



PERFORMANCE AUDIT

31 OCTOBER 2019

Ensuring contract management capability in government – HealthShare NSW

NEW SOUTH WALES AUDITOR-GENERAL'S REPORT

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In accordance with section 38E of the *Public Finance and Audit Act 1983*, I present a report titled **'Ensuring contract management capability in government – HealthShare NSW'**.

A handwritten signature in black ink, appearing to read 'Margaret Crawford'.

Margaret Crawford

Auditor-General
31 October 2019

contents

Ensuring contract management capability in government – HealthShare NSW

Section one – Ensuring contract management capability in government – HealthShare NSW

Executive summary	1
Introduction	6
Contract management capability	15

Section two – Appendices

Appendix one – Response from agencies	27
Appendix two – Contract performance management summary	31
Appendix three – About the audit	33
Appendix four – Performance auditing	35

Section one

Ensuring contract
management capability in
government – HealthShare
NSW

Executive summary

NSW Government agencies are increasingly delivering services and projects through contracts with third parties. These contracts can be complex and governments face challenges in negotiating and implementing them effectively. A robust contract management framework helps ensure all parties meet their obligations, contractual relationships are well managed, agencies achieve value for money, and deliverables meet the required standards and agreed timeframes.

Contract management capability is a broad term, which can include aspects of individual staff capability (such as staff knowledge, skills and experience) as well as organisational capability (such as policies, frameworks and processes).

The NSW Procurement Board is responsible for overseeing the Government's procurement system, setting policy and ensuring compliance. It has accredited the Health Administration Corporation (HAC) to procure goods and services with no upper financial limit. Under the terms of this accreditation, the Secretary, NSW Health (as head of HAC) has delegated the procurement of high-value (over \$250,000) goods and services contracts within NSW Health to only the Ministry of Health and HealthShare NSW (HealthShare).

HealthShare NSW (HealthShare) is a NSW Health entity responsible for providing shared services, including procurement, to support the delivery of patient care within the NSW health system. In 2018, HealthShare procured high-value goods and services contracts with an annual estimated total spend of around \$1.8 billion, with most of the contracts of long duration.

HealthShare's Contract Management Guide states that, without rigorous contract management, 75 per cent of projected sourcing savings can disappear within 18 months of the contract starting.

This audit examined whether HealthShare has the required capability to effectively manage high-value goods and services contracts. Contracts we examined included critical items such as food services in hospitals, patient transport services, intravenous equipment and kidney dialysis services, where risks include patient safety as well as value for money. We did not examine infrastructure, construction or information communication and technology contracts. We also did not examine HealthShare's sourcing processes, including identifying business needs, tendering and contract award.

We assessed HealthShare against the following criteria:

1. HealthShare's systems, policies and procedures support effective contract management and are consistent with relevant frameworks, policies and guidelines.
2. HealthShare has capable personnel to effectively conduct the monitoring activities throughout the life of the contract.

We included the NSW Public Service Commission and NSW Treasury, through NSW Procurement, as auditees because they administer policies which directly affect contract management capability. These include:

- NSW Procurement Board Directions and policies
- NSW Government Procurement Policy Framework
- Accreditation Program for Goods and Services Procurement
- the NSW Public Sector Capability Framework.

NSW Procurement was transferred to NSW Treasury from the former Department of Finance, Services and Innovation on 1 July 2019 as part of changes to government administrative arrangements.

Conclusion

HealthShare is not applying the capability needed to effectively manage high-value (over \$250,000) goods and services contracts. HealthShare's procurement framework includes elements that should support effective contract management, and it has a systematic approach to managing staff contract management capability. That said, HealthShare is not implementing key contract management elements of its own framework. As such, the value for money or savings it achieves when it negotiates contracts is at risk of being eroded over the life of these contracts.

Effective contract management is essential for HealthShare to ensure contracts it enters into are delivering the goods and services expected and achieving value for money, safety and quality. The Ministry of Health and HealthShare have invested in developing and implementing systems and tools to support effective contract management. In line with its obligations under the Agency Accreditation Program for Goods and Services Procurement (accreditation program), the Ministry of Health mandates the use of contract management plans for high-value contracts. The Ministry of Health also requires that all health entities use the PROcure contract management system for ongoing management of contracts with a value over \$150,000. HealthShare is not complying with these directions for over 80 per cent of the contracts it manages.

In the absence of HealthShare following its framework, and the Ministry of Health's directions, we looked for other evidence that HealthShare was effectively managing high-value contracts. We found that HealthShare's contract management practices were limited by inadequate performance monitoring.

When Local Health Districts (LHDs) need to procure high-value goods and services, the Ministry of Health's procurement policy requires that they use HealthShare to source and manage the procurement. This is to manage risk and provide oversight of procurement and contracts across the NSW health system. Despite this policy, HealthShare was only managing the sourcing stage of the procurement and transferring responsibility for contract management to the relevant LHD.

1. Key findings

HealthShare is not using contract management plans for over 80 per cent of the contracts it manages

In 2018, the estimated annual expenditure by NSW Health entities from whole-of-government/whole-of-health contracts and whole-of-health head agreements was around \$1.5 billion from 122 contracts with an overall value of around \$8.6 billion. These contracts include 515 individual supplier agreements. Only 21 of these 122 contracts have contract management plans. Discussions with senior HealthShare personnel indicated that it does not routinely develop and use contract management plans.

Contract management plans for high-value goods and services procurements are a mandatory requirement of the accreditation program and the Ministry of Health's procurement policy. HealthShare's procurement framework requires contract managers to start developing a contract management plan during the sourcing stage and provides a detailed template for the development of such plans.

Contract management plans are a key contract management tool which enables contract managers to track suppliers' obligations, as well as its own obligations under the contract.

HealthShare is not effectively using PROcure, a mandatory contract management tool

The Ministry of Health and HealthShare have invested in developing and implementing systems and tools to support effective contract management. The Ministry of Health has mandated the use of the PROcure contract management system for ongoing management of contracts.

The NSW Health Procurement policy describes PROcure as a workflow system used for managing procurement processes and ongoing contract management for goods and services, including the capture of contract information. Since mid-2015, the Ministry of Health has required HealthShare and LHDs to record details of all NSW Health contracts greater than \$150,000 in PROcure. Contract managers are responsible for recording the contract details in PROcure, and for the ongoing administration and management of the contract using PROcure.

We found deficiencies in how HealthShare recorded contract information in PROcure. For example, none of the contracts we reviewed included documents evidencing ongoing contract management, such as meeting minutes or supplier reports. We also found that HealthShare recorded contract management plans as existing on PROcure when they did not.

HealthShare advised that the limited use of PROcure was because the system could not manage complex whole-of-health panel arrangements. HealthShare began addressing these issues in late 2017 and aims to complete system enhancements and migrate all contract management activity into PROcure by the end of 2020.

HealthShare's contract management practices are limited by inadequate performance monitoring

HealthShare advised that it does not have the capacity to closely manage individual contract performance, and even if it did, it does not have the information to do so. HealthShare also advised it uses a risk and exception-based approach to manage its contracts due to these constraints. This primarily involves HealthShare contract managers relying on information they receive from contract users and suppliers.

In the absence of contract management plans or information in PROcure, we looked at other practices that would indicate that HealthShare effectively managed contract performance. However, in the contracts we reviewed we found that HealthShare's contract management practices are limited by inadequate performance monitoring, which included:

- not holding all supplier performance meetings as required
- not always holding suppliers to their reporting obligations
- not validating performance information provided by suppliers
- not always applying available sanctions for significant breaches, including those that resulted in product recalls
- failing to establish KPIs to manage supplier performance for a significant whole-of-health contract
- inconsistent use of the Health Quality Reporting System that captures performance issues for clinical products and services across the NSW Health system.

HealthShare does not provide enough information for customers in contract user guides

When HealthShare establishes a whole-of-health head agreement that includes specific contracts for customers such as Local Health Districts (LHD)s, it prepares a user guide to assist them to manage purchases from each supplier in the head agreement.

However, the user guides we reviewed did not sufficiently explain the provisions of the contract relevant to customers. For example, the user guides did not include information on what to do in the event of defective or incorrect goods or who to contact in HealthShare to seek advice.

See Exhibit 8 for additional items that could be included in a contract user guide.

HealthShare's transfer of contract management responsibilities for some high-value contracts to Local Health Districts contravenes Ministry of Health procurement policy

For high-value LHD specific contracts, we found that HealthShare was only managing the sourcing stage of the procurement and leaving responsibility for contract management to the relevant LHD. In doing so, HealthShare contravened the Ministry of Health procurement policy which limits the sourcing and contract management of high-value goods and services for all NSW Health entities to only HealthShare and the Ministry. HealthShare does not have the authority to transfer its responsibilities for managing high-value goods and services contracts to other NSW Health entities.

NSW Health acknowledges that the transfer of contract management responsibilities for some high-value contracts to LHDs 'may pose some risk'. In the six LHD specific contracts we reviewed, we found poor contract management practices such as limited analysis of supplier performance against the contract requirements.

NSW Health also acknowledged that this arrangement needs to be reviewed in the context of accreditation program requirements, expectations of the NSW Procurement Board and the broader NSW Health policy framework.

We sought clarification on whether this delegation was appropriate under the obligations of the accreditation program. NSW Procurement advised that the accreditation program does not prescribe how accredited entities delegate procurement responsibilities.

HealthShare provides limited guidance on how contract managers can validate performance information

It is important for contract managers to validate performance information provided by suppliers to ensure that the agency is achieving value for money. HealthShare's Contract Management Guide lists a range of approaches to validate performance information provided by suppliers in the contract management plan template. However, it does not apply a structured approach to assist contract managers to choose the best validation strategy according to contract risk. This could lead to inconsistent practice and contracts not delivering what they are supposed to.

HealthShare has a systematic approach to managing staff contract management capability

NSW Procurement, in consultation with the NSW Public Service Commission (PSC), has developed a program called the Procurement Capability Compass. The Compass program is a Whole-of-Government procurement capability assessment tool that is aligned with the PSC's capability framework. The Compass program is designed to measure the baseline of procurement knowledge across a team by helping individual staff identify their strengths and development areas.

