

Inquiry into NSW Government's use and management of consulting services

NSW Treasury responses to Questions on Notice and Supplementary Questions from the Public Accountability and Works Committee

11 July 2023

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1. Question on Notice – One

1.1 Committee question

What evaluation has been undertaken by Treasury of your own considerable consulting spend?

If you could provide a bit of the same assessment that the Auditor General did, (on) how many consulting contracts (you have) engaged over, let's say 5 years?

How many of those have had evaluation and... negative, positive, those kind of results?

1.2 NSW Treasury response

Number of consulting* contracts

Over the last five years, NSW Treasury (as a Department) has entered into 97 consultancy engagements.

Evaluation of consulting contracts

NSW Treasury provides to its buyers, a procurement toolkit with policies, guidelines, and templates for all stages of procurement. This incorporates a Standard Form of Agreement to engage consultants, including a Statement of Requirements to support performance management and reporting.

Once engaged, NSW Treasury buyers work closely with consultants to continuously evaluate and record performance and outputs through project lifecycle reviews and status reporting, meeting minutes, corrective performance feedback and project closure evaluation – often through verbal discussions. NSW Treasury buyers can also withhold milestone payments, contingent on the terms and conditions of the Standard Form of Agreement being met.

However, NSW Treasury accepted the finding of the 2023 NSW Auditor-General's report on [NSW Government agencies' use of consultants](#) (AG Report) that its review of a sample of consulting engagements found most agencies did not have systems or processes for monitoring the performance of consultants. Whilst NSW Treasury provided evidence of evaluating consultancy engagements, there was no required procedure for such evaluation.

NSW Treasury is therefore subsequently implementing Recommendation Five from the AG Report for all NSW Government agencies to, by December 2023, conduct regular assessments of the quality of work done by consultants.

NSW Treasury is also continuing progress on addressing several recommendations from the [Sedgwick Independent Assessment of Treasury's Processes in relation to the preparation of the 2021 State Financial Statements](#). NSW Procurement has developed a work program to respond to these recommendations by December 2023.

* under this response, "consultant" (and any derivative of that term) is defined in Procurement Board Direction 2021-03 and in the NSW Treasury Policy and Guidelines (TPG23-13). "Consultant" services are a subset of "professional services".

2. Question on Notice – Two

2.1 Committee question

The Auditor General pointed out in her report about an exemption given to Landcom by the previous Treasurer. I just wondered on what basis... that seems to be a different category to State Owned Corporations... on what basis are those exemptions given? What are the reporting requirements? How many other such exemptions were given under the previous Government?

2.2 NSW Treasury response

The basis on which Landcom was provided with an exemption from reporting requirements

In 1998, NSW Treasury considered that:

- some NSW Public Sector entities subject to *Annual Reports (Statutory Bodies) Act 1984* (ARSBA) disclosure requirements were in competition with entities not subject to those requirements, and
- as a result, those NSW Public Sector entities would be commercially disadvantaged by disclosing some of the information required by ARSBA.

One of those disclosures concerned consultant spending.

The reporting requirements and how many other such exemptions were given under the previous Government

Accordingly, in 1998 NSW Treasury granted exemption from these reporting requirements to 12 entities assessed as 'in competition', including Landcom.

One of those exemptions was a conditional exemption on the consultant spending requirement. Specifically, the condition is that the total amount spent on consultants is to be disclosed along with a summary of the main purposes of the engagements.

The 'in competition' exemptions remained in force under ARSBA until 2021-22. However, new [*Government Sector Finance Act \(GSF\) Act 2018*](#) annual reporting provisions will commence on 1 July 2023 and first apply to 2022-23 annual reporting.

On commencement of the GSF Act's annual reporting requirements, all exemptions previously granted under ARSBA and the *Annual Reports (Departments) Act 1985* lapse. Agencies will be able to reapply for any exemptions they believe should endure, and NSW Treasury will consider whether those exemptions remain appropriate.

The Government in office immediately prior to the current Government did not grant any exemptions on reporting consultant spending.

3. Supplementary Question One

3.1 Committee question

What attempts have been made to provide a consolidated, comprehensive dataset of all consultant related expenditure?

3.2 NSW Treasury response

NSW Treasury consolidates two discrete comprehensive sources of consultant* related expenditure. One source (Prime, the State financial reporting and budgeting system) consolidates reporting agencies' operating consultant expenditure for financial accounting purposes, while the other source (Spend Cube) consolidates reporting agencies' invoiced professional services expenditure (including consultancy) for operational management purposes.

Consolidated operating consultant expenditure for financial accounting purposes

GSF Agencies (as defined in the Government Sector Finance (**GSF**) Act [Annual Reporting Framework](#)) report their financial statement disclosures to NSW Treasury (Financial Management and Services Group) which are consolidated in the Annual [Total State Sector Accounts \(TSSA\)](#).

To support consolidation of GSF Agencies' financial statements in the Annual TSSA, NSW Treasury has also released:

- [TD21-02](#) Treasurer's Direction for the Mandatory Annual Returns to Treasury (updated on 7 June 2023)
- NSW Treasury Policy and Guidelines ([TPG23-13](#)) Agency Direction for 2022-23 Mandatory Annual Returns to Treasury (7 June 2023).

Together, these provide additional context and directions to GSF Agencies on preparing notes to financial statements that include specific operating expense disclosures both for 'consultants' and 'other contractor' expenses.

The [Annual TSSA](#) is therefore the definitive source of consolidated 'consultant' operating expenditure across NSW Government GSF Agencies.

