about health and safety issues at the design and early stages of procurement enables greater cost savings.

Making health and safety improvements becomes increasingly difficult and expensive once the procurement has been implemented and business as usual and maintenance is embedded. Recognising and addressing health and safety risks early on can save time, improve the quality of work and improve the overall risk management.

Each stage has a variety of ways to select and procure. Consider the alternatives that may drive health and safety outcomes at each stage.

When the procurement cost is the primary focus and business as usual health and safety implications are not considered, downstream operational costs can be incurred by different parts of the business.

Therefore it is important to consult with all areas of the business that will be involved in the business as usual activities and affected by the timeframes of the procurement.



Considering health and safety at different stages of procurement.

1

Scoping

An agency wishing to procure services to manage road safety around one of its sites may only consider roads immediately surrounding the site. Extending the scope to provide suitable and safe detours can improve safety outcomes and reduce work disruptions when solutions need to be redesigned and implemented.

2

Design

An agency planting trees identifies an initial cost saving through designing the planting of trees close together on sloped land. This enables more trees for each dollar spent on land. When considering H&S in the design, it's realised that the cost savings are outweighed by the downstream cost of using specialist equipment to harvest these trees safely.

3

Build

By considering health and safety risks in the whole of procurement lifecycle of a new building, an agency identifies an opportunity to make maintenance access to an air conditioning unit via stairwells, rather than roof panels. This offers easier, cheaper, safer and likely higher quality maintenance by removing a need to work from heights.

4

Implementation

An agency considered how workers carrying out building maintenance will operate around other businesses sharing the space. The agency designs it's way of working with suppliers that enable maintenance work to be carried out during standard business hours, rather than exclusively outside business hours. This reduces time pressures, fatigue and the likelihood of the supplier being involved in an accident.

MORE INFORMATION

More information, guidance and case studies can be found in **WorkSafe New Zealand's Health and Safety in Design guidelines**.



Encouraging innovation in procurement

Innovation not only lifts performance, but it solves business problems, and can often resolve health and safety issues.

A well-integrated team is important for enhancing innovation in procurement. Effective communication and collaboration will drive both health and safety and overall procurement innovation.

Innovation doesn't have to be scary. If an agency is uncomfortable with innovation at any stage of the procurement cycle, consider trialling effectiveness with small-scale procurements or piloting activities where possible.

Any barriers to innovation in procurement should be considered and designed out where possible.

Barriers to innovation include:

- > prioritising speed and urgency
- > competing on the basis of price alone
- > not having flexible roles and responsibilities
- > adversarial and self-protective behaviours
- > small value, short-term pieces of work that make investment harder to justify.

NEW ENGINEERING CONTRACT (NEC)

The NEC focuses on using collaboration and partnership to manage risk. It can be used in a broad sweep of industries to procure a diverse range of works, services and supply. If you are planning to invest capability into **NEC** contracts, consider using NEC 4.

CONTRACTS THAT WORK WELL

The New Plymouth District Council uses innovation in procurement to drive better health and safety standards, productivity and long-term cost savings. You can read more about this innovative procurement process on:

https://www.linkedin.com/pulse/supply-chain-leadership-procurement-safe-outcomes-david-langford?trk=portfolio_article-card_title

SHARE YOUR EXPERIENCE

If you have used an exciting way to enhance health and safety standards through innovation in procurement, the **Government H&S Lead** would like to hear about it.

SOURCE

Getting quality responses from the right suppliers

To source the right suppliers that can deliver appropriate health and safety standards for procurement, agencies need to consider:

- > **The procurement approach and evaluation criteria:** make expectations clear and use insightful health and safety criteria for evaluation in pre-qualification.
- > **Tender documentation and the contract:** use appropriate tender contracts, health and safety criteria and performance measures.
- > **Submission evaluation and contract award:** appropriately weigh health and safety capability of the supplier in the overall supplier selection score.

PROCUREMENT APPROACH AND EVALUATION CRITERIA



CHECKLIST: Procurement approach and evaluation criteria

- ✓ Conduct market sounding (if local capability or capacity is limited).
- ✓ Share your procurement business case, risk assessment, threats and benefits with suppliers where appropriate.
- ✓ Ask suppliers for a health and safety plan that sets out how their work may impact the health and safety of everyone affected by the project.
- ✓ Clearly articulate and link your expectations for procurement with key performance indicators, suppliers' health and safety plans and how they will be assessed when tendering.
- ✓ Conduct appropriate due diligence on suppliers during the pre-qualification and tender stage(s).
- ✓ Consider how the type of contract you use will drive health and safety performance and behaviour.
- ✓ Consider what makes good health and safety measures and develop appropriate KPIs.

Structured market sounding can alert potential suppliers to an opportunity and bring forward the best innovations and problem solving to address high risk activities.

It is important to be fair to all suppliers and this step should not be undertaken in a way that gives one supplier an advantage over another.

For more information on this see the **4th edition of the Government Procurement Rules**.