HealthShare is using the Compass program to assess the procurement capability of its staff annually, starting in 2019. As part of the accreditation program, HealthShare reported the aggregated results of the Compass program for 2018–19 to NSW Procurement.

The Health Administration Corporation did not report its non-compliance with the contract management requirements of its accreditation obligations to the NSW Procurement Board

As part of its obligations under the accreditation program, HAC must annually submit a certificate confirming compliance with its accreditation obligations. NSW Health's 2017–18 certificate includes an attestation by the Chief Procurement Officer and a Deputy Secretary that NSW Health has tested (and confirmed) its compliance with the NSW Procurement Board's Procurement Policy Framework.

The certificate does not include mention of any non-compliance despite our findings in relation to the widespread non-use of contract management plans.

2. Recommendations

By November 2019, the Health Administration Corporation should:

1. notify the NSW Procurement Board of the results of this audit in relation to the non-use of contract management plans as a trigger event under the Accreditation Program for Goods and Services Procurement.

By May 2020, the Health Administration Corporation should:

2. work with NSW Procurement to develop a Trigger Event Action Plan to enable it to fully meet, by November 2020, its obligations under the Accreditation Program for Goods and Services Procurement.

By May 2020, NSW Health should:

3. develop a performance improvement plan for HealthShare NSW to fully meet, by November 2020, its compliance with Ministry of Health procurement policies. The performance improvement plan should include:
 - improving supplier performance management
 - effectively using contract management tools, including contract management plans and PROcure
 - ensuring LHD specific contracts are managed in line with Ministry of Health procurement policy
 - developing a risk-based framework to validate performance information to assist contract managers to select and justify appropriate validation methods for performance information
 - improving customer user guides for whole of health head agreements by explaining the provisions of the contract relevant to customers as well as information on how customers can report performance issues to HealthShare NSW.

3. Lessons from relevant previous performance audits

As part of our 2019 performance audit 'Ensuring contract management capability in government - Department of Education', we identified that the Department of Education could improve its contract management by improving the guidance it provided to assist contract managers. Specifically, we noted that contract managers would benefit from guidance that assisted them to select the best strategy, according to contract risk, to validate performance data provided by suppliers.

As part of our 2014 performance audit 'Making the Most of Government Purchasing Power – Telecommunications' we identified strategies that agencies could implement to improve their contract management. These elements included:

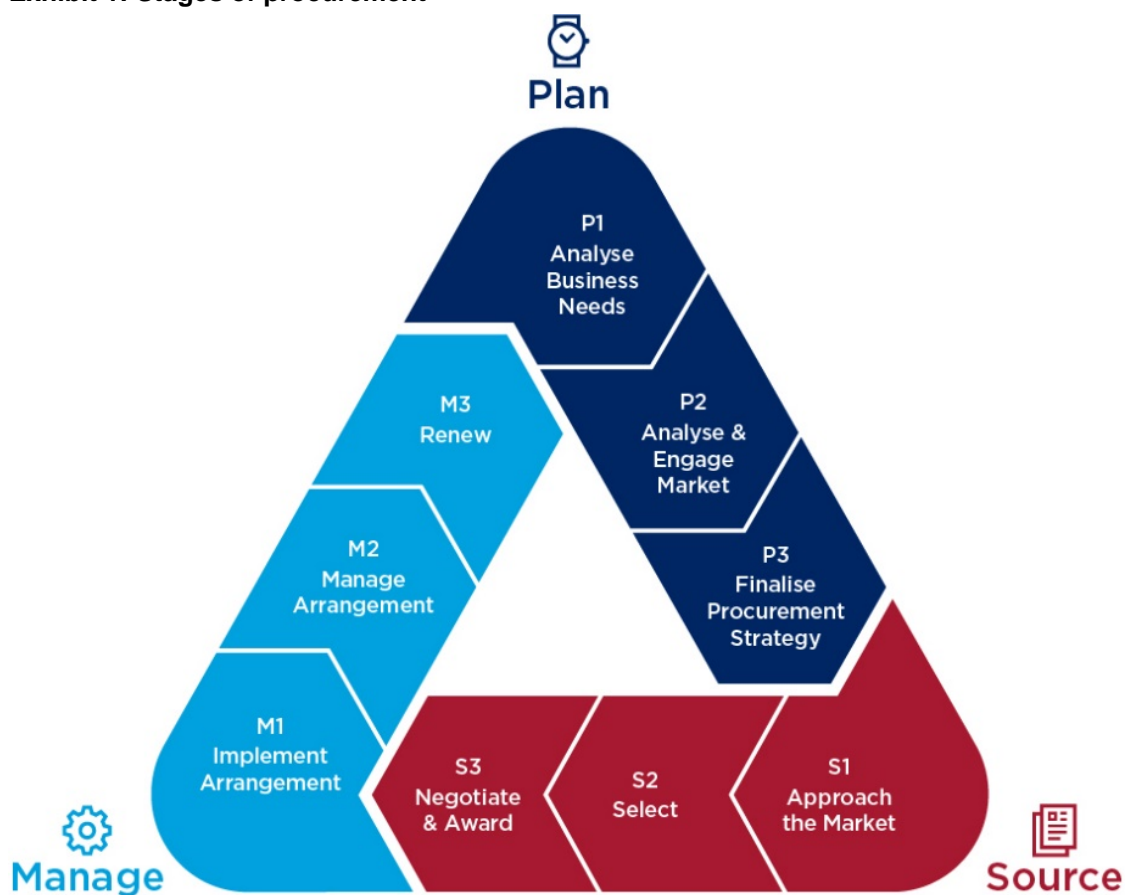
- contract management delegations that are clear and consistent with general financial delegations
- appropriate reporting and oversight practices for contract management
- regular review of their Contract Management Framework
- independent internal monitoring of individual contracts to check compliance
- roles and responsibilities are determined and assigned
- the skills and experience required to manage each contract is assessed and sourced
- each contract has a risk-based contract management plan.

1. Introduction

1.1 NSW Government procurement of goods and services

The NSW Government procures goods and services from third parties to support the delivery of government services. In 2017–18, NSW Government agencies spent \$22.0 billion on goods and services. For NSW Government agencies, procurement is a whole of contract life cycle process that includes working with the market, identifying business needs, tendering and negotiation, contract management and evaluation. Exhibit 1 outlines the various stages in the procurement cycle as identified by NSW Procurement.

Exhibit 1: Stages of procurement



Source: NSW Government Procurement Policy Framework 2019.

The NSW Procurement Board (the Board) is responsible for overseeing the government's procurement system, setting policy and monitoring compliance. It has the statutory power to issue directions to agencies and monitor the progress of agency compliance. The Board requires agencies be accredited by it to undertake their own procurement of goods and services valued at \$650,000 or more. Following the Board assessing the capability of the Ministry of Health and HealthShare NSW it accredited the Health Administrative Corporation to procure goods and services with no maximum contract value.

Under the *Health Administration Act 1982*, the Secretary of NSW Health is given corporate status as the Health Administration Corporation. The Health Administration Corporation established HealthShare NSW as a state-wide organisation responsible for providing shared services, including procurement, to support the delivery of patient care across the NSW health system.

Agency heads are responsible for managing their agency's procurement, and in some circumstances, procurement for other agencies. Agency heads typically delegate responsibility for all types of goods and services procurement to separate parts of their agency. In the context of NSW Health, the Secretary of NSW Health has delegated responsibility for the procurement of high-value (over \$250,000) goods and services to HealthShare NSW and the Ministry of Health, but not Local Health Districts.

The NSW Government Procurement Policy Framework states that accredited agencies are responsible for establishing and managing internal procurement systems and governance mechanisms, in compliance with the Board's directions and policies.

Critical to this governance is the appointment of a cluster or agency Chief Procurement Officer, effective procurement planning, robust internal purchasing systems, efficient approval processes, and the appropriate delegation of authority. Agencies are required to prepare a procurement strategy and plans that reflect the procurement needs of the agency. These should be consistent with the Board's category management plans and relevant government policies.

1.2 Contract management capability

Contract management capability is a broad term, which can include aspects of individual staff capability as well as organisational capability (such as policies, frameworks and processes). The Australian National Audit Office described contract management capability as having several dimensions, including:

- the necessary level of senior management commitment and support
- the capacity to develop and maintain an up-to-date contracting policy and procedural framework
- staff who exercise procurement delegations with experience and knowledge commensurate with the size, nature and complexity of the contracting activities on which they make decisions
- sufficient time and resources to properly manage the contract, including access to specialist skills where needed
- individual contract managers with a level of knowledge, skills and experience commensurate with their contracting responsibilities.

NSW Government policies, frameworks and guidance which relate to contract management capability

NSW Government Procurement Policy Framework

In July 2015, the NSW Procurement Board issued the updated NSW Government Procurement Policy Framework (the Framework). The Framework was further updated in July 2019. The Framework objectives are value for money, fair and open competition, easy to do business, innovation, economic development, social outcomes and sustainability. NSW Government agencies must ensure their internal policies and controls are consistent with the mandatory requirements set out in the Framework. The mandatory requirements include financial management obligations and policies relating to fraud and corruption control.

The Framework does not provide detailed guidance for contract management. It refers to other specific guidelines and policies for different types of contracts, such as Building and Construction Procurement Guidelines; and Procurement Board Direction for Approved Procurement Arrangements for goods and services.

Accreditation Program for Goods and Services Procurement

The Accreditation Program for Goods and Services Procurement (the accreditation program) establishes minimum standards for agency procurement as a basis for improving the outcomes delivered across government. It is governed by the NSW Procurement Board and administered by NSW Procurement on behalf of the Board. On 1 November 2018, the accreditation program replaced the goods and services category of the Agency Accreditation Scheme for Procurement.

Under the accreditation program, agencies can attain one of two accreditation levels by using an independent third-party assessor to demonstrate to the NSW Procurement Board that they meet the capabilities described above. Once the Board accredits an agency, the agency is required to comply with annual self-reporting requirements. The agency holds its level of accreditation in perpetuity until a trigger event results in a review or remediation process.

