



Transport for NSW

Responses to post-hearing questions

Standing Committee on Social Issues

Procurement practices of government agencies in
New South Wales and its impact on the social
development of the people of New South Wales

Hearing Date – 2 April 2024

QUESTIONS ON NOTICE

QUESTION 1. pp31-32

JOSH MURRAY: Each of the past rolling stock contracts has had different elements of local content or local supplier provisions that have been attached to those contracts.

The Hon. DAMIEN TUDEHOPE: Generally, what's the percentage?

JOSH MURRAY: I'd have to take that on notice in terms of exact percentage.

The Hon. DAMIEN TUDEHOPE: Mr Halsall, do you know what percentage?

ROB HALSALL: I would have to take that on notice, Mr Tudehope. It's not – unless Ms Ritchie may have an answer.

BELINDA RITCHIE: No, Mr Tudehope. We could take that on notice. Perhaps to add to what the secretary has said, in relation to the future fleet, I would say there's an intensive exercise going on at the moment to actually map local industry capability nationally and in New Zealand. Part of that includes breaking up work packages. At the moment we've got 65 businesses in New South Wales who have registered an expression of interest for the Future Fleet program, and we're working with the industry capability network to understand what the supply chain capability is, both in New South Wales and nationally.

The Hon. DAMIEN TUDEHOPE: But in respect of previous contracts, there was that same opportunity, was there not, for local industry to be involved in the fit-out or whatever it is of train rolling stock when it arrived in New South Wales?

BELINDA RITCHIE: I can't speak to the arrangements in place for the previous contracts.

The Hon. DAMIEN TUDEHOPE: Is that information available?

JOSH MURRAY: I think we'd have to look specifically at the different elements.

The Hon. DAMIEN TUDEHOPE: In relation to previous contracts, the extent to which work had been done by local contractors for the purposes of either a component of the manufacture or delivery of those train systems – that information would be available, would it not?

JOSH MURRAY: Yes.

The Hon. DAMIEN TUDEHOPE: You can take that on notice to provide us with –

JOSH MURRAY: We can.

ANSWER:

Local contractors have been involved in the build, final fit out, testing and commissioning activities for recent and current rolling stock procurements as follows:

- **27 x OSCar sets:** manufactured partly in Australia. Local manufacturing played a crucial role with components such as the chassis, body structures, interiors, and

RESPONSES TO POST-HEARING QUESTIONS

electrical systems being made in Australia. The trains assembled in Newcastle creating over 200 direct and 200 indirect jobs.

- **78 x Waratah A Sets:** manufactured partially at the Downer EDI facility in Cardiff, NSW. The contract included a 20 per cent local manufacturing target. This was met through local manufacture of parts for the train body, bogie, inter car connectors, door systems, fire equipment, indicators, control and monitoring systems, train operating system, driver safety systems, main power supply, auxiliary power supply, pneumatics, lighting, climate control systems, traction systems, and communications. At the conclusion of manufacturing activity in Cardiff in 2014, 28.32 per cent of the total value of the trains was locally manufactured.
- **24 x Waratah B Sets (Sydney Growth Trains):** final fit out, testing and commissioning activities were undertaken at the Downer EDI facility in Cardiff, NSW. These activities represented approximately 5 per cent of the total value of the trains and included local manufacture of pantographs, wheels, electronics, seats, wipers, decals and livery, fire extinguishers, and insulation.
- **62 x Mariyung Fleet trains:** predominantly manufactured in South Korea but includes select parts delivered by local Australian suppliers. Final fit out, testing and commissioning activities, and modifications to the fleet are underway at the Kangy Angy Maintenance Facility on the Central Coast, NSW. The Kangy Angy maintenance facility is expected to create around 120 permanent jobs once fully operational.
- **29 x Regional Rail fleet:** Manufacturing of the 29 new trains is being carried out in Spain, with train completion work, including some of the interior fit-out, train testing and commissioning, taking place at the new Mindyarra Maintenance Centre in Dubbo and on the regional rail network. The Centre created around 200 jobs during construction and will support 50 ongoing maintenance roles.
- **Tangara fleet:** manufactured in Newcastle between 1988 and 1995 with a 40 per cent local content requirement.

QUESTION 2. pp35-36

Ms ABIGAIL BOYD: Is there any more active monitoring?

ROB HALSALL: Yes, there is. It's definitely a parallel piece of work. We've introduced a procurement risk oversight committee, which meets monthly. That's on the goods and services procurement. That looks at a number of performance metrics in the plan, source and manage part of the life cycle. For example, it would be COIs – conflicts of interest – being declared by the tender evaluation committee. We would also ensure that those tender evaluation committee members have completed probity and ethics training before becoming part of the tender evaluation committee.