Make key information clear to everyone

When approaching the market for procurement, it is important to ensure the intended outcomes and expectations are clear to potential suppliers.

With clear outcomes and expectations potential suppliers are aware of the risks and what they need to do to ensure high standards of health and safety are maintained.

Where commercial sensitivity is not impacted, an agency should make clear the business case outcomes, opportunities, health and safety issues and any mitigations planned or in place.

This may be relevant to people within your agency, potential suppliers and other stakeholders, relevant to the procurement.

Sharing health and safety risk assessments with suppliers, not only better informs them of the risks, but illustrates the importance the agency places on managing these risks.

 **TIP:** Make potential suppliers aware of health and safety expectations early on to help avoid future confusion.

It is equally important to pursue key information from suppliers if it is not received.

Making expectations and intended outcomes clear to suppliers

Effective two-way communication during the initial stages of procurement enables agencies to more successfully procure work from potential suppliers that are well-aligned to its requirements.

Key issues to consider during initial discussions are:

- > sharing, reviewing and agreeing on essential tender documents, specifications and quality standards, procedures and best practice
- > establishing performance targets and benchmarks
- > expectations of good health and safety standards (these expectations should become more specific as the procurement process progresses)
- > developing a plan of implementation with realistic timeframes to avoid rushed delivery and corner cutting

- > agreeing on defined roles and responsibilities
- > communicating openly and honestly about any barriers to achieving expectations and intended outcomes
- > agreeing how barriers will be managed and by who.

Actively consulting, cooperating and coordinating through information sharing, decision making and strategy alignment, can foster positive, collaborative relationships with potential suppliers. Doing so will also instil trust in relevant parties that expectations and appropriate health and safety standards will be upheld, and the intended outcomes will be achieved.

EXAMPLE Crossrail (UK) clearly outline their health and safety expectations from their suppliers with regards to: leadership, design, communication, health, safety and performance improvement in their **H&S standard.**

Pre-qualification

There is a lot of variability in government procurement and the capability of suppliers in different areas of the country.

For example, when procuring services in smaller regions, providers may not have well documented systems.

It's therefore important to encourage suppliers to clearly demonstrate how they ensure that work is done in a healthy and safe way.

If a supplier fails to meet an agency's health and safety criteria, rather than passing them over, consider what is required to lift the health and safety performance of the supplier to meet the criteria. This opens opportunities for all businesses to participate in government work and increases the quality of future suppliers.

An adaptable approach to evaluating health and safety capability encourages a lift in health and safety maturity across suppliers, which improves the market of suppliers that government can use, and has positive outcomes for all New Zealanders.

Appendix 2 contains example questions to help agencies select pre-qualifying health and safety competency criteria.

MORE INFORMATION

If procuring for construction suppliers, the Construction Health and Safety New Zealand (CHASNZ) standard will be available in 2020. More information is available at www.chasnz.org/totika.

PREPARING TENDER DOCUMENTATION AND THE CONTRACT

Getting the most suitable supplier for the job often relies on asking good questions of suppliers and knowing what the good answers look like.

To ensure appropriate perspectives are covered, it's important that the relevant people are involved in selecting the tender criteria, including: external experts, operational staff, unions, management staff, health and safety specialists and representatives.

The below table identifies example areas for consideration when preparing evaluation criteria

and evaluating the health and safety competencies of a potential supplier.

This is not a mandatory or exhaustive criteria list for suppliers.

Another example of tender criteria can be found in **WorkSafe's guidance: PCBUs working together - Advice when contracting.**

What to ask from suppliers	Examples of what to look for in suppliers' answers	Appropriateness to the level of risk		
		High	Med	Low
Does your company have independent assurance of how good health and safety performance is achieved?	Services and Infrastructure > SafePlus on site assessment results with 'leading' or 'performing' evaluations > Organisation accreditation to a recognised H&S standard such as ISO45001, OHSAS18001 or AS/NZS4801 > Industry-specific accreditation or certification <i>e.g. certified air operator holders for helicopter contractors</i> Absence of independent assurance (for example with smaller suppliers) may require you to undertake additional due diligence, depending on the nature and risk of the work.	✓ <i>Or</i> ✓ <i>Or</i> ✓	Optional <i>Or</i> Optional <i>Or</i> Optional	Optional <i>Or</i> Optional <i>Or</i> Optional
	Product > Validation of product design and manufacture to the relevant safety and quality standard			Optional