The minimum requirements for capabilities that relate to contract management include:

- **Procurement policy and procedures** – compliance with the NSW Procurement Policy Framework, NSW Procurement Board directions and policies.
- **Capability** – agencies continuously develop procurement capability to meet business needs.
- **Contract management** – agencies monitor and manage contract requirements to ensure value is realised and risk is managed.

NSW Public Sector Capability Framework

The NSW Public Service Commission has developed a capability framework for use across NSW Government agencies. The capability framework describes the capabilities and associated behaviours that are expected of all NSW public sector employees, at every level and in every organisation. It supports the full range of workforce management and development activities: role design and description; recruitment; performance management; learning and development and strategic workforce planning.

The Public Service Commission recommends that NSW Government agencies apply the Capability Framework, however use of the framework is not mandatory. The Capability Framework is applicable to all public-sector roles, both executive and non-executive. Under the Capability Framework, every role requires all the capabilities in the Capability Framework at an appropriate level. This includes the Procurement and Contract Management capability. Exhibit 2 outlines the five levels of capability for procurement and contract management.

Exhibit 2: Procurement and contract management capability framework

Foundational	Intermediate	Adept	Advanced	Highly Advanced
Comply with basic ordering, receipting and payment processes	Understand and comply with legal, policy and organisational guidelines and procedures in relation to procurement and contract management	Apply legal, policy and organisational guidelines and procedures in relation to procurement and contract management	Ensure that government and organisational policy in relation to procurement and contract management is implemented	Ensure that whole-of-government approaches to procurement and contract management are integrated into the organisation's policies and practices
Apply basic checking and quality control processes to activities which support procurement and contract management	Conduct delegated purchasing activities, complying with prescribed guidelines and procedures	Develop well written, well structured procurement documentation that clearly sets out the business requirements	Monitor procurement and contract management risks and ensure that this informs contract development, management and procurement decisions	Ensure that effective governance processes are in place for the organisation's provider, supplier and contractor management, tendering, procurement and contracting policies, processes and outcomes
	Work with providers, suppliers and contractors to ensure that outcomes are delivered in line with time and quality requirements	Monitor procurement and contract management processes to ensure they are open, transparent and competitive, and that contract performance is effective	Take responsibility for procurement and contract management activities and decisions by applying the guidelines and procedures	Monitor and evaluate both compliance and effectiveness of procurement and contract management within the organisation
		Be aware of procurement and contract management risks, and what actions are expected to mitigate these	Promote the principles of risk management as applied to procurement projects, to identify and mitigate risk	
		Evaluate tenders and select providers in an objective and rigorous way, in line with established guidelines and principles	Implement effective governance arrangements to monitor provider, supplier and contractor performance against contracted deliverables and outcomes	
		Escalate procurement and contract management issues where required	Represent the organisation in the resolution of complex/sensitive disputes with providers, suppliers and contractors	

Source: NSW Public Service Commission 2013.

Procurement Professional Capability Set

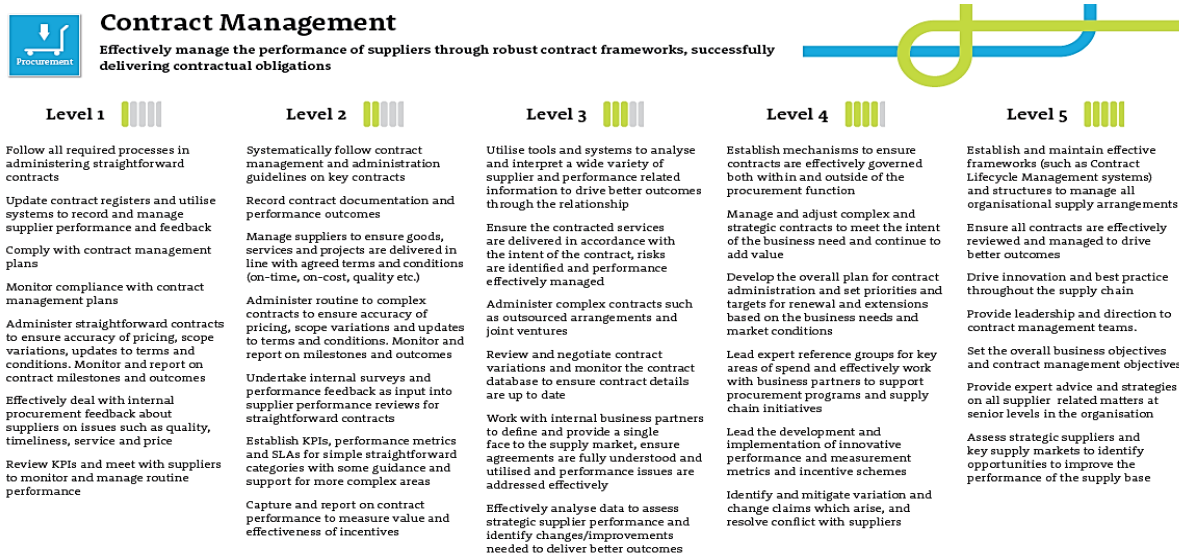
The NSW Public Service Commission is coordinating the development of occupation-specific capability sets for roles that are common across the public sector. One of these, the Procurement Professionals Capability Set, defines additional knowledge, skills and abilities required for roles within the procurement profession. As with the Capability Framework, use of the Procurement Professionals Capability set is highly recommended by the Public Service Commission but is not mandatory. The Procurement Professionals Capability set includes dedicated contract management capability.

The Procurement Professionals Capability set notes that the Procurement and Contract Management 'Business Enabler' capability applies at some level to every role within the NSW Public Sector. It then goes on to acknowledge that 'additional capabilities from the Procurement Professionals Capability Set should only be used for roles that are substantially involved in delivering procurement services'.

Many roles across the sector clearly sit within the procurement profession, and therefore require specific professional procurement capabilities for successful performance. These roles will reflect the necessary capabilities from the Capability Framework and additional, specialised capabilities from the Procurement Professionals Capability Set.

Exhibit 3 describes the five levels of the Contract Management capability described in the Procurement Professionals Capability set.

Exhibit 3: Procurement Professionals Capability Set



Source: NSW Public Service Commission 2015.

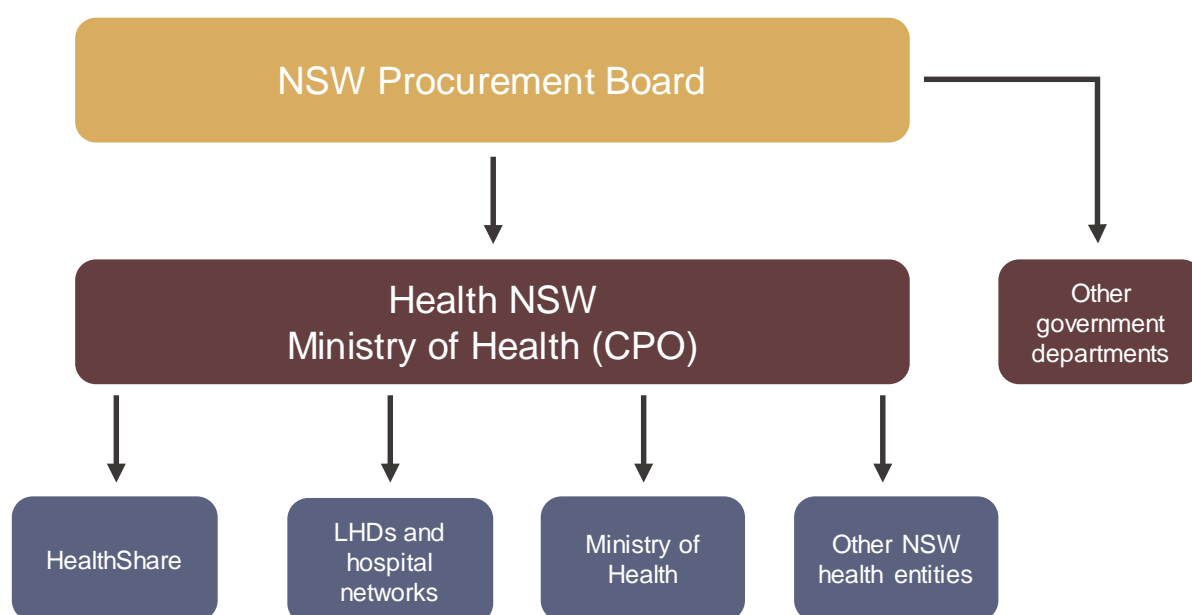
1.3 About NSW Health

NSW Health distributes responsibility for the procurement of goods and services, including contract management, to the Ministry of Health (the Ministry), HealthShare NSW, Local Health Districts (LHDs) and hospital networks.

The Ministry of Health is responsible for setting and maintaining procurement policy across all of NSW Health as well as coordinating procurement and contract management training. The policy must be consistent with the *Public Works and Procurement Act 1912*, the NSW Government Procurement Policy Framework, and directions issued by the NSW Procurement Board. The Chief Procurement Officer at the Ministry of Health approves key amendments to contracts such as to the specified contract period or exceptions to policy.

Exhibit 4 outlines the NSW Health procurement policy structure for goods and services.

Exhibit 4: Procurement Policy in NSW Health – Goods and services



Source: Audit Office analysis 2019.