Consolidated 'professional services' invoiced expenditure data for operational management purposes

NSW Procurement (**NSWP**) manages a proprietary system, Spend Cube, to collate, organise and consolidate invoiced supplier expenditure data from reporting agencies and provide whole-of-government reporting on total invoiced procurement.

The key information from these invoices provides NSWP and agencies with (amongst other data) the names of suppliers, agency buyers and amounts of expenditure. This includes professional services suppliers (including consultancies), noting this data:

- fundamentally relies on agency accounts teams to capture invoice data correctly
- lacks specific transactional information to distinguish whether an invoice from a professional services firm relates to consultancy advice versus non-consultancy services.

NSWP works with NSW Government agencies to continuously improve data submitted to Spend Cube, but is dependent on agencies to:

- effectively implement a suitable vendor management system to record and manage all professional services engagements, including consultancies
- effectively record and manage all professional services engagements, including consultancies
- provide all relevant data to NSWP.

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4. Supplementary Question Two

4.1 Committee question

How much money has been paid to PwC to develop and operate the Prime accounting system?

(a) How much has also been paid to Deloitte, KPMG or Ernst & Young for further advice and assistance on the Prime system?

4.2 NSW Treasury response

Following an open tender process in 2015, with the condition that respondents were required to be prequalified on the advanced supplier list of the ICT Services Scheme, NSW Treasury paid PwC approximately \$40.6m to develop and operate the Prime accounting system.

(a) In relation to further advice and assistance to NSW Treasury on the Prime accounting system:

- KPMG’s engagements totalled approximately \$184,000
- Deloitte’s engagement totalled approximately \$8.4m
- Ernst & Young was not engaged.

5. Supplementary Question Three

5.1 Committee question

How many consulting engagements have been entered into with KPMG since the Auditor-General’s report into the design and implementation of TAHE?

(a) Was the appropriateness of KPMG remaining on the P&MS pre-qualification scheme investigated as a result of the findings of this report and the Auditor General’s State Finances 2021 report?

5.2 NSW Treasury response

As of June 2023, NSW Treasury (as a Department) had engaged KPMG for three consultancy* engagements since the Auditor General’s Report into the design and implementation of the Transport Asset Holding Entity (TAHE) (**TAHE Report**). Note: Information on consulting engagements undertaken with KPMG by other NSW Government agencies would need to be requested from those agencies.

The Auditor General’s recommendation from the TAHE Report was that “*NSW Treasury, TAHE and Transport for NSW should review their respective internal procurement policies to ensure that the use of consultants fully complies with NSW Government policy requirements.*”

The Auditor General’s recommendation from its report on the State Finances 2021 was that NSW Treasury consider “*whether there is sufficient competent oversight of its use of consultants and assess the risk of an overdependence on consultants at the cost of internal capability*”.

As a result, based on the findings and recommendations of the above two reports, NSW Treasury has focused on reviewing and enhancing internal policies, oversight and assessment on the use of consultants. As the primary issues and recommendations were in relation to NSW Government agencies, a review of the pre-qualification status of KPMG under the Performance and Management Services Scheme was not warranted.

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6. Supplementary Question Four

6.1 Committee question

In response to a question as to whether stronger sanctions on PwC were proportionate, Ms Campbell said “by singling out a particular one when all of them would probably have historical issues in the past”. If there is assumed prior bad behaviour from the big four consulting agencies, is it appropriate for them to remain on the pre-qualification scheme?

6.2 NSW Treasury response

Other than as stated below, neither NSW Procurement (**NSWP**), nor the NSW Procurement Board (**Board**), is or has been in possession of any information or reported findings that the big four professional services firms have engaged in unacceptable standards of behaviour or breached obligations that warrant removal from the Performance and Management Services Scheme (**P&MS Scheme**).

Based on information available at the time, proportionate sanctions have however, recently been applied to PwC under the P&MS Scheme. These sanctions may be adjusted, subject to additional insights obtained through the various inquiries and investigations by PwC, the Commonwealth (Senate), NSW (Legislative Council) and Australian Federal Police, or disclosure of further details regarding the proposed divestment of PwC’s federal and state government business to Allegro Funds.

In the devolved NSW Government procurement framework, monitoring and ensuring compliance in respect of each engagement under the **P&MS Scheme** is the responsibility of the procuring agency and agency head with any prior issues, constituting breaches to the P&MS Scheme, notified to NSWP. NSWP would then review those particular issues, and consider the potential application of sanctions, based on its review of those issues.

NSW Procurement will take a proactive approach by writing to the top 4 consultancy companies to confirm their internal controls relating to the management of confidential client information and their processes for managing conflicts of interest.

7. Supplementary Question Five

7.1 Committee question

Will PwC be removed from the pre-qualification scheme?

7.2 NSW Treasury response

In June 2023, NSW Procurement recommended, and the NSW Treasury Secretary approved, two sanctions against PwC under the Performance and Management Services Scheme (**P&MS Scheme**), in response to the information available to NSW Treasury at the time. These were:

1. Introducing an attestation regime for any new PwC engagements, whereby PwC is to attest that no PwC staff member who has been found to have breached confidentiality or otherwise mis-used information, received in the course of the relevant confidential Commonwealth Treasury consultations, is involved in NSW Government engagement(s).
2. Temporary suspension of PwC from obtaining new engagements within the “Category Type 7 – Taxation” of the P&MS Scheme, given PwC’s taxation practice was where the confidentiality breach occurred.

These sanctions may be adjusted subject to additional insights obtained through the various inquiries and investigations by PwC, the Commonwealth (Senate), NSW (Legislative Council) and Australian Federal Police, or disclosure of further details regarding the divestment of PwC’s federal and state government business to Allegro Funds.