

Appendix one – Responses from agencies

Response from Department of Finance, Services & Innovation



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Office of the Secretary

Our ref: BN18/1846 Your ref: D1814633

Ms Margaret Crawford Auditor-General of NSW Audit Office of NSW

Via email: margaret.crawford@audit.nsw.gov.au

Dear Ms Crawford Margaret

Thank you for your letter of 27 July 2018 regarding the Auditor-General's report on procurement and reporting of consultancy services and the opportunity to provide a formal response on behalf of the Department of Finance, Services and Innovation (DFSI) to be incorporated into the final report.

DFSI agrees with the audit report findings and supports the recommendations outlined in the report. The standard commercial framework has introduced a consistent approach to the procurement of consulting services for the first time across NSW government agencies with four key elements that were identified and implemented as best practice by the Procurement Benefits Program:

- · Standardised definitions for engagement types and resource types.
- Capped resource rates a matrix of daily rates by engagement type and resource type.
- Discount structure a matrix of discount percentages by project duration and team size.
- Capped expenses a table of expense types with maximum fees payable and a 7% total expenses cap for any individual project.

The Business Advisory Services Program that was completed by NSW Procurement (NSWP) in 2017 included a comprehensive market engagement and benchmarking exercise which removes the effort required for repetitive market engagement by agencies seeking resource rates and discounts.

The standard commercial framework allows agencies to focus on defining business requirements and project deliverables. Agencies are able to achieve improved commercial arrangements through competitive bidding for specific projects as suppliers seek to win work in particular subject areas or to optimise the utilisation rate of the resources available at the time of the agency's project.

There are now more than 1,000 suppliers that have accepted the standard commercial framework and only three non-compliant suppliers. NSWP estimates savings of \$19 million per annum based on expenditure data provided by suppliers, with a further \$5 million per annum from category and demand management activities.

The introduction of a Vendor Management System (VMS) by NSWP will further streamline the procurement of professional services by preconfiguring the standard commercial framework elements in a common system used by agencies and suppliers. NSWP is also implementing a range of measures to assist agencies to increase internal capability in procuring professional services.

We agree with the recommendations outlined in the report that require action by NSWP. We have summarised our response to each of these recommendations as follows:

Report recommendations	Proposed NSW Procurement (NSWP) responses
To address the challenges agencies face complying with the Framework, NSWP should: • centralise the monitoring of suppliers' compliance. • require suppliers to provide and present information to agencies in a format that meets the requirements of the Framework.	NSWP has developed and published templates that enable suppliers to provide and present information in a format that messages the requirements of the framework, however this is a manual process with significant data quality risks and does not include the majority of suppliers. NSWP has also been collecting data from the top 20 suppliers by spend since January 2018, however this is a manual process with significant data quality risks and does not include the majority of suppliers. NSWP will implement a VMS by supplier to allow all transactions for the top 5 suppliers by spend to be centrally monitored for compliance. Once implemented for the top 5 suppliers NSWP will progressively roll out the VMS to all other PMS Scheme suppliers to enable NSWP to centrally monitor compliance for 100% of suppliers without document-based templates and manual processing.
To address the challenges agencies face complying with the Framework, NSWP should provide tools to help agencies comply, such as checklists, or an automated process using a business intelligence system.	NSWP is progressively improving the templates and other published information to help agencies comply with the commercial framework. In some cases templates will be replaced by automation configured in the VMS. NSWP will also investigate eLearning options for procuring professional services (for example video tutorials, self-paced online learning).
NSWP should align the definition of a consultant for procurement and annual report purposes.	NSWP will work with Department of Premier and Cabinet and Treasury to develop and publish a standard definition for consultancy engagements that will be used for annual reporting compliance and any procurement-related assessment. NSWP proposes the use of the following definition, subject to agreement with Department of Premier and Cabinet and Treasury:
	"Consultancy" services are engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management. Generally, it is the advisory nature of the work that differentiates it from other tasks commonly performed by contractors.