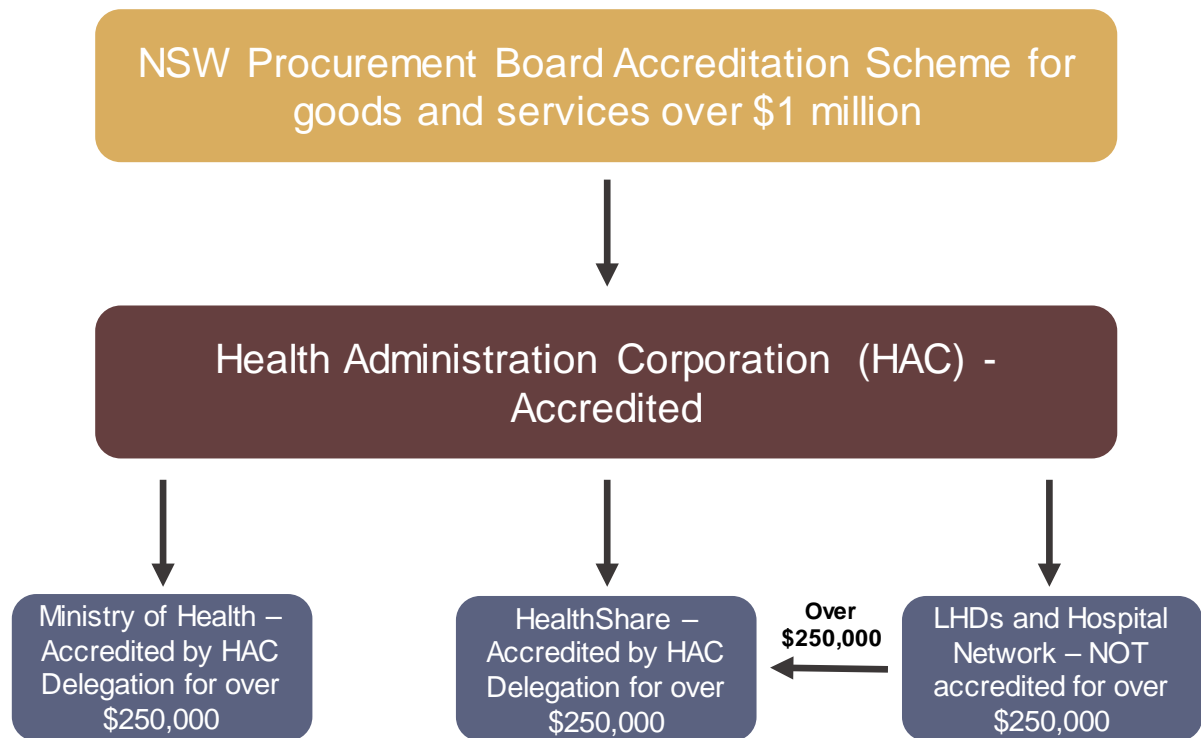
The Health Administration Corporation (HAC), is accredited under the Agency Accreditation Scheme for goods and services procurement without an upper value limit. The Secretary, NSW Health, as head of HAC has delegated authority to procure goods and services valued at over \$250,000 to the Ministry of Health and HealthShare NSW only and not to LHDs.

HealthShare NSW (HealthShare) is a NSW Health entity which provides shared services, including procurement of goods and services, for the Health cluster. It is responsible for initiating, sourcing, planning and contract management for goods and services procurement, through the creation of panel-based contract arrangements for whole-of-government or whole-of-health use, as well as procurements over \$250,000 initiated by LHDs. HealthShare provides support to individual LHDs that wish to procure goods and services outside of the panel arrangements.

There are 15 LHDs and three hospital specialist networks that are responsible for providing health services in a wide range of settings, from primary care posts in the remote outback to metropolitan tertiary health centres. Eight LHDs cover the greater Sydney metropolitan regions, and seven cover rural and regional NSW. LHDs and hospital networks are responsible for the day-to-day contract management, including purchasing (as customers under panel arrangements), contract monitoring and managing contractor performance in relation to their specific customer contracts.

Exhibit 5 outlines the NSW Health goods and services accreditation scheme arrangement.

Exhibit 5: Accreditation for goods and services in NSW Health



Source: Audit Office analysis 2019.

Types of contracts administered by HealthShare

Depending on the type of contract, HealthShare can share responsibility for contract management and performance monitoring with LHDs. There are also contracts that HealthShare has no involvement in at all. These will be for amounts under \$250,000 or where the Chief Procurement Officer grants an exemption, or where the contracts are out of scope for HealthShare.

There were three types of contracts we examined as part of this audit:

1. **Whole-of-Government and Whole-of-Health contracts** that are established and managed by HealthShare throughout the life of the contract. Food Services is a whole-of-government contract used by government agencies such as Corrective Services, Transport and Family and Community Services, as well as NSW Health. Agencies can purchase goods and services from a range of suppliers using the terms established in the HealthShare managed whole-of-government contract. Agencies are responsible for managing the performance of the supplier they contract with. Patient Transport Services is a whole-of-health contract managed by HealthShare. For both types of contracts, LHDs and other NSW Health entities can order a good or service through a catalogue managed by HealthShare, which does not establish a contractual relationship with the supplier.

2. **Whole-of-Health head agreements with customer contracts** that are tendered and established by HealthShare and used by all NSW Health entities, including LHDs. These contracts consist of a head agreement for a range of products from a range of suppliers at quoted prices. LHDs then establish a separate customer contract with its chosen supplier and products from the Head agreement. The contract management role is shared between HealthShare and LHDs, but the daily management and monitoring activities for customer contracts is done by LHDs. HealthShare may prepare a User Guide to assist purchasers in understanding limited contract features such as delivery timeframes, supplier and HealthShare contacts and pricing schedules for contract items.

Under NSW Procurement Board policy and Ministry of Health policy, all NSW Health entities (including LHDs) must purchase through existing whole-of-government/whole-of-health contracts and whole-of-health head agreements with customer contracts where the goods and services required are covered by the contracts. In 2018, the estimated annual expenditure by NSW Health entities from whole-of-government/whole-of-health contracts and whole-of-health head agreements was around \$1.5 billion from 122 contracts with an overall value of around \$8.6 billion. These contracts include 515 individual supplier agreements.

3. **LHD specific contracts** over \$250,000 that are initiated by LHDs, then set up by HealthShare to be managed by LHDs. HealthShare is involved at the beginning and at the end of the contracts, by helping LHDs to source, negotiate and establish contracts, as well as plan for contract renewal. In 2018, the estimated annual expenditure for LHD specific contracts was around \$290 million from 416 contracts with an overall value of around \$1 billion.

In developing LHD specific contracts, LHDs have internal procurement teams that engage with various stakeholders (such as hospital managers or senior clinicians) to understand and specify the procurement need. The LHD procurement team then shares this information with HealthShare, which manages the tender and procurement process on behalf of the LHD. HealthShare works with LHDs in negotiating with tenderers, and with planning for end of contract/contract renewal. Some LHD specific contracts may have more than one LHD as the Principal, or Principal's delegate.

All of the above contract types are complex and extensive. Typically, the general conditions for a head agreement will have around 80 or more potential intervention points where a contract manager may need to make a decision, as well as numerous intervention points in the specification. One of the contracts we reviewed included over 30 intervention points. Additionally, there are usually KPIs which require measurement, monitoring and action if not met. There were between zero and 25 KPIs in the contracts we reviewed. See Exhibit 6 for details about the contracts we reviewed.

1.4 About the Audit

This audit examined whether HealthShare has the required capability to effectively manage high-value goods and services contracts. We included the NSW Public Service Commission and NSW Treasury, through NSW Procurement, as auditees as they administer policies influencing agencies' contract management capability. On 1 July 2019, as part of changes to government administrative arrangements, NSW Procurement was transferred to NSW Treasury from the former Department of Finance, Services and Innovation.

At March 2019, HealthShare was responsible for managing around 1,000 contracts. This includes head agreements and individual supplier contracts.

For this audit, we reviewed one high-value whole-of-government contract for Food Services, which had an annual estimated spend of around \$100 million in 2017–18, and a total estimated value of \$500 million. We also selected a whole-of-health contract for Patient Transport Services, with an annual estimated spend of around \$15.0 million in 2017–18, and a total estimated value of \$60.0 million.

We also reviewed a single whole-of-health head agreement with separate customer contracts, vendor contract from the head agreement for Clinical IV Administration with a combined annual estimated spend by the selected LHDs of around \$20.0 million in 2017–18, and a total combined estimated value of \$81.0 million.

For the LHD specific contracts, we reviewed five high value contracts using the same supplier common to all six selected LHDs (Renal Dialysis Supply Price Per Treatment) with a combined annual estimated spend by the selected LHDs of around \$13.4 million in 2017–18, and a total combined estimated value of \$83.0 million.

All the contracts selected exceeded the \$250,000 high-value threshold set by the Secretary NSW Health, requiring procurement (including contract management) to be conducted by HealthShare.

Exhibit 6 details the contracts selected for review. See Appendix three for further details about the audit.

Exhibit 6: Details of contracts reviewed

Contract type	Contracts reviewed	Managed by	Estimated total contract value (\$million)	Estimated annual contract value 2017–18 (\$million)	Start date	Original expiry date	Original duration (years)	Optional extension (years)	No. of suppliers	No. of KPIs
WoG (without customer contracts)	Food Service	HealthShare	500	100	1/4/2018	31/03/2023	5	--	17	4
WoH (without customer contracts)	Patient Transport Service	HealthShare	60	15	1/8/2017	31/07/2021	4	1	4	8
		HealthShare/ LHD A	25	6.24						
		HealthShare/ LHD D	5.2	1.30						
WoH (with customer contracts)	Clinical IV administration	HealthShare/ LHD F	13.7	3.42	1/3/2015	28/2/2018	3	2	23	--
		HealthShare/ LHD C	16.9	4.23						
		HealthShare/ LHD B	5.9	1.47						
		HealthShare/ LHD E	14.4	3.59						
		LHD A (metro)	15.8	3.16	1/9/2014	31/8/2019	5	--		22
		LHD B (regional)	7.9	1.13	20/12/2016	19/12/2023	7	--		25
		LHD C (metro)	20.8	2.97	20/12/2016	19/12/2023	7	3		25
LHD Specific	Renal Dialysis Supply PPT	LHD D (regional)	12.1	1.72	20/12/2016	19/12/2023	7	3	1	25
		LHD E (regional)	11.0	2.21	1/2/2016	31/1/2021	5	--		8
		LHD F (metro)	15.4	2.19	1/10/2015	30/9/2022	7	--		4

2. Contract management capability

2.1 Organisational capability

Effective contract management is essential for HealthShare to achieve value for money

Value for money in a goods and services contract is more than just having the specified good delivered or service carried out. The contracts that HealthShare manages are complex, with multiple potential intervention points and obligations for the supplier to meet. These obligations include:

- establishing and maintaining insurances for the contract duration
- preparing various scheduled performance reports to the contract manager
- attending scheduled meetings with the contract manager
- meeting specified quality standards and delivery deadlines
- addressing potential consequences from failure to perform against contract KPIs.