Ms ABIGAIL BOYD: Are there circumstances in which people are simply excluded on the basis of their conflict of interest?

ROB HALSALL: Absolutely. The tender evaluation committee chair would be responsible for reviewing those conflicts of interests and then making a decision as to the configuration of that tender evaluation committee itself. So if there is deemed to be a conflict and that's been declared and disclosed, then it's the role of the tender evaluation chair to manage that process.

Ms ABIGAIL BOYD: Have there been examples of people being excluded by the tender evaluation chair from activities based on a conflict of interest?

RESPONSES TO POST-HEARING QUESTIONS

ROB HALSALL: I'd need to take that question on notice, Ms Boyd. We definitely track that as a metric. We can show over the last period of time – roughly 12 to 18 months, since we've implemented this risk oversight committee – the samples that we check each month and what the percentage completion of conflicts of interest declarations is. So we're actively tracking that and playing that back into the relevant division owners.

Ms ABIGAIL BOYD: If you could take that on notice, that would be great.

ANSWER:

Declared conflicts of interest have resulted in Tender Evaluation Committee members being removed.

Where a conflict of Interest has been declared, an assessment is completed which applies the Transport Conflicts of Interest Policy, the Independent Commission Against Corruption guidelines, and Transport Procurement Standards.

QUESTION 3. pp36

The CHAIR: Thank you. A bit of a theme emerging today has been value for money. We have heard Mr Tudehope ask a question on it and Mr Perdikos refer to it, and I note that in your part of the Government submission you talk about Transport for NSW incorporating socially responsible procurement practice considering factors such as ethical sourcing, local content and manufacturing, fair labour practices and environmental sustainability in assessing value for money. Could you tell us a bit more how that works in practice?

ROB HALSALL: Yes. That's a really great question, Chair. If I can just touch on that initially, Mr Perdikos. One of the pre-sourcing elements that we have introduced recently that is also a theme within the ICAC report is around supply of due diligence. We have introduced a risk navigation tool which essentially looks at 11 key risks including WHS risk, modern slavery risk, operational risk, privacy risk, cybersecurity risk, subcontracting risk, sustainability risk et cetera – and country risk – and depending on the inherent risk that's been determined in that pre-sourcing. This is, essentially, before we run a market engagement we're assessing the needs against these inherent risk profiles. Depending on how that pans out for each individual procurement activity, we also then run a deeper supplier assessment questionnaire, so when we engage the market we're sending very tailored questions to the market specific to one of those 11 risks.

We've also introduced contract management frameworks which look at fair work practice. We have introduced that into our subcontractor guidelines as well. That is heavily mentioned in there, and we are just about to introduce an assurance program which will systematically work with the contract management groups across the whole of Transport to assure against the numerous obligations that are in there, including fair work practice at a subcontractor level.

The CHAIR: Could I ask two quick follow-up questions? We may be able to get it elsewhere, but it would be lovely if you could supply that fair labour practice aspect. If we could have a look at that, on notice, that would be great.

ROB HALSALL: Absolutely. I can take that on notice.

ANSWER:

RESPONSES TO POST-HEARING QUESTIONS

Transport requires all new procurement engagements to complete the Risk Navigation Tool which identifies inherent risk across 11 key risk categories.

The Risk Navigation Tool also contains a collection of Supplier Assessment Questionnaires which, subject to the risks identified, need to be completed and returned by bidding suppliers as part of the supplier due diligence process.

The 'Subcontractor Risk' Supplier Assessment Questionnaire and the 'Modern Slavery Supplier Assessment Questionnaire' contain questions around fair work practices.

Transport's Good and Services Contract Management Framework also includes guidance relating to contractor's responsibilities to ensure compliance with legislative and regulatory wage requirements. This includes things such as the applicable employment award (for example, Cleaning Services Award 2020), applicable superannuation legislation, applicable Portable Long Service Leave Legislation, Fair Work Act 2009 (Cth) and Fair Work Regulations 2009 (Cth).

QUESTION 4. pp36-37

JOSH MURRAY: Thank you for the question, Dr Kaine. Yes, I think – as Mr Tudehope did – it draws on what I saw on the other side of the fence in the tier one delivery side of government procurement, in that we have very willing major international organisations and Australian organisations waiting to partner with government and, in fact, the social outcomes for the staff of those organisations are as important as they are for government departments and for the communities involved. And I guess if I could draw out a couple of elements: When I spoke to our industry partners at our last pipeline event of 500 industry partners, we had 325 individual projects in delivery, large and small, city and regional. That, I think, speaks to the ability to influence that you referenced in your question about, if we set clear parameters on delivery there, then we can deliver against them. So to leverage our partners in the communities in which they operate and they have boots on the ground and to assist government is a key example that we want to set and that we want to ensure that those buying gains are available for.