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Report recommendations	Proposed NSW Procurement (NSWP) responses
NSWP should amend the Direction to align its application to the Public Works and Procurement Act 1912, and include all NSW government agencies except State Owned Corporations.	NSWP will amend and re-publish Procurement Board Direction 2018-01 to align its application to the Public Works and Procurement Act 1912, and include all NSW government agencies except State Owned Corporations.
NSWP should better understand agencies' procurement needs.	NSWP responds to ad hoc agency queries on a regular basis. NSWP leads the Category Management Working Group (CMWG) for Professional Services with monthly meetings to allow for management-level representation from each cluster to share insights, provide status updates and endorse (or not) proposed initiatives. NSWP will work with each cluster to convene quarterly performance reviews to discuss cluster-specific insights, status updates, requirements, issues and risks. Agency engagement will be reported by NSWP as part of the wider
NSWP should ensure new or amended directions are developed and issued with sufficient agency consultation and	Category Management Plan for Professional Services. For new or materially amended directions, NSWP will consult with agencies through all levels of procurement governance as follows: CMWG Procurement Leadership Group (PLG)
implementation time.	Procurement Board
NSWP should improve agency capability and accountability for	NSWP publishes a range of information and delivers ad hoc briefing sessions as requested to improve agency capability.
procurement and compliance.	NSWP will define recommended minimum levels of procurement experience and/or qualifications for agency staff involved in procuring professional services, linked to the Procurement Professionals Capability Set as published by the NSW Public Service Commission, and in consultation with agencies. The proposal will be distributed to the CMWG for endorsement and the PLG for approval.
NSWP should: • improve the data quality provided by suppliers and enforce sanctions when suppliers breach the Framework.	NSWP implemented a supplier data escalation process in June 2018 to address data quality provided by the top 20 suppliers by spend. NSWP will extend this escalation process to apply sanctions when suppliers breach the standard commercial framework.
enhance the quality, accuracy and completeness of data collection, and report on the outcomes of their analysis and monitoring	NSWP will provide access to the spend dashboard to CPOs and their nominated representatives. Data quality, accuracy and completeness of data will be significantly improved for all suppliers once a VMS has been implemented.
activities.	Data quality and compliance will be significantly improved for all suppliers once a VMS has been implemented.

If you would like more information, please contact Greg Grebert, Director Category Management – Professional Services, NSW Procurement, via email at greg.grebert@finance.nsw.gov.au.

Yours sincerely

Martin Hoffman Secretary

23 August 2018

Response from Department of Education



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

DGL18/590

Dear Ms Crawford

Thank you for your letter of 27 July 2018 providing the Department of Education with an opportunity to respond to the Auditor-General's report on procurement and reporting of consultancy services.

Please find attached a copy of the Department of Education's response to the report. The department supports the audit process, and agrees with the recommended actions which will strengthen our existing control and reporting process.

I would like to thank the Audit Office of New South Wales for their work in completing the report.

Yours sincerely

Mark Scott AO SECRETARY

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DEPARTMENT OF EDUCATION

27 August 2018

NSW Department of Education 105 Phillip Street Parramatta NSW 2150

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Key Finding and Recommendation	Recommendation	Comment by Department of Education	Proposed actions	Actions Complete by
1. Procuring consultancy services Agencies did not comply with the Direction's approval and reporting requirements	Agencies should improve compliance with the revised Direction by: • aligning policies and procedures to reflect the requirements of the Direction • implementing internal controls to effectively identify, resolve and report breaches of compliance with procurement requirements • providing procurement training and awareness programs to relevant staff.	The department has endeavoured to adhere to implementing effective internal controls, however, the Auditor's comments relate to policies associated with the Major Consultancy Portal which was not a fit for purpose tool, hence has provided challenges for Agencies with full implementation. The Direction has had several changes in a short time frame, therefore, the communication and implementation of procedures to comply have been difficult, especially in a large Agency. Procurement training and awareness is in place.	The department has reviewed its internal processes and workflows to ensure alignment with the current NSW Procurement guidance concerning procuring consultancy services.	The department has aligned its internal policies and procedures to match the current guidance provided by the Department of Finance, Services and Innovation (DFSI). This action is complete. The department has reviewed its procedures for approval, data capture and reporting of consultancy use. A revised process and workflow has been approved by the Executive. It is expected that the revisions will be fully implemented by December 2018. The department has an existing education program that enhances procurement knowledge throughout the department. The education program will be modified to strengthen policy requirements and messages associated with consultancy use and reporting requirements. The program will be updated by September 2018.