What to ask from suppliers	Examples of what to look for in suppliers' answers		Appropriateness to the level of risk		
			High	Med	Low
What capabilities and systems does your company have to appropriately identify, assess, control and monitor health and safety risks	Services and Infrastructure	<ul style="list-style-type: none"> > A clear and appropriate system for managing health risks and safety risks > Risk register with risk ratings, controls, accountable personnel attributed to each risk > Evidence of risks being reviewed at a frequency appropriate to the level of risk > Clear and appropriate procedures for completing the work safely > Absence of fatalities or notifiable events related to this supplier's activities 	✓	✓	Optional
	Product	<ul style="list-style-type: none"> > Record of any product recalls which had potential for health and safety implications > Absence of fatalities or notifiable events attributed to use of the product 	✓	✓	✓
How are you confident that your workers are competent in roles critical to health and safety?	Service and Infrastructure	<ul style="list-style-type: none"> > List of safety critical roles associated with the work activity > Evidence of competency requirements achieved for safety critical roles <i>e.g. certified electrician, SafeTree certification and ConstructSafe certification</i> > Evidence of access to competent health and safety advice <i>e.g. in-house health and safety advisors or consultants</i> > Evidence of access to competent advice in high-risk procurements e.g. architects, consultants, quantity surveyors, engineers and other relevant subject matter experts 	✓	✓	Optional
	Product	N/A			Optional
How is equipment, machinery and plant ensured as fit for use?	Services and Infrastructure	Fitness certification of any unique safety critical equipment, machinery or plant	✓	Optional	Optional
	Product	N/A			

What to ask from suppliers	Examples of what to look for in suppliers' answers		Appropriateness to the level of risk		
			High	Med	Low
How does your company effectively engage with workers?	Services and Infrastructure	<ul style="list-style-type: none"> > Effective mechanisms for the engagement and participation of workers in health and safety decision making. > Procedures and governance around worker engagement that ensures representation⁵ and active participation of workers in health and safety > All health and safety requests⁶ from workers to management have been actioned > Both management and workers consistently attend health and safety committee meetings 	✓	✓	✓
	Product	Positive customer service history and feedback	✓	✓	Optional

Tender criteria for infrastructure-based suppliers

When considering evaluation criteria for suppliers of infrastructure services, it is useful to consider their health and safety competencies in the context of proposed solutions and capability.

The criteria below is in addition to any relevant criteria mentioned earlier in this document or in Appendix 2 (pre-qualification questions).

Context to consider a supplier's H&S capability	Types of questions
Method and approach	<ul style="list-style-type: none"> > Does the supplier have a suitable method that has considered and enables appropriate health and safety measures at each stage of the build? This usually includes a site specific safety plan that is appropriate and effectively manages health and safety risk. > Can the principal supplier provide appropriate health and safety leadership and communication processes to workers to ensure that health and safety is effectively managed through the supply chain?
Systems and processes	<ul style="list-style-type: none"> > Does the health and safety plan (part of the supplier's wider systems) provide an appropriate level of assurance?
Qualifications	<ul style="list-style-type: none"> > Are key individuals throughout the supply chain appropriately qualified to undertake their roles safely?
Experience	<ul style="list-style-type: none"> > Are key individuals throughout the supply chain appropriately experienced to be able to identify and manage health and safety risks effectively?

⁵ If your organisation consists of more than 20 workers you should have H&S representatives.

⁶ Impractical or recent requests should not be counted when considering this criteria.



Preparing the contract

A range of different contract models can be used in procurement. A non-exhaustive list can be found in the **New Zealand government: Guide to developing your procurement strategy** document.

Consider the type of contract and the terms and conditions you will use according to the type of work you are planning to procure.

If you're undertaking a low risk procurement, the **Government Model Templates** may be useful. Additionally, the **Government Model template: guidance relating to the Health and Safety at Work Act 2015** contains an optional contract clause for the Government Model Template. If you're procuring consultancy services, a Conditions of Contract for Consultancy Services (CCCS) contract may be the most appropriate option.

+ **TIP:** Include a requirement in your contract for all parties to work collaboratively in identifying root cause(s) and the best solution following a health and safety incident.

Key performance indicators

While key performance indicators (KPIs) can influence how work is done, strong supplier relationships should be the main influence on performance.

Carefully consider performance drivers such as rewards or penalties as they can drive unintended negative outcomes. For example, late delivery penalties can result in schedule pressure and corner cutting, a poorer quality of service/product and greater rates of injuries/illnesses.

Ideally performance indicators should focus on encouraging positive performance, rather than punishing underperformance.

KPIs can vary depending on the nature of the procurement, but in general, KPIs should aim to:

1. **Align to the contract and service agreement**
2. **Serve a clear purpose**
3. **Be specific to the procurement** and tied into the expectations and associated risk
4. **Drive intended behaviour and outcomes (rather than be based on poor performance)**
5. **Be valid** i.e. accurately measuring the intended metric
6. **Be reliable** in how they're measured
7. **Be sensitive** to changes in health and safety performance
8. have measures that cover **all relevant areas** and include a mix of data and descriptions
9. **Be resistant to bias** and manipulation
10. Incur **reasonable costs** to measuring the data.

For example:

- > All incidents are investigated and resolved appropriately in a timely manner.
- > Comparable number of stop-work authorities undertaken by an organisation in the supply chain vs number of stop-works initiated by your agency as the principal.