All these obligations are costed into the contract price by the supplier. If a contract manager fails to ensure these obligations are being met, then the purchaser is not getting what is being paid for, even if the goods or services are delivered as specified.

HealthShare's Contract Management Guide states that, without rigorous contract management, 75 per cent of projected sourcing savings can disappear within 18 months after contract award. HealthShare managed contracts with around \$1.8 billion of expenditure in 2018. In its 2019 annual outcomes report to the NSW Procurement Board, HAC estimate that HealthShare had negotiated approximately \$53.6 million in savings in goods and services sourced in 2018–19 financial year.

HealthShare is not complying with the Health Administration Corporation's (HAC's) obligations as an accredited agency under the NSW Procurement Board accreditation program and Ministry of Health procurement policy

As head of HAC, an accredited agency under the Accreditation Program for Goods and Services Procurement (the accreditation program), the Secretary NSW Health has authorised only the Ministry of Health and HealthShare to procure high-value (over \$250,000) goods and services for NSW Health entities, including LHDs, to 'manage risk and provide wide visibility over procurement and contracts'.

We found one significant area where HealthShare is not complying with its accreditation obligations and the Ministry of Health procurement policy:

- **HealthShare is not using contract management plans for over 80 per cent of the contracts it manages**

Contract management plans are a key contract management tool which enables contract managers to track suppliers' obligations, as well as its own obligations under the contract.

We found there were no contract management plans for any of the nine contracts we selected for review.

Based on discussions with senior HealthShare personnel, the development and use of contract management plans by HealthShare is a rarity. We found HealthShare had 21 contract management plans in use for the 122 active whole-of-government or whole-of-health contracts it was managing.

HealthShare advised it did not prepare contract management plans for the LHD specific contracts it sourced. This is despite its procedures requiring contract managers to start developing a contract management plan during the sourcing stage and provide a detailed template for the development of such plans.

The use of contract management plans is a consistent requirement for public service agencies in Australia. In NSW, contract management plans for high-value goods and services procurements are a mandatory requirement of the accreditation program and the Ministry of Health's procurement policy. These requirements have been in place at least since May 2013 for the Ministry and April 2012 for the accreditation program.

The position adopted on mandatory contract management plans for high-value contracts by the NSW Procurement Board and the Ministry of Health is consistent with the Australian Government's 2019 Contract Management Guide.

We also found one significant area where HealthShare was not complying with the Ministry of Health procurement policy:

- **HealthShare has transferred contract management responsibilities for some high-value contracts to Local Health Districts**

For high-value LHD specific contracts, we found that HealthShare was only managing the sourcing stage of the procurement and leaving responsibility for contract management to the relevant LHD. In doing so, HealthShare has contravened the Ministry of Health procurement policy. This policy limits the sourcing and management of high-value goods and services contracts NSW Health entities to only HealthShare and the Ministry. HealthShare does not have the authority to transfer its responsibilities for managing high-value goods and services contracts to other NSW Health entities.

HAC did not report its non-compliance with the contract management requirements of its accreditation obligations to the NSW Procurement Board

As part of its accreditation obligations under the accreditation program, HAC must submit an annual certificate confirming compliance with its accreditation requirements. Its 2017–18 certificate includes an attestation by the Chief Procurement Officer and a Deputy Secretary that NSW Health has tested (and confirmed) its compliance with the NSW Procurement Board's Procurement Policy Framework.

The certificate does not report any non-compliance despite our finding that mandatory contract management plans are not widely used.

HealthShare's systems, policies and procedures are mostly consistent with relevant frameworks, policies and guidelines. Within NSW Health, the Ministry of Health is responsible for writing, publishing, reviewing and updating cluster-wide goods and services procurement policies and procedures. This includes guidance specific for contract management. We found that the Ministry's policies and procedures were up to date and consistent with guidance provided by:

- NSW Procurement Board Directions and policies
- the NSW Procurement Accreditation Program for Goods and Services Procurement.

The Ministry of Health procurement procedures state that HealthShare is responsible for the planning and sourcing stages for all NSW Health entities for goods and services procurements over \$250,000. Entities, including LHDs however are responsible for the conduct and governance of the manage stage. This conflicts with Ministry's procurement policy which limits responsibility for procurement (which includes contract management) of goods and services valued at over \$250,000 to either HealthShare or the Ministry of Health.

NSW Health entities, including HealthShare, must comply with the Ministry's policies and procedures. We found that HealthShare's policies are largely consistent with those set by the Ministry. As an organisation specialising in procurement, HealthShare has its own Contract Management Framework and Contract Management Guide, which provide more detailed guidance for HealthShare staff. The framework and guide list three phases of contract management and provide tools for the various actions attributed to each phase. The phases are:

- establish
- manage
- complete.

Procurement is defined in the both the NSW Government Procurement Policy Framework and the Ministry's procurement policy as 'the process that begins with the basic make-or-buy decision and spans the whole-of-life of supplier arrangements. It includes the definition of business needs, designing and implementing arrangements, monitoring and managing performance, and reviewing outcomes to assess the effectiveness of the arrangements.'

By rarely developing and using contract management plans HealthShare did not comply with its own procedures

Despite the importance HealthShare's own procedures place on the mandatory development and use of contract management plans for high-value goods and services contracts, as we stated earlier, more than 80 per cent of high-value whole-of-government and whole-of-health contracts HealthShare presently manages do not have a contract management plan.

HealthShare's Contract Management Guide reinforces the important role contract management plans play.

Contract management plans contain key information regarding how a contract will be managed, including the systems and processes that will be used to ensure negotiated value for money outcomes are delivered and that both parties comply with their respective obligations. The plan also establishes a framework against which contractual performance can be managed and risks or issues are readily identified and managed.

HealthShare procedures require contract managers to start developing a contract management plan during the sourcing stage and provide a detailed template for the development of such plans. Further detail on HealthShare's contract management plan template and contract management tools are described in Exhibit 7.

Exhibit 7: HealthShare contract management tools

HealthShare's contract management framework includes a template for a contract management plan which is consistent with the inclusions outlined in the Ministry's policy. Elements include:

- high level summary, e.g. term, expiry date
- identification of milestones and key deliverables/outcomes
- roles and responsibilities of suppliers and Health staff
- governance requirements, including monitoring compliance with contract conditions
- purchase to pay process
- contract risk management plan
- performance management through the KPI scorecard, measures, reporting requirements (including benefits realisation), timeframes and meeting schedule
- consequences of meeting/not meeting/exceeding minimum performance targets
- dispute resolution
- processes for contract variations and extensions
- closure/transition planning procedures
- assessment of benefits realised and lessons learnt.

Other HealthShare contract management tools include:

- contract handover checklist template
- contract kick-off meeting agenda template
- contract kick-off meeting minutes and actions template
- information management guidelines
- contract review meeting agenda and minutes template
- contract review report template
- KPI scorecard template
- KPI performance tracker template
- risk register template
- Issues register template actions register template
- performance review report template
- transition out template
- close-out template
- lessons learnt register.

None of the contracts we examined complied with NSW Health policy or User Guide on use of PROcure for ongoing administration and management of contracts

The NSW Health procurement policy describes the Procurement and Contracting Lifecycle Management System (PROcure) as a workflow system used for managing procurement processes and ongoing contract management for goods and services, to provide NSW Health entities with improved understanding and guidance around all processes and compliance.

Effective use of systems like PROcure enables contract managers to readily access up to date information on the status of a contract, including any problems flagged for management. It avoids the risk that effective contract management can be reduced with changes in staff, or inadequate communication between staff or suppliers. Additionally, PROcure's workflow capacity sets out a roadmap for contract managers to follow. This results in key steps not being missed and a consistent approach to contract management.

Since mid-2015, all HealthShare contracts greater than \$150,000 must be recorded in PROcure immediately following contract award. Contract managers are responsible for recording the contract in PROcure and for the ongoing administration and management of the contract using PROcure.

The contract module of the PROcure User Guide states the contract record in PROcure is used to capture contract information and ongoing contract management. Among the several types of information listed for inclusion are documents associated with the contract, and compliance activities required to be completed for the contract. Other information includes contract details, vendor details, contract cost and times, milestones, contract management personnel, risks, and contract variations.

We examined whether the required documents were included in PROcure in the nine contracts we reviewed for this audit. We also selected ten random samples from PROcure for a variety of high value goods and services contracts where it was stated that a contract management plan had been prepared or was pending.

For the nine contracts we reviewed, while all contract details such as price, name of vendor, and duration were included in PROcure, none had any documents evidencing their ongoing contract management, such as contract management plans, copies of meeting minutes, reports submitted by suppliers or general correspondence between HealthShare, suppliers or customers.

In explaining why PROcure was not being used as required, HealthShare advised that up until January 2018, PROcure could not manage the panel arrangements that HealthShare puts in place for whole-of-health contracts. PROcure had no ability to link to head contracts into a panel, and no ability to link customer contracts to head contracts. While work was underway to upload data from panel arrangements into PROcure, further upgrades are required to make PROcure fully functional. HealthShare advised that it will complete system enhancements and migrate all contract management activity into PROcure by the end of 2020.

PROcure is being inappropriately used to indicate HealthShare is preparing contract management plans, when it is not

Preparation and approval of contract management plans sits in the compliance section of PROcure, which hold records of activities that should be completed for the contract. These compliance steps require the user to indicate they have been completed.

For the six LHD specific contracts we reviewed, five stated in PROcure that draft contract management plans had been approved, but we found no plans in the system. We were also advised by all the LHDs that they had no contract management plans for these contracts.

For the ten random samples we selected that indicated that contract management plans were completed or pending, we found that no plans were included in PROcure, nor were other documents evidencing ongoing contract management. In four of these contracts, HealthShare had not listed the contract price.

HealthShare advised us that it stores contract management documents on the HealthShare 'shared drive'. However, HealthShare could not provide copies of the contract management plans detailed above when requested. HealthShare advised that the lack of these plans, despite being recorded in PROcure, was a combination of inadequate record keeping and an unintended consequence of the data transfer process for panel arrangements.