NSW Department of Education

105 Phillip Street PARRAMATTA NSW 2150 1300 679 332 www.education.nsw.gov.au

2. Annual Agencies should review The Auditor noted the The department The department has conducted a reporting of their current process of inconsistencies with the will review its review of the consultancy approval consultancy application of the definition of consultants and capturing, analysing and current process in process. Modifications to the expenditure reporting consultancy line with the department's work flow for fees in their annual recommended NSW recommendation consultancy approval have been Definition of reports, including: Procurement liaise with DPC and make proposed and due for consultants and NSW Treasury to align appropriate implementation by December reviewing their reporting requirements and improvements to Agencies used the provide guidance to Agencies consultancy reporting to ensure term 'consultants' procurement on definitions. This guidance accuracy of data. The department has commenced a inconsistently in approval policies and is fundamental to the review of data collection procedures to ensure consultancy their annual financial delegations reporting framework and The department report disclosures. sets the agenda for all Agency policy and procedures for will review and fees capitalised as part of asset cost incorporating consider how are captured and reported. Due for consultancy fees approvals and data capture. consultancy fees implementation by December capitalised as part of Until definitions are clarified identified as a 2018. asset costs to ensure and reporting requirements capitalised aligned there may continue the completeness of expenditure will be annual report to be reporting reported to ensure inconsistencies at Agency completeness of disclosures. level. Clarification on the disclosures. definition of consultancy would be welcomed by the department.

NSW Department of Education

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Response from Department of Family and Community Services



Ms Margaret Crawford Auditor-General of NSW Audit Office of New South Wales GPO Box 12 Sydney NSW 2001

3 1 AUG 2018

Ref EAP18/7453

Dear Ms Crawford

Auditor-General's report on procurement and reporting of consultancy services

Thank you for the opportunity to provide a formal response on behalf of the Department of Family and Community Services (FACS) on the report.

FACS supports all the key recommendations of the report.

FACS is in the process of reviewing its internal polices to increase alignment to the NSW Procurement Board Direction. This will be achieved by strengthening internal controls, increasing the identification, reporting and resolution of breaches.

FACS has sound internal review processes in place for the reporting of consultancy fees in the Annual Report.

FACS also supports updating the Department of Premier and Cabinet Memorandum and the initiatives by NSW Procurement to better align the definition of a consultant with the annual reporting requirements. Increased support from NSW Procurement for agencies, including a more consistent definition of what constitutes a consultancy engagement, will hopefully remove any inconsistencies and opportunities for error.

The report provides valuable findings on the engagement of consultancy services by NSW Government agencies and FACS supports the increased oversight of suppliers by NSW Procurement in the procurement of consultancy services.

Yours sincerely

Michael Coutts-Trotter

Secretary

Department of Family and Community Services Postal address: Locked Bag 10, Strawberry Hills NSW 2012 W www.facs.nsw.gov.au | E Secretary.FACS@facs.nsw.gov.au T (02) 9377 6000 | TTY (02) 8270 2167 ABN 80 597 369 676

Response from Department of Industry



Office of the Secretary

SECO18/208 Your ref: D1814633

Ms Margaret Crawford Auditor-General of NSW Audit Office of New South Wales GPO Box 12 SYDNEY NSW 2001 27 August 2018

Dear Ms Crawford

Re: Auditor-General's report on procurement and reporting of consultancy services

Thank you for your letter of 27 July 2018 enclosing a copy of your final report on the procurement and reporting of consultancy services by NSW Government agencies.

I would also like to thank you for providing the Department of Industry with the opportunity to comment on the draft report, and for your consideration of our comments during the preparation of the final report.

The department supports and welcomes the recommendations that have been made in the final report.

We note your finding regarding the complexity of the Standard Commercial Framework and its impact on compliance by agencies. We look forward to working with NSW Procurement on changes to the Framework arising out of your recommendations.

Yours sincerely

Simon Draper Secretary

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Response from Department of Justice



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Ms Margaret Crawford Auditor-General for New South Wales Level 15, 1 Margaret Street Sydney NSW 2000

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Dear Auditor-General,

I am writing in response to your letter of 27 July 2018. The Department acknowledges receipt of your letter and your invitation to provide a response.

In principle we have no fundamental disagreements with your findings. We note that the report provides suggestions for improving compliance for all agencies' consideration.

Please find below Justice's response to the Audit Office's suggestions for improvement.

Ref.	Key Recommendation	Department Comment(s)
1	Align their policies and procedures to reflect the requirements of the Direction	 The Department regularly reviews its processes and documents to ensure alignment with the Board Direction and has published a matching Secretary's Direction.
		To ensure the Department is keeping up to date with changes in policies and procedures, representatives from the Procurement team are involved in the whole of government working groups. In addition, the Chief Procurement Officer (CPO) is part of the Procurement Leadership Group and the Deputy Secretary of Corporate Services is part of the Procurement Board.
	Implement internal controls to effectively identify, resolve and report breaches of compliance with procurement requirements	The Department has established the following controls: All procurements above \$150,000 inc. GST are reviewed and endorsed by Procurement before a tender can be published.
		 A clear process and register is in place to capture non-compliance. Procurement and Professional Standards from Human Resources is working closely to address procurement breaches.