MORE INFORMATION

For a more comprehensive list of health and safety performance indicators, see the following resources:

- > **Health and Safety Indicators and Measures Knowledge Bank** by the Government Health and Safety Lead
- > **Lead indicators by SafePlus.**

EVALUATING SUBMISSIONS AND AWARDING CONTRACTS



CHECKLIST: Submission evaluation

- ✓ Consider health and safety weightings appropriate to risk in tender evaluations.
- ✓ Carefully consider any competitive suppliers and whether there are undesirable underlying reasons giving them advantage.
- ✓ Consider what can be done to lift the health and safety performance of suppliers who don't immediately meet your pre-qualification or tender requirements.
- ✓ In high-risk procurements ensure an executive staff member is appropriately involved in supplier selection.

Evaluating the health and safety component of tender responses will vary, depending on the level of risk the procurement brings.

Evaluating submissions in a procurement with a high health and safety risk should be given appropriate weighting.

The below table includes the recommended health and safety weighting to apply when evaluating a supplier's suitability for a contract.

	Procurement health and safety risk		
	Low	Medium	High
Recommended range for weighting the tender score	5 – 10 %	10 – 15 %	15 – 20 %

Where the health and safety risk is high, such as helicopter service providers or significant construction initiatives, an executive should consider being involved in the selection of the supplier.

Agencies may choose to impose mandatory health and safety criteria for a contract, regardless of how well the supplier scores elsewhere.

Even the most financially attractive bid is at risk of deprioritising health and safety resourcing, or perceiving risk as lower than anticipated. The highest price may not necessarily mean that the supplier can deliver the highest quality outcomes.

Evidence suggests that organisations with greater health and safety performance deliver better economic returns.



MANAGE

How to manage the contract once it's underway

To effectively manage a procurement that delivers good health and safety outcomes, consider health and safety in the following areas:

- > **Managing contract relationships:** setting up processes for two-way, ongoing communication.
- > **Supplier monitoring:** ensuring that suppliers are achieving (or are on track to achieve) the intended health and safety standards.
- > **Supplier evaluation and contract closure:** appropriate activities after the procurement work is complete to ensure that health and safety benefits are realised and learnings can be used for future procurements.

MANAGING CONTRACT RELATIONSHIPS



CHECKLIST: Contract management

- ✓ Establish regular two-way communication channels that cover health and safety matters.
- ✓ Establish regular updates on health and safety performance of suppliers during and after the procurement to gain adequate assurance.
- ✓ Challenge information provided to confirm health and safety assurance, particularly for critical risks and controls.
- ✓ Ensure that both parties are aware of their areas of good performance as well as underperformance and how these can be addressed together.
- ✓ Reiterate the link between the agency's health and safety expectations, KPIs, plans and how the supplier is being evaluated.

Regular meetings encouraging two-way communication drive better outcomes. This is particularly important for long-run supplier engagements.

By weaving health and safety objectives into contract meetings, agencies can keep expectations clear and current for both them and their supply chain.

Agencies should still consider establishing a mechanism to ensure that both parties acknowledge areas of good performance, as well as underperformance. This consultation and resolution should be done in collaboration and completed in a timely manner.

SUPPLIER MONITORING

Regular assessments can provide assurance that workers remain healthy and safe at work.

Monitoring and assessment of health and safety performance in the supply chain during the contract can be done in different ways:

- > Independent assessments
 - > Agency/principal assessments
 - > Supplier self-assessments.
- 

Reviews can be done either:

- > periodically,
- > after key milestones,
- > when benefits are expected to be seen or;
- > after an incident – near miss, injury or fatality.

Where the procurement's risk is higher, an agency may wish to carry out their own assessments and/or have an independent party monitor the supplier.

Before accepting positive assessment reports, appropriate due diligence should be done to challenge the information and ensure it is correct. **You should challenge the information presented to you.** This is particularly important for supplier self-assessments, which may be impacted by a bias.

When monitoring supplier performance, align the criteria to the supplier's health and safety plan where relevant.

Health and safety is a key focus in many industries such as construction, agriculture, retail, warehousing, distribution, manufacturing, transport, energy, emergency services, forestry and health care. Consider adapting the SafePlus performance requirements for any suppliers doing work in these industries. The requirements can be found on the **WorkSafe website**.

Determining health and safety assurance

When agencies undertake work through suppliers, they also undertake health and safety risks. Agencies should determine the appropriate level of due diligence required to ensure the health and safety of all relevant people.



Section 36 of HSWA requires a Person Conducting a Business or Undertaking (PCBU) to ensure, so far as is reasonably practicable, the health and safety of workers whose activities in carrying out work are influenced or directed by the PCBU (e.g a government agency).

To effectively determine the extent of the due diligence required, agencies should consider:

- > **The potential health and safety risks of this work**
Greater health and safety risks require greater due diligence.
- > **The difficulty of managing risks**
Where the likelihood of health and safety failures is higher, more due diligence should be undertaken.
- > **The ease of undertaking due diligence**
The effort and costs involved in collecting accurate information should be proportional to the health and safety risks.
- > **The responsibilities of each party or their level of control over:**
 - » the work activity
 - » the workplace
 - » the workers.