HealthShare's contract management practices are limited by inadequate and inconsistent performance monitoring

HealthShare advised that it does not have the capacity to closely manage individual contract performance, and even if it did, it does not have the information to do so. It is working on solutions to deliver that information but that is some time away from completion.

HealthShare advised it uses a risk and exception-based approach to manage its contracts due to these constraints.

This mostly does not involve using contract management plans or the PROcure contract management system. HealthShare contract managers primarily rely on information it receives from contract users as well as information from suppliers either through supplier reports or through meetings.

In the HealthShare managed contracts we reviewed, we found that its contract management practices were limited by inadequate and inconsistent performance monitoring.

- For the whole-of-health contract (without customer contracts) for Patient Transport Services, we found that suppliers did not provide performance reports as and when required. The contract required monthly meetings with suppliers to discuss performance. The contract manager replaced these with bi-monthly meetings after the first six months of the contract, and with quarterly meetings in 2019 without any documented rationale. The contract manager did not take minutes of the performance meetings held with suppliers as required by HealthShare's policy as well as government record keeping requirements.
- For the whole-of-health contract with customer contracts for Clinical IV Administration, the supplier has not provided quarterly reports on usage data, and no annual performance reports since the contract started in March 2013, as required under the contract. Additionally, the contract manager has not held annual performance meetings with the supplier in relation to this contract (or other similar contracts the supplier had with HealthShare) as required. HealthShare advised contract managers would hold meetings in response to any significant issue arising, but to-date no such meetings have been held.

This contract also listed several performance indicators for which metrics were to be agreed by the contracting parties after contract award. The contract manager did not ensure this happened. As a result, there is no framework to measure supplier performance against.

HealthShare provided examples of its response to quality issues where HealthShare referred a matter that resulted in a product recall to the Therapeutic Goods Administration. However, we found that there was no consideration of applying sanctions available under the contract on the supplier for providing faulty product. The only apparent consequence was the supplier crediting customers for payments they made for the faulty products. This approach can lead to suppliers using less stringent quality control measures, in the expectation that consequences, if any, would be minimal, thereby diluting value for money as customers. HealthShare and the Therapeutic Goods Administration expended resources in addressing the problem caused by the supplier, such as managing a state-wide product recall.

HealthShare does not always collect or validate performance data

Effective contract management relies on contract managers assessing supplier performance by collecting information to assess performance against key performance indicators. In many HealthShare managed contracts, suppliers provide performance information to demonstrate their performance. In these contracts, it is important for HealthShare to validate the information it receives from suppliers. If supplier performance does not meet the requirements of the contract, then HealthShare has not achieved value for money.

In the HealthShare initiated contracts that we reviewed, HealthShare contract managers did not always collect or validate performance data, significantly increasing the risk that poor supplier performance was not identified or managed.

We found:

- For high volume transactional contracts, such as the Clinical IV Administration contract, contract managers relied on the recipient certifying that they received goods before it paid suppliers. While this contract did not include specific KPIs, it did have contractual time requirements for delivery of goods. However, there was no measurement of performance against these requirements either by the purchasers in LHDs, or by the HealthShare operated warehouse where suppliers delivered around 80 per cent of the goods ordered under this contract (and other clinical goods contracts). The HealthShare warehouse acts as buffer for highly used goods, which reduces the risk of late deliveries from suppliers impacting on clinical activities. To manage warehouse inventory, and regulate deliveries from multiple suppliers, the warehouse developed a delivery protocol for suppliers. While the delivery periods specified were less stringent than those outlined in the contract, the protocol enabled the warehouse to avoid overcrowding and subsequent delays at its loading docks. However, we found no evidence the warehouse is monitoring and acting on breaches of the delivery protocol.
- For the Patient Transport Service contract, HealthShare prepared the KPI performance report from data entered into its computer operated dispatch system. The source of data for some of the KPIs was from suppliers' drivers, which they entered using a mobile device. However, HealthShare contract managers did not validate this data.

A summary of HealthShare contract management practices can be found in Appendix two.

HealthShare's system to manage performance issues for clinical goods and services contracts is limited by inconsistent use by Local Health Districts

HealthShare's Health Quality Reporting System (HQRS) is a secure state-wide electronic system used by NSW Health entities to report quality concerns about clinical products and services. LHDs can use HQRS to send messages to HealthShare's contract management team. The system can also inform the Therapeutic Goods Administration where appropriate.

The HealthShare initiated contracts we reviewed included reference to HQRS as the mechanism to report product quality issues, non-supply of goods and delivery delays to HealthShare. However, access to HQRS is limited to NSW Health personnel who are appropriately trained and accredited by HealthShare.

Some LHDs that we interviewed reported that they contact suppliers directly regarding performance issues, and if satisfied with the supplier's response, do not report the incident in HQRS or any other system. This introduces the risk that because LHDs are not reporting all issues, contract managers may not be able to identify systemic problems.

HealthShare has advised that it is aware of the risk and that it is either implementing or piloting initiatives designed to enable it to capture and manage actual on-time delivery performance of vendors in a systemic way. It also advised it is implementing a new incident management system designed to enable NSW Health staff to manage incidents involving quality issues within specified timeframes.

HealthShare does not provide enough information for Local Health Districts in contract user guides

To support customers in managing their specific contracts from whole-of-health head agreements with customer contract arrangements, HealthShare provides a user guide for each supplier. However, the user guides for the 23 suppliers under the contract we reviewed did not sufficiently cover the provisions of the contract relevant to contract users.

These provisions and others that can be exercised by customers are located in a 25 page section of a head agreement and customer contract general conditions totalling 50 pages. In our discussions with LHD personnel purchasing from this contract, they said that they relied on the user guide, and normally did not have available the full contract.

The user guide we reviewed included:

- a pricing schedule
- contact details of the supplier
- the standard and emergency delivery requirements for the Sydney metropolitan region and rural/remote NSW
- the goods return policy
- minimum order fees.

HealthShare advised that the user guide format we reviewed is typical for all its contracts.

See Exhibit 8 for additional information that HealthShare could include in contract user guides to assist customers to use the contract and manage suppliers.

Exhibit 8: Additional items that could be included in a contract user guide

- required and optional details in a customer order
- details on how goods should be packaged
- supplier's obligations if ordered goods or services are not able to be provided
- managing goods use-by-dates and expiries
- managing delivery of defective or incorrect goods
- when and how to arrange warranty repairs
- training of customer staff
- correct invoicing
- payment terms
- managing disputed invoices
- when and how to approve a subcontract
- using HealthShare's Health Quality Reporting System to report issues with quality, timeliness of delivery or other supplier non-compliance with contract terms
- contact details for the responsible HealthShare contract manager.

Source: Audit Office 2019.

A more extensive user guide, referencing clauses such as those listed in Exhibit 8, should assist in achieving a more effective customer purchase outcome.

While the findings above are on a very limited range of contracts managed by HealthShare, they point to significant failings in HealthShare meeting its own policies and procedures. Also, there are limited arrangements in place to support LHDs in their customer contracts, and to ensure that LHDs can provide regular and meaningful reports on supplier performance issues. Without this information, HealthShare cannot assure that it is effectively managing these contracts to achieve expected savings and ensuring suppliers meet their contract obligations.

We found significant variability and deficiencies in contract management practices for the LHD specific contracts we examined

Managing long term and complex contracts requires systems, tools and staff with appropriate contract management skills to support effective contract management and achieve value for money. We found significant deficiencies and variability in contract management practices for LHD specific contracts which indicates the above environment is not in place.

Exhibit 9 lists some of the variabilities we found.

Exhibit 9: Local Health District specific contracts for renal dialysis treatment

Renal dialysis is a life sustaining treatment, used for patients with kidney disease. The treatment, which LHDs can provide in health care settings or in the home, involves the use of haemodialysis machines to remove excess water and waste products from blood.

In 2017–18, the renal dialysis contracts we examined had a combined annual estimated spend by six LHDs of around \$13.4 million. The contracts included the supply and installation of medical equipment used for renal dialysis as well as the supply of consumable items used during treatment (such as filters, cleaning products, needles and tubes).

The contract periods for Renal Dialysis contracts we reviewed ranged from five to seven years, and two of the contracts had optional extension provisions for up to three years. The number of key performance indicators (KPIs) included in the contracts ranged from six to 25. Three contracts had abatement provisions where suppliers could be penalised for failure to meet KPIs and other performance requirements.

One of the contracts we reviewed, which applied to two of the selected LHDs, had 87 potential intervention points by the contract manager in the head agreement general conditions, and 31 intervention points in the specification. It also had 25 KPIs.

For the renal dialysis contracts we reviewed, we found:

- None of the of the LHD contract managers had established a contract management plan. We also found that HealthShare had not initiated the Contract Management Plan process during the sourcing stage of the procurement despite its procedures requiring this.
- Four (of six) LHDs did not receive any reports from suppliers on contract performance. All of the contracts we reviewed required the supplier to provide reports on product performance as well as the number of patient treatments and consumables used at set times. One LHD received some reports, but not as often as specified in the contract. Only one LHD received all the reports at the time required by the contract.
- Variation in how often LHDs met with suppliers to discuss contract performance, which was another requirement of the renal dialysis contracts. Of the six LHD specific contracts we reviewed, one LHD did not hold any such meetings, two held them on an ad-hoc basis, two at intervals as specified, and one combined two types of meetings with different time requirements (quarterly and biannually) into one biannual meeting.
- Limited to no analysis of supplier performance against KPIs. In one instance we found the supplier's reports on performance outcomes continually showed an incorrect and less stringent KPI than specified in the contract. The LHD had not detected this discrepancy.

A summary of LHD contract management practices can be found in Appendix two.

HealthShare provides limited guidance on how contract managers can validate performance information

HealthShare's Contract Management Guide and associated contract management framework is the primary source of guidance for contract managers. The Guide requires, at a minimum, contract managers to draft and maintain a contract management plan for each high value contract, and the framework includes a range of tools relevant to managing performance such as:

- a contract management plan template which among other requirements states that for KPIs, there needs to be a high-level summary and how they will be managed. This includes details as to who is responsible for compiling the indicators, and how they will be reported and at what frequencies. Additionally, details need to be provided of any additional analysis, reviews or audits which will be performed to validate performance data
- a KPI performance tracker template for contract managers to track supplier performance against KPIs
- contract review report template
- 'Developing and managing KPIs' procurement guideline.