Ref.	Key Recommendation	Department Comment(s)	
	Provide procurement training and awareness programs to relevant staff	The Department has established the following initiatives: The Department invited NSW Procurement to deliver a series of training sessions on the application of the Standard Commercial Framework on consultancy. Three trainings have been conducted to date. To increase awareness, regular updates are provided through a variety of communication channels such as Community of Practice/Forum, Procurement Business Partners meetings, Secretary's Directions and Circulars.	
2	 Agencies should review their current process of capturing, analysing and reporting consultancy fees in their annual reports and include consultancy fees capitalised as part of asset costs. Agencies should review their consultancy procurement approval policies and financial delegations 	The Department has established the following controls: Procurement Central (end to end procurement system for procurement >150,000 inc. GST) is planned to be fully rolled out by end of 2018. This will assist in capturing information on engagement with consultants. The Finance and Procurement teams are currently reviewing financial and procurement delegations to be issued by December 2018.	

We thank you for the opportunity to respond to this report.

Sincerely,

Andrew Cappie-Wood Secretary

2 7 AUG 2018

Response from Department of Planning and Environment



Office of the Secretary

Our ref: IRF18/4382 Your ref: D1814633

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

Dear Ms Crawford

Thank you for your letter of 27 July 2018 regarding your report on Procurement & Reporting Consultancy Services.

Please be advised the Department of Planning and Environment supports the recommendations of your report and will work collaboratively with Treasury and NSW Procurement on their implementation.

However, the Department would like to raise a number of matters to be addressed:

- NSW Procurement should ensure consistency between Schemes, as these inconsistencies result in ambiguity in applying NSW Procurement Directions;
- The Cluster Secretary being able to delegate consultancy procurement approvals to part of the organisation most appropriate to deal with the subject matter. The Directions should be updated to reflect this.

If you have any further questions, please contact Mr Simon Officer, Chief Financial and Operating Officer, Cluster Corporate Services, at the Department of Planning and Environment on 9274 6490.

29/8/2018

Yours sincerely

Liz Develin Acting Secretary

320 Pitt Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | planning.nsw.gov.au

Response from Department of Premier and Cabinet



Ref:A2659404

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

Dear Ms Crawford

Thank you for providing me with a copy of your report on Procurement and Reporting of Consultancy Services (the report), and the opportunity to provide comment on the findings related to the Department of Premier and Cabinet (DPC).

DPC has processes in place to comply with procurement and reporting requirements for the use of consultants. DPC supports controls on the use of consultants to ensure the best possible value and outcomes for the citizens of New South Wales. As with all expenditure categories DPC actively manages costs to ensure compliance with budget limits and to support New South Wales in maintaining our sound financial position.

DPC will liaise with both NSW Procurement and NSW Treasury to:

- review the Premier's Memorandum M2002-07 Engagement and Use of Consultants and update or withdraw as appropriate to ensure there is no misalignment with the \$50,000 reporting threshold in the regulation, and
- investigate whether Circular C2004-17 Guidelines for the Engagement and Use of Consultants should be reactivated or reissued.

DPC will also work with those agencies to align the definition of a consultant for both procurement and annual reporting purposes, on the understanding that not all engagement types available under scheme SCM0005 *Performance and Management Services* are advisory in nature, and would therefore not be classified as consultancies.

Yours sincerely

Tim Reardon Secretary

25 August 2018

Response from Ministry of Health



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

Our ref H18/70097

Dear Ms Crawford

NSW Auditor-General's Final Audit Report on Procurement and Reporting of Consultancy Services

I refer to your letter of 27 July 2018 inviting the Ministry of Health to provide a formal response to be included within the final audit report.

In a cluster as significant as NSW Health, the effective governance of procurement activity is critical. Within the workings of our devolved governance model, consultancy service providers are engaged system-wide in a range of specialty areas. An overarching procurement framework guides our Health Organisations to make appropriate decisions, in alignment with the directions of the NSW Procurement Board. Most recently, in March 2018, I highlighted this alignment in a direction to all of the Chief Executives and key Senior Leaders of the Health System to comply with the new commercial framework and supporting directive of the NSW Procurement Board.

It is important to note the challenges faced by the Ministry of Health in monitoring the procurement of consultancy services across the Health System. The devolved governance structure of NSW Health enables individual health organisations to procure consultancy services through the established procurement framework without notifying the Ministry. Given this, the ability of the Ministry to monitor system-wide procurement activity is currently constrained by the lack of agency-specific reporting being offered. To this end, the Ministry welcomes the recommendations of the report, and particularly those aimed at strengthening the reporting mechanisms available to NSW Government Agencies which are designed to assist in the monitoring of procurement activity at a cluster-level.