An accurate understanding of supplier responsibilities is necessary for accurate due diligence around health and safety measures.

- > **An agency's level of expertise in the work being undertaken**
Agencies with less expertise should consider engaging suppliers that can support them in undertaking appropriate due diligence.
- > **The supplier's level of expertise and capability in the work being undertaken**
Suppliers with lower levels of expertise and capability will require closer monitoring.
- > **Case law**
Looking at case law can establish the level of due diligence that the buyers are required to undertake. Auckland Council was prosecuted for insufficiently auditing its contractor **Veolia ES Technical Solutions**.



Mid and post-contract supplier evaluations

Evaluations should drive improvement through making clear the advantages of good performance and disadvantages of poor health and safety standards.

Things to consider in mid and post-contract evaluations⁷:

Leadership

- > Health and safety has been governed effectively by the organisation/procurement leaders.
- > Officers⁸/senior leaders monitor and verify the effectiveness of risk controls, particularly for risks that may result in notifiable events or fatalities.
- > Officers/senior leaders are visibly seen as committed to health and safety standards.
- > The supplier's team is continuously trying to improve health and safety standards.
- > Health and safety measures have been appropriately planned, directed and resourced to ensure adequate health and safety standards are achieved.

Worker engagement

- > Effective mechanisms for communicating with workers.
- > Issues have been responded to and resolved.
- > Workers and their representatives have been regularly involved in key health and safety decisions.

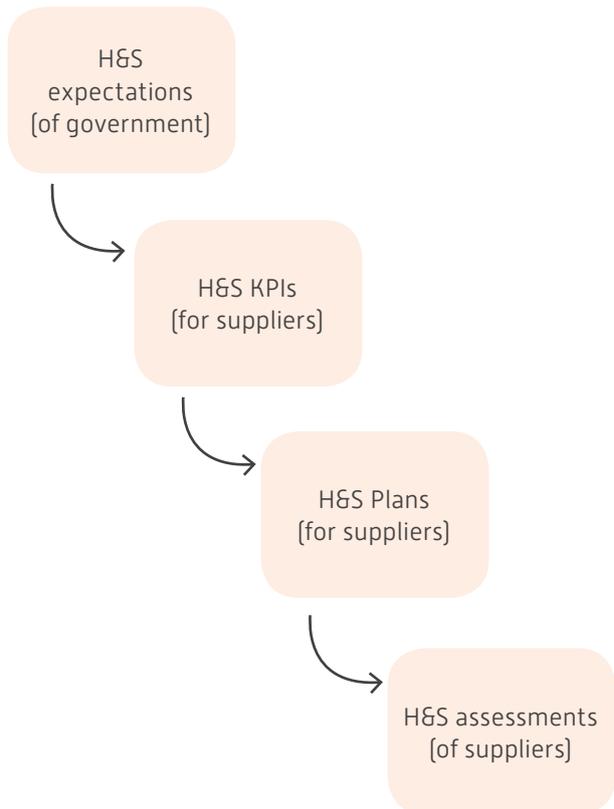
Risk management

- > A variety of activities are undertaken to identify risk to the health and safety of workers.
- > The risk assessment process is effective and influences the suppliers' actions.
- > Risks are eliminated in preference to applying controls to reduce the risk (applies the hierarchy of controls). A variety of controls are used for health and safety risks.
- > Self-assessments and assessments of any subcontractors are undertaken for control effectiveness.

- > Appropriate action is taken to strengthen safety controls following checks, successes or failures of health and safety.

Following evaluation, ensure that feedback is provided to the supply chain, whether this be mid-contract or post-contract.

Link between expectations and assessments



⁷ The following considerations have been adapted from SafePlus performance requirements.

⁸ An officer is a person who occupies a specified position or who occupies a position that allows them to exercise significant influence over the management of the business or undertaking. Organisations can have more than one officer.

SUPPLIER EVALUATION AND CONTRACT CLOSURE



CHECKLIST: Supplier evaluation and contract closure

- ✔ Undertake a post-implementation review to ensure that health and safety objectives have been achieved and opportunities have been realised.
- ✔ Share learnings from the review with the relevant people in the organisation and the relevant supplier(s).
- ✔ Store learnings in a way that can be effectively accessed and used for future procurements.

Post implementation reviews (PIR) are undertaken to establish whether the procurement achieved its goals and if not, what should be done.

Reviews are particularly valuable where the procurement was a new initiative or had a high level of health and safety risk.

Things to consider in a review:

- > how effective the supply chain was at ensuring workers, members of the public and any future workers undertaking related business as usual were kept healthy and safe
- > any improvements that could have been made to equipment, work methods, health and safety management
- > what needs to be done (if anything) to enable the full benefits to be realised and/or continue to be realised
- > whether the supplier is suitable for future contracts
- > when⁹ the review should be undertaken
- > how any disposed products will be done safely
- > whether there is potential for claims of harm in the future. This may include a need to retain records, such as, when work was completed and who was involved or in the area.