However, neither the contract management plan template or the HealthShare guideline on developing and managing KPIs or the Contract Management Guide provide guidance on when and how to use the methods outlined in the contract management plan to validate performance data.

The contract management plan template also covers other performance management areas such as:

- satisfaction surveys used to measure customer satisfaction
- monitoring and reporting supplier performance including when and by whom
- meetings to manage and review supplier performance, including type, frequency and attendees.

It is important for contract managers to validate performance information provided by suppliers to ensure that government agencies are achieving value for money. While we found that HealthShare lists a range of approaches to validate performance information provided by suppliers in the contract management plan template, it does not apply a structured approach, such as a methodology or framework, to align validation strategy with risk.

A risk-based framework would assist staff involved in procurement and contract management to develop effective and efficient validation strategies.

HealthShare staff can access support and guidance

The Ministry of Health and HealthShare publish all their specific procurement policies and procedures on their respective intranets, which are available to all HealthShare and other NSW Health entities, including LHD staff. The Ministry emails HealthShare contract managers and LHD procurement teams to inform them of key updates.

HealthShare contract managers can access up-to-date departmental policies and procedures and seek support from their managers when required.

The Ministry of Health provides a half day training course titled Introduction to Contract Management. However, attendance is not mandatory for HealthShare contract managers.

2.2 Staff capability

HealthShare uses the NSW Public Service Commission's capability framework

The NSW Public Service Commission's (PSC) capability framework describes the capabilities and associated behaviours that are expected of all NSW public sector employees, at every level and in every organisation. Every role requires, at an appropriate level, all of the capabilities in the capability framework, including the Procurement and Contract Management capability.

HealthShare uses the capability framework for position descriptions for all staff.

HealthShare is currently assessing the capability of its procurement staff

NSW Procurement, in consultation with the NSW Public Service Commission (PSC), has developed a program called the Procurement Capability Compass. The Compass program is a Whole-of-Government procurement capability assessment tool that is aligned with the PSC's capability framework. The Compass program is designed to measure the baseline of procurement knowledge across a team by helping individual staff identify their strengths and development areas.

HealthShare is using the Compass program to assess the procurement capability of its staff annually, starting in 2019. As part of the Accreditation scheme, HealthShare reported the aggregated results of the Compass program for 2018–19 to NSW Procurement.

Section two

Appendices

Appendix one – Response from agencies

Response from the NSW Health



Health

Ms Margaret Crawford
Auditor-General of NSW
Audit Office of NSW
GPO Box 12
SYDNEY NSW 2001

Our ref H19/108069

Dear Ms Crawford

Ensuring Contract Management Capability in Government – HealthShare NSW Performance Audit Report

Thank you for inviting NSW Health to respond to the recommendations made in your performance audit report on *Ensuring Contract Management Capability in Government – HealthShare NSW*.

The operations of HealthShare NSW support the delivery of services to all of our patients, staff and carers every day in the NSW Health system. Having reviewed the audit office report, I would like to highlight the value HealthShare NSW brings to the NSW Health System and our commitment to implement the recommendations of the Audit Office.

1. The value delivered by HealthShare NSW

HealthShare NSW was established in 2012 and is the largest government shared services organisation in Australia. As an entity, the function of HealthShare NSW is to provide oversight of significant procurement activity and to achieve state-wide efficiencies to benefit the overall NSW Health System. Current operations focus on the management of shared services across human resource functions, financial services, food and patient-support services, linen services, patient transport and core procurement services.

The savings delivered across a wide range of procurement categories, including a significant proportion focusing on medical consumables, are comprehensively measured with regular reporting to individual Health Organisations on savings achieved and to the Ministry of Health on an aggregated basis.

For the period between July 2015 and June 2019, a saving to the NSW Health System of approximately \$362 million has been reported, including recurrent plus one-off amounts. This amount is expected to continue to grow into the future.

2. The robustness of contract management practices

As identified in the audit report, it is accepted that the majority of contracts managed by HealthShare NSW do not have contract management plans in place in accordance with

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accreditation requirements and policy. NSW Health was reliant on a framework of guidelines, policies and processes in place based on a risk and value-based approach consistent with its highly devolved governance structure.

This audit has highlighted that a more systematic approach consistent with NSW procurement policy is required to strengthen contract management and ensure benefits are realised.

Further to the above points, please find attached a table detailing NSW Health's response to the individual recommendations made in the report.

Yours sincerely



Elizabeth Koff
Secretary, NSW Health

29/10/19

Recommendation	Response	Comment
1 By November 2019, the Health Administration Corporation should: Notify the NSW Procurement Board of the results of this audit in relation to the non-use of contract management plans as a trigger event under the Accreditation Program for Goods and Services Procurement	Accepted	NSW Health acknowledges that there are some areas within our contract management processes that require further strengthening, one being the consistent use of contract management plans. Given the scale of procurement undertaken by NSW Health, a risk and value-based approach is taken to contract management. In place of formal contract management plans, a significant number of contracts are managed under Head Agreements and active monitoring is undertaken through our network of experienced staff within our Local Health Districts, HealthShare NSW and the Ministry of Health. This approach ensures the timely and effective delivery of goods and services to our Health facilities across NSW.
2 By May 2020, the Health Administration Corporation should: Work with NSW Procurement to develop a Trigger Event Action Plan to enable it to fully meet, by November 2020, its obligations under the Accreditation Program for Goods and Services Procurement.	Accepted	NSW Health will work with NSW Treasury and the NSW Procurement Leadership Group to determine the best approach to ensure the processes in place meet the operational demands of the NSW Health System and the intent of the accreditation program.
3 By May 2020, NSW Health should: Develop a performance improvement plan for HealthShare NSW to fully meet, by November 2020, its compliance with Ministry of Health procurement policies. The performance improvement plan should include: <ul style="list-style-type: none"> improving supplier performance management effectively using contract management tools, including contract management plans and PROcure ensuring LHD specific contracts are managed in line with Ministry of Health procurement policy developing a risk-based framework to validate performance information to assist contract managers to select and justify appropriate validation methods for performance information 	Accepted	NSW Health (HealthShare NSW) will develop a plan by May 2020 to meet the findings of the audit report, including: Rank all panel arrangements by risk and: <ol style="list-style-type: none"> review contract management plans for all high risk contracts a complete plans for those where they are not in place; update User Guides for high risk contracts to include relevant additional information; Implement a consistent approach to supplier performance management for all high risk contracts; Implement a risk-based framework for performance validation; and Develop a comprehensive plan to implement complete contract management across HealthShare's contracts including completing migration to and use of PROcure.

Recommendation	Response	Comment
<ul style="list-style-type: none"> improving customer user guides for whole of health head agreements by explaining the provisions of the contract relevant to customers as well as information on how customers can report performance issues to HealthShare NSW. 		Following development of the above plan, implementation will be undertaken in a phased manner and within a practical timeframe, in consultation with key service partners.

Response from NSW Treasury



Treasury

Contact: Sue Woodall
Telephone: (02) 8229 2354
Our Reference: P19/2216
Your Reference: D1922374/PA6635

Ms Margaret Crawford
Auditor-General for NSW
GPO Box 12
SYDNEY NSW 2001

Dear Ms Crawford, 

Performance Audit, *Ensuring contract management capability in government – HealthShare NSW*

Thank you for the opportunity to comment on the final performance audit report, *Ensuring contract management capability in government – HealthShare NSW* dated 27 September 2019 (your reference D1922374/PA6635). We note the final report substantively incorporates Treasury's proposed amendments to the extract of the draft report provided by your office in August 2019 (your reference D1918536/PA6635).

Treasury notes the audit findings and recommendations related to the Health Administration Corporation, in particular those in relation to NSW Procurement and the NSW Procurement Board. NSW Procurement will be pleased to support the Health Administration Corporation in actioning these recommendations. NSW Procurement will also notify the NSW Procurement Board of the results of this audit and work with the Health Administration Corporation to develop a Trigger Event Action Plan under the NSW Government Agency Accreditation Program for Goods and Services Procurement (Accreditation Program).

In addition, NSW Procurement is initiating a review of the contract management obligations of the Accreditation Program to advise the Procurement Board on ways to improve the government's contract management practices and outcomes.

Please contact Ms Sue Woodall, Executive Director, NSW Procurement/NSW Chief Procurement Officer on (02) 8229 2354 or Sue.Woodall@treasury.nsw.gov.au if you have any questions.

Yours sincerely



Michael Pratt AM
Secretary

21st October 2019

Response from Public Service Commission



Public
Service
Commission

Ref: A4449258

Ms Margaret Crawford
Auditor-General for NSW
Audit Office of NSW
Level 15, 1 Margaret Street
SYDNEY NSW 2000

Attention: Ms Claudia Migotto

Dear Ms Crawford

Thank you for the opportunity to comment on the Final Report – Contract Management Capability – HealthShare NSW, dated 27 September 2019 (your ref D1922375/PA6635)

The Public Service Commission has published two resources to support management and development of individuals engaged in the procurement occupation: the NSW Public Sector Capability Framework and the Procurement Professionals Capability Set. The Commission has also contributed, with other sector agencies, to the development by NSW Procurement of the Procurement Capability Compass to measure the baseline of procurement knowledge and help individual staff identify their strengths and development areas.

I am pleased to note that these resources are being implemented by HealthShare, and the Final Report's conclusion that HealthShare *"has a systematic approach to managing staff contract management capability"*.

The Procurement Compass is very new, and it will be interesting to see how it contributes to the development of individual and team capability over the next few years.

If you have any queries regarding the above, please contact Ms Margaret Heys, Senior Advisor on 9272 6030 or margaret.hey@psc.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Johnston'.