Yours sincerely /

Elizabeth Koff Secretary, NSW Health

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Response from NSW Treasury and Crown Entity



Contact: Matt Conrow Telephone: (02) 9228 5382

Margaret Crawford Auditor-General of NSW Level 15, 1 Margaret Street SYDNEY NSW 2000

Dear Ms. Crawford

Report on Procurement and Reporting of Consultancy Services

Thank you for the opportunity to provide a formal response to the above report on behalf of Treasury, including the Crown Entity.

Treasury is committed to ensuring that all expenditure of public money creates value for the people of NSW. Our internal policies reflect this commitment, and mandate robust approval and oversight processes for all consultancy engagements.

Our use of consultants is limited to work that requires specialist skills, experience or knowledge that cannot be provided by permanent or contingent employees. Treasury's consultancy spend mainly relates to complex and unprecedented major asset sales, the proceeds of which have funded record levels of infrastructure investment.

I appreciate your constructive recommendations which aim to improve agency compliance with whole-of-state policies. Treasury will work with NSW Procurement and the Department of Premier and Cabinet to review and amend these policies where necessary to support best practice engagement and disclosure of consultancy services.

Yours sincerely

Michael Pratt AM Secretary

3 September 2018

Response from Roads and Maritime Services



Your ref: D1814633 Our ref: CE18/0688

21 August 2018

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

Dear Ms Crawford

Auditor-General's report on procurement and reporting of consultancy services

Thank you for your letter of 27 July 2018 about the Auditor-General's report on procurement and reporting of consultancy services. I appreciate the opportunity to provide a formal response on behalf of Roads and Maritime Services, to be incorporated into the published report.

Roads and Maritime accepts the audit recommendations. An action plan to address the four recommendations requiring our action is enclosed for your records.

Should you require any further information, please contact Mr Andrew Graham, Director Audit and Assurance at Roads and Maritime, on (02) 9462 6232.

Yours sincerely

Ken Kanofski Chief Executive

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RMS Action Plan in Response to the Performance Audit on Procurement and Reporting of Consultancy Services

Ref	Recommendation	Action Plan	Target Date
1	To improve compliance with the revised NSW Procurement Board Direction, agencies should:		
1a	align their policies and procedures to reflect the requirements of the Direction.	RMS will review its current guidance material designed to assist staff comply with the Direction, to ensure it remains current.	31-Dec-2018
1b	implement internal controls to effectively identify, resolve and report breaches of compliance with procurement requirements.	Although no material breaches were brought to our attention, RMS will review current controls for the approval and review of consultancies to ensure compliance with relevant requirements.	31-Mar-2019
1c	provide procurement training and awareness programs to relevant staff.	RMS will continue to refine online guidance material to assist staff in carrying out their procurement duties.	31-Mar-2019
2	To improve compliance with the annual reporting requirements:		
2a	agencies should review their current process of capturing, analysing and reporting consultancy fees in their annual reports and include consultancy fees capitalised as part of asset costs. Agencies should review their consultancy procurrement approval policies and financial delegations.	RMS was advised it has a sound process to review professional service engagements and to report those that meet the definition of a consultancy in its Annual Report. Dashboards are currently being developed on professional service spend to enable Executive oversight. RMS has recently reviewed its delegations relating to the procurement of services from professional service firms.	31-Dec-2018

Response from Transport for NSW



Your ref: D1810918 Our Ref: IP18/07270

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

Dear Ms Crawford,

Report on procurement and reporting of consultancy services

Thank you for the opportunity to comment on the audit report.

The Transport Cluster is delivering \$51 billion in transport infrastructure and services over the next four years, an unprecedented level of investment in NSW. Recent spending on business advisory services reflects the resourcing required to deliver this program of work.

Transport for NSW (TfNSW) welcomes the report's efforts to highlight the problems around consistent definitions of consultancy, professional and business advisory services. TfNSW agrees with the report's recommendation for NSW Procurement to align the definition of a consultant for procurement and annual reporting purposes.

TfNSW agrees with the report's findings on the difficulties associated with the compliance requirements set by the Department of Finance, Services and Innovation (DFSI) with respect to Business Advisory Services and support the recommendations to review how these requirements work and the level of support DFSI provides to agencies. TfNSW support DFSI gaining a better understanding of agency business needs and capability when establishing policies and associated compliance requirements.

We look forward to working with the DFSI and the NSW Procurement Board on their implementation of the audit report recommendations.

Yours sincerely

Rodd Staples Secretary

21/08/2018

Transport for NSW

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