SHARING INFORMATION

Information should be shared with the relevant people involved in the procurement to ensure learnings are used effectively when considering suppliers for future contracts.

Agencies should consider centrally storing this information and making it accessible to individuals within an agency who may consider this supplier for future procurement opportunities.

Consider also sharing these learnings with the supply chain to assist them in improving their contract performance.

Where an opportunity exists to share learning to help other suppliers in the sector, the supplier should be consulted prior to the learnings being made public.

Learnings can be shared in the form of a case study or health and safety alerts.

If you are aware of any key learnings, whether they be stories of success or areas for improvement in health and safety, please contact the Government H&S Lead on 0800 HS LEAD (0800 47 5323) or ghsl@mpi.govt.nz.

⁹ Health and safety issues can materialise after the procurement has been completed. It's important to consider when issues may materialise and ensure an appropriate review is undertaken at a date which can evaluate any post-implementation impacts of the supplier's performance.



USEFUL RESOURCES

- > **Guidance on Occupational H&S in Government Procurement, Safe Work Australia**
- > **PCBUs working together – Advice when contracting**
- > **WorkSafe New Zealand’s Health and Safety by Design: Good Practice Guide**
- > **SafePlus performance requirements**
- > **The Return on Prevention: Calculating the costs and benefits of investments in occupational safety and health in companies; International Social Security Association (ISSA), Geneva, 2011**
- > **New Zealand Government Procurement website**
- > **New Zealand Government Procurement: Planning construction procurement: A guide to health and safety and employment standards at work**
- > **Project procurement lifecycle: Achieving Excellence in Construction Procurement Guide**
- > **New Zealand Government Procurement: Planning Construction Procurement**
- > **A guide to health and safety and employment standards at work**
- > **Handbook for the public sector: Health and safety in construction procurement, WorkSafe Victoria (Australia)**

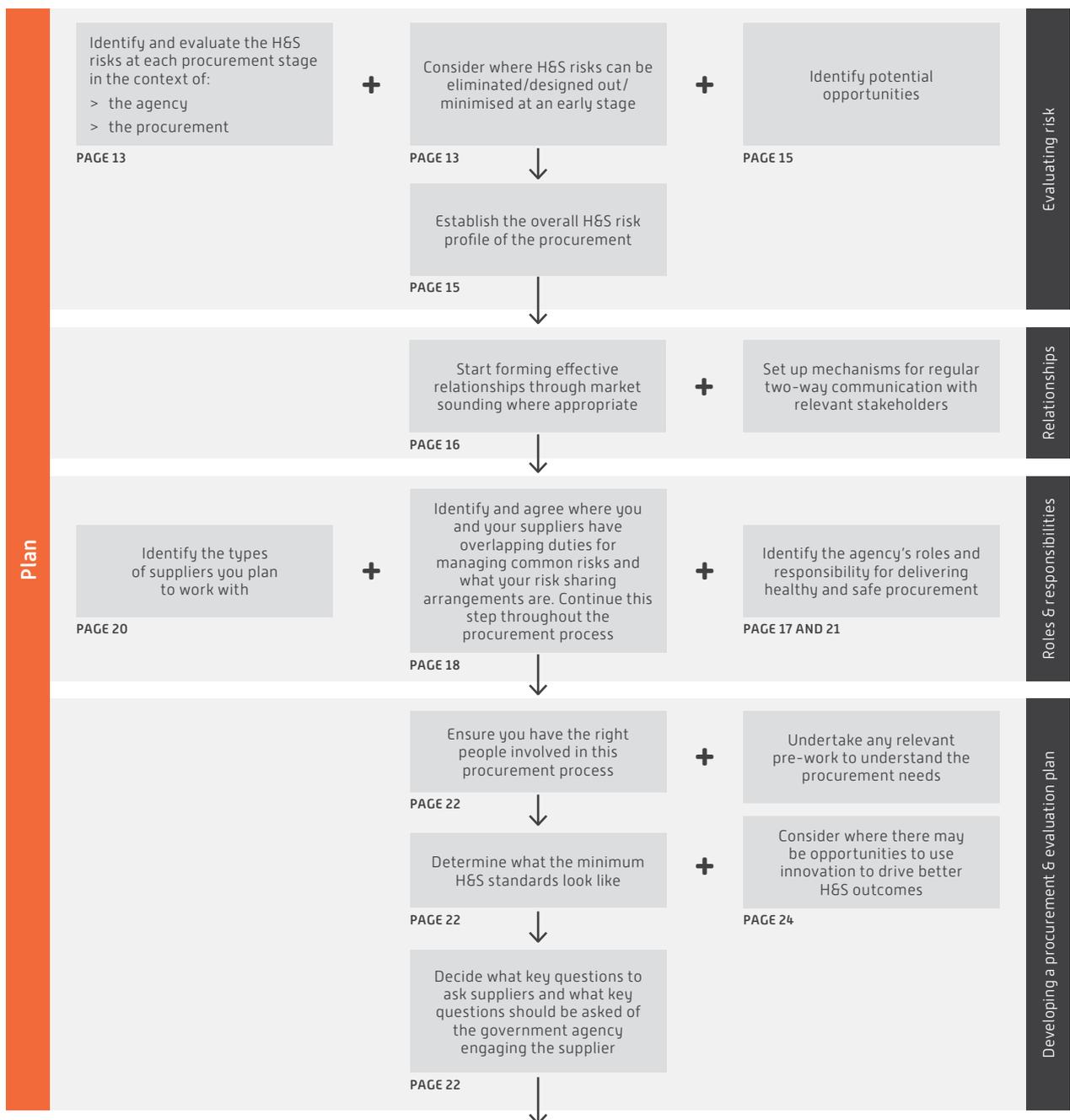
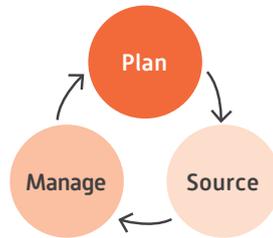
CONTACT INFORMATION