Scott Johnston
Acting Public Service Commissioner

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Service & Accountability

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Appendix two – Contract performance management summary

Contract		Food service	Patient transport service	Clinical IV admin	Renal dialysis PPT					
Contract type		WoG without customer contracts	WoH without customer contracts	WoH with customer contracts	LHD specific					
Managed by		HS	HS	HS for head agreement and LHDs for customer contracts	LHD A	LHD B	LHD C	LHD D	LHD E	LHD F
NSW Health entities in contract		NA	NA	NA	1	3	6	6	1	2
No of suppliers		17	4	23	1	1	1	1	1	1
Annual price change		Yes	No	Yes	No	No	Yes	Yes	No	Yes
Penalty clauses		Yes	No	No	No	Yes	Yes	Yes	No	Yes
MoH requirement	PROcure used	No	No	No	No	No	No	No	No	No
	Contract management plan	No	No	No User Guide prepared by HS for customers	No	No	No	No	No	No
Performance report from suppliers		Contract requirement	Quarterly executive forum & monthly meetings	Monthly	Quarterly usage data and annual performance. KPI metrics not agreed to by contracting parties after contract award as required	For performance meetings called by LHD. Quarterly on treatment consumable use and product performance	Quarterly on patient treatments, consumable use and product performance	Monthly performance report	Monthly performance report	Quarterly on patient treatments, consumable use and product performance. Biannual performance report
		In practice	Quarterly executive forum & monthly meetings	No reports provided by supplier. Prepared by HS	Only 2 quarterly usage data reports submitted since March 2015. No annual performance reports.	No reports submitted since contract start in July 2014	No reports submitted since contract start in December 2016	Performance reports provided monthly. Supplier only reported on 4 of the 2s5 KPIs	No reports submitted since contract start in December 2016	No reports submitted after initial report for period Jan 2016 to June 2016

Contract		Food service	Patient transport service	Clinical IV admin	Renal dialysis PPT					
Contract type		WoG without customer contracts	WoH without customer contracts	WoH with customer contracts	LHD specific					
Managed by		HS	HS	HS for head agreement and LHDs for customer contracts	LHD A	LHD B	LHD C	LHD D	LHD E	LHD F
Scheduled meetings with suppliers	Contract requirement	Quarterly executive forum & monthly meetings	Monthly	Annual meeting with HS	At LHD discretion	Quarterly	Monthly performance review meetings and annual review meeting	Monthly performance review meetings and annual review meeting	Quarterly with LHD	Quarterly local; site meetings. Biannual meeting to discuss supplier performance
	In practice	Quarterly executive forum & monthly meetings	Monthly for first 6 months, then bi-monthly until 2019 then quarterly	No scheduled meetings held. Meetings arranged in response to issues as they arise. No such meetings to-date with supplier (Baxter) on this contract	Meeting held annually.	No meetings held since start of contract	Monthly meetings held. Annual review meeting held as part of monthly meetings	Meetings held on ad hoc basis. One meeting only in 2018. No annual review meeting.	Ad hoc, every 2 to 3 months	Biannual meeting only
Additional comment		Note 1	Note 2	Note 3	Note 4	--	Note 5	Note 6	Note 7	--

Notes:

- 1 HS advised penalties have been applied for KPI breaches.
- 2 No minutes taken of performance meetings with supplier. No validation of supplier provided performance data.
- 3 Eighty per cent of contract items come via HS warehouse. Customers or HS do not track and report on delivery time performance. Information in user guide is limited to contact details, delivery requirements, goods return policy. No details on customer contract terms, supplier obligations or customer reporting regime to HS.
- 4 Minutes for July 2016 meeting provided. No discussion of KPIs. Agenda for November 2016 meeting also provided.
- 5 Incorrect KPI measure in supplier report not noted by LHD. This indicated a fail however no corrective action taken. This is same contract as for LHD D.
- 6 This is the same contract as for LHD C.
- 7 No reporting on or discussion about KPI performance in supplier report or ad hoc meetings with supplier.

Appendix three – About the audit

Audit objective

This audit assessed whether HealthShare NSW had the required capability to effectively manage contracts.

Audit criteria

We addressed the audit objective by assessing the agency against the following criteria:

1. The agency's systems, policies and procedures support effective contract management and are consistent with relevant frameworks, policies and guidelines.
2. The agency has capable personnel to effectively conduct the monitoring activities throughout the life of the contract.

Audit scope and focus

In assessing the criteria, we checked the following aspects:

1. The agency's systems, policies and procedures support effective contract management and are consistent with relevant frameworks, policies and guidelines, including but not limited to:
 - a) NSW Procurement Board Directions and policies, including the NSW Procurement Accreditation Program
 - b) NSW Public Sector Capability Framework
 - c) other good practice frameworks for contract management.
2. The agency has capable personnel to effectively conduct the monitoring activities throughout the life of the contract by:
 - a) collecting and validating relevant performance information
 - b) regularly monitoring and rigorously reviewing contract performance
 - c) identifying and responding to contract performance issues in a timely and effective manner
 - d) providing regular reporting to the senior management.

This audit focused on high-value goods and services contracts.

Audit exclusions

The audit did not:

- examine HealthShare's sourcing processes, including identifying a business need, tendering and contract award
- examine construction or infrastructure related contracts
- examine information communication and technology contracts.

Audit approach

Our procedures included:

1. Interviewing key staff, and senior officers.
2. Examining relevant documentation, including:
 - a) contracts registers
 - b) risk assessment matrices
 - c) contract management plans
 - d) risk management plans
 - e) escalation procedures
 - f) collection and validation of contract performance data
 - g) regular reporting to senior management
 - h) ongoing assessment of contract performance against contract clauses and key performance indicators
 - i) adequate planning for contract renewal/termination.
3. Interview selected contract managers and review monitoring activities on the contracts they manage.
4. We also examined:
 - a) documentation from other stakeholders obtained throughout the audit such as research and
 - b) studies, and statistical data and analysis
 - c) information from other jurisdictions for comparison.

The audit approach was complemented by quality assurance processes within the Audit Office to ensure compliance with professional standards.

Audit methodology

Our performance audit methodology is designed to satisfy Australian Audit Standard ASAE 3500 Performance Engagements and other professional standards. The standards require the audit team to comply with relevant ethical requirements and plan and perform the audit to obtain reasonable assurance and draw a conclusion on the audit objective. Our processes have also been designed to comply with requirements specified in the *Public Finance and Audit Act 1983* and the *Local Government Act 1993*.

Acknowledgements

We gratefully acknowledge the co-operation and assistance provided by NSW Health, the Public Service Commission and NSW Treasury.

Audit cost

The total cost of the audit is \$220,000.

Appendix four – Performance auditing

What are performance audits?

Performance audits determine whether State or local government entities carry out their activities effectively, and do so economically and efficiently and in compliance with all relevant laws.

The activities examined by a performance audit may include a government program, all or part of an audited entity, or more than one entity. They can also consider particular issues which affect the whole public sector and/or the whole local government sector. They cannot question the merits of government policy objectives.

The Auditor-General's mandate to undertake performance audits is set out in section 38B of the *Public Finance and Audit Act 1983* for State government entities, and in section 421D of the *Local Government Act 1993* for local government entities.

Why do we conduct performance audits?

Performance audits provide independent assurance to the NSW Parliament and the public.

Through their recommendations, performance audits seek to improve the value for money the community receives from government services.

Performance audits are selected at the discretion of the Auditor-General who seeks input from parliamentarians, State and local government entities, other interested stakeholders and Audit Office research.

How are performance audits selected?

When selecting and scoping topics, we aim to choose topics that reflect the interests of parliament in holding the government to account. Performance audits are selected at the discretion of the Auditor-General based on our own research, suggestions from the public, and consultation with parliamentarians, agency heads and key government stakeholders. Our three-year performance audit program is published on the website and is reviewed annually to ensure it continues to address significant issues of interest to parliament, aligns with government priorities, and reflects contemporary thinking on public sector management. Our program is sufficiently flexible to allow us to respond readily to any emerging issues.

What happens during the phases of a performance audit?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team develops an understanding of the audit topic and responsible entities and defines the objective and scope of the audit.

The planning phase also identifies the audit criteria. These are standards of performance against which the audited entity, program or activities are assessed. Criteria may be based on relevant legislation, internal policies and procedures, industry standards, best practice, government targets, benchmarks or published guidelines.

At the completion of fieldwork, the audit team meets with management representatives to discuss all significant matters arising out of the audit. Following this, a draft performance audit report is prepared.

The audit team then meets with management representatives to check that facts presented in the draft report are accurate and to seek input in developing practical recommendations on areas of improvement.

A final report is then provided to the head of the audited entity who is invited to formally respond to the report. The report presented to the NSW Parliament includes any response from the head of the audited entity. The relevant minister and the Treasurer are also provided with a copy of the final report. In performance audits that involve multiple entities, there may be responses from more than one audited entity or from a nominated coordinating entity.

Who checks to see if recommendations have been implemented?

After the report is presented to the NSW Parliament, it is usual for the entity's audit committee to monitor progress with the implementation of recommendations.

In addition, it is the practice of Parliament's Public Accounts Committee to conduct reviews or hold inquiries into matters raised in performance audit reports. The reviews and inquiries are usually held 12 months after the report received by the NSW Parliament. These reports are available on the NSW Parliament website.

Who audits the auditors?

Our performance audits are subject to internal and external quality reviews against relevant Australian and international standards.

The Public Accounts Committee appoints an independent reviewer to report on compliance with auditing practices and standards every four years. The reviewer's report is presented to the NSW Parliament and available on its website.

Periodic peer reviews by other Audit Offices test our activities against relevant standards and better practice.

Each audit is subject to internal review prior to its release.

Who pays for performance audits?

No fee is charged for performance audits. Our performance audit services are funded by the NSW Parliament.

Further information and copies of reports

For further information, including copies of performance audit reports and a list of audits currently in-progress, please see our website www.audit.nsw.gov.au or contact us on 9275 7100.

OUR VISION

Our insights inform and challenge government to improve outcomes for citizens.

OUR PURPOSE

To help parliament hold government accountable for its use of public resources.

OUR VALUES

Pride in purpose

Curious and open-minded

Valuing people

Contagious integrity

Courage (even when it's uncomfortable)

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