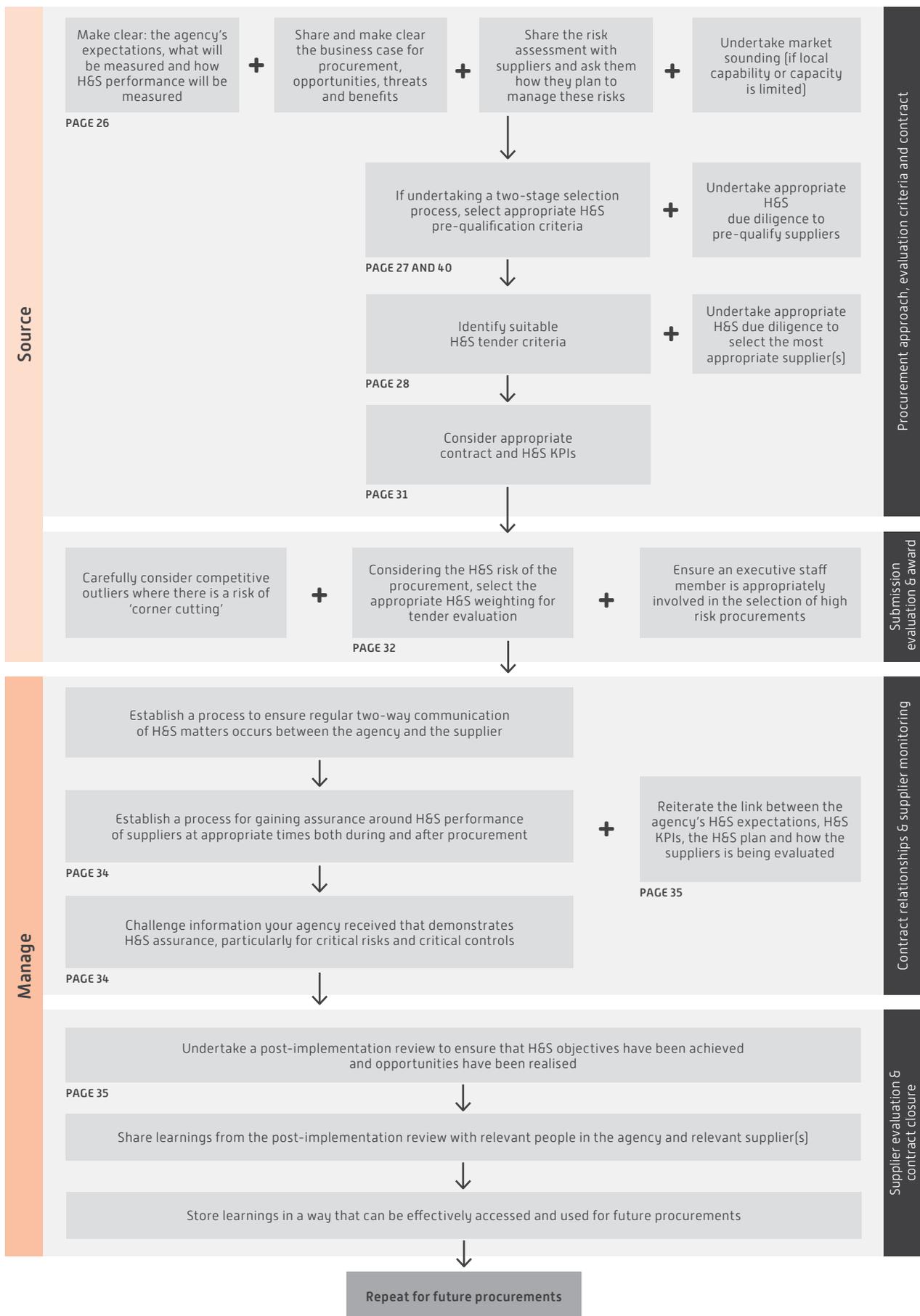
Government Health and Safety Lead
0800 HS LEAD [0800 47 5323]
ghsl@mpi.govt.nz

Government Procurement Functional Lead
procurementplanning@mbie.govt.nz

APPENDIX

APPENDIX 1: HEALTH AND SAFETY CONSIDERATIONS IN PROCUREMENT





APPENDIX 2: EXAMPLES OF PRE-QUALIFICATION QUESTIONS

The following list of example questions can help select pre-qualifying health and safety competency criteria. **This is not a mandatory or exhaustive criteria list for suppliers.**

Another example of pre-qualification questions can be found in *WorkSafe's guidance: PCBUs working together - Advice when contracting*.

What to ask suppliers for	What to look for
How does your company ensure effective health and safety management?	Evidence of regularly reviewed general health and safety policy, signed and dated by a senior person within the company. The policy should contain information relevant to the anticipated nature and scale of activity to be undertaken, and set out responsibilities for health and safety management at all levels of the company.
Please provide evidence of how your company's health and safety measures are effective in reducing/ preventing work-related incidents, occupational ill-health and accidents.	Details of arrangements for health and safety management that are relevant to the anticipated nature and scale of activity to be undertaken, and how these arrangements are communicated to workers.
Does your company have access to competent health and safety advice/ assistance?	Details about the supplier's access to competent health and safety advice.
Have all employee/other workers completed health and safety training appropriate to the activities that your company is likely to undertake?	Evidence the company ensures that all workers have sufficient skills and understanding to meet their obligations under HSWA. This should include refresher training on relevant good health and safety practice. For principal contractors, health and safety plans may be used to show how information is disseminated or communicated.
Do all employees/other workers have the relevant knowledge, experience and skills to carry out activities that your company is likely to undertake?	Evidence that workers have suitable knowledge, experience and skills for the activities assigned to them, unless there are specific situations where they need to work under competent control and/or supervision (e.g. apprentices and other trainees).
How do you ensure that your suppliers (subcontractors) apply health and safety measures appropriate to the activities they are likely to carry out?	Evidence the company implements arrangements for ensuring and monitoring health and safety skills, knowledge and experience, and performance, throughout its entire supply chain, appropriate to the work likely to be undertaken.
Evidence of the skills, knowledge and experience of health and safety in the supplier's field of work.	Evidence of health and safety knowledge, skills and experience within the company. This may include: <ul style="list-style-type: none"> > ConstructSafe > SafePlus assessments > SafeTree
What processes do you have in place to check, review and, where necessary, improve health and safety performance?	Evidence the company has an effective, ongoing system for monitoring and improving health and safety measures.
What communication channels do you have in place to discuss health and safety issues with your staff?	Evidence the company has a means of consulting with its workers and health and safety representatives on health and safety matters. Information about how comments, concerns or complaints submitted by workers and health and safety representative are taken into consideration and acted upon.



What to ask suppliers for	What to look for
What, if any, processes do you have in place for recording accidents/incidents and any resulting actions?	Evidence the company maintains records of incidents (including near miss events) for at least the last three years. Evidence the company has an effective system for reviewing significant incidents, and recording any resulting action taken (including responses to any health and safety enforcement activity).
What, if any, risk assessments do you carry out to ensure healthy and safe workplaces	Evidence the company undertakes relevant risk assessments. Assessments should: <ul style="list-style-type: none"> > include the identification and control of any significant occupational health (not just safety) issues, appropriate to the work likely to be undertaken. > focus on, and be proportionate to, the risks arising from the type of work to be undertaken. > not require excessive documentation that obscures the real health and safety issues to be considered, and even divert effort away from them.
How do you coordinate work and cooperate with others parties involved in the procurement (organisations, suppliers, contractors)?	Details or a plan for how they will work with organisations to develop safe work method statements that include: <ul style="list-style-type: none"> > responses to emergency situations. > how input from suppliers is taken into account, > how external comments, concerns or complaints, are responded to.
What support do you provide for the welfare of your workers?	Can the company describe how it ensures suitable welfare (physical and mental) for workers, whether provided by a site-specific arrangement with others, or its own measures?
<i>For principal contractors</i> What performance monitoring and review processes do you have in place?	Evidence that the company has an ongoing system for monitoring performance, including post-project review.
<i>For principal designers</i> What evidence of health and safety skills, knowledge and experience do you have in the area of work being undertaken?	Evidence of health and safety skills, knowledge and experience. This may include validated continual professional development (CPD), and typical additional qualifications.

This table has been derived from construction pre-qualification questionnaires by the British Standards Institution (PAS 91)¹⁰

¹⁰ Construction prequalification questionnaires (PAS 91:2013+A1:2017) was published by the British Standards Institution and can be found here: <https://shop.bsigroup.com/ProductDetail?pid=000000000030336960>



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