One example – a clear one – would be around sustainability, and I would just call out that Parramatta Light Rail stage one, for example, was awarded the highest ever as-built rating by the Infrastructure Sustainability Council, and as we go into procurement for Parramatta Light Rail stage two, that's something that we'll not just be looking to emulate but we'll ensure that the learnings over the last couple of years from the industry can be brought to bear on that project. To do this, we set up joint workshops with our key stakeholders, in particular the Australian Constructors Association and Consult Australia. The latest of those was held just last month, and the work with those member organisations is to collaborate on our processes like design reviews, personnel requirements and culture so that when they show up to tender they're not doing so in just this blind acceptance of paperwork passed across the gap, but they're telling us where our procurement methods don't work or don't deliver on those elements that we expect to turn up in the field. One of the elements that we have picked up is 360-degree health checks on projects not just so that we rate the construction delivery partner on their performance but so they can give us very clear feedback on where what we're doing isn't getting the most benefit in the field.

Another element is the Construction Industry Culture Taskforce, chaired by Gabrielle Trainor, which also has created a culture standard, and that provides a framework for clients and contractors to work together on what we see as the biggest issue in transport

infrastructure and that is: Where are the skills for the future going to come from? The construction industry, by most guesses, is 250,000 people short of new entrants every year in Australia. So we have to do more in New South Wales to ensure that our transport infrastructure is attractive, it provides the right working environment for people, and it builds the skills that we're going to need around digitisation, off-site manufacture and other critical construction elements that we see playing out in Transport in the next few years.

That culture standard is being trialled on around about six projects nationally at the moment. In New South Wales in Transport it's being trialled on the Mulgoa Road stage one project. It involves a range of initiatives around working hours, flexibility, diversity and inclusion and just the way people need to be treated when they're on site at work. It's more than just a feel-good though or targeting those personnel elements. We've got an economics provider who is lining up around the contract as well who will give us a full update on the productivity benefits of working on a culture standard alongside major infrastructure improvements, and that's something that we not only would expect to see in all of our major transport procurement going forward, but we would hope to share that with the industry more broadly.

The CHAIR: Thank you very much. Again, if there are documents you could share recording the 360-degree health checks and the culture standard, that would be most useful.

ANSWER:

The 360 Health Check Tool and Framework is being developed within Transport in consultation with industry partners. Further information can be found at Attachment A.

The Culture Standard is being led by the Culture Industry Construction Taskforce funded by the NSW Government, Victorian Government and Australian Construction Association. An overview of the Culture Standard is included at Attachment B.

Mulgoa Road Stage 1 piloted the draft Culture Standard and additional information regarding its implementation is on Transport's website:

<https://industry.transport.nsw.gov.au/tfnsw/tiip/culture-standard-trial>

QUESTION 5. pp37-38

The CHAIR: I don't think it's related but it could be. There was a discussion paper released in 2022 about productivity packaging, and I note on the website that there's still some information there. I wondered if you could, one, tell me what that is and, two, what has happened? It still says, "We are exploring opportunities to trial a three-phase procurement model on upcoming projects." Has that been melded with the other conversations and the other initiatives that perhaps Mr Murray has spoken about, or is that something that has been dropped? I'm not entirely sure what productivity packaging is.

PETER PERDIKOS: Thanks for the question. Off the top of my mind I'm unaware of the document – although Ms Ritchie looks like she may be so I'll hand over to Ms Ritchie.

BELINDA RITCHIE: I might be able to help, Chair. I think you're referring to the three-phase procurement model that we've been in consultation with industry around, particularly in relation to the Princes Highway upgrade. That is part of addressing industry capacity and efficiency in procurement. It's absolutely still under consideration.

The CHAIR: It says it's a three-phase model. Could you very briefly explain, or provide me on notice, if it's too much?

BELINDA RITCHIE: I can provide you with more information afterwards but just very briefly, it involves, essentially, early contractor engagement. It's a form of early contractor engagement and it involves engaging design companies to support through the whole procurement phase and essentially reducing the burden on industry and completing the transfer of knowledge in a more efficient way to reduce risk and ultimately reduce cost – is the aim.

ANSWER:

The Productivity Packaging discussion paper outlined two proposed procurement models that sought to unlock greater capacity at a time of peak demand. The two models were: three-phase procurement and portfolio procurement.

Transport consulted with industry and received written feedback from 22 organisations and held workshops with 16 of those organisations.

Based on feedback received, Transport committed to further developing the three-phase procurement model and exploring opportunities to trial this approach on projects. As the portfolio procurement model received mixed feedback and due to the diverse nature of the current project pipeline, it was not pursued further.

Three-phase procurement

This phased model is intended to streamline the design and procurement process and develop projects to a more advanced stage within a collaborative environment. Under this model, a single designer would be sourced by Transport to assist developing a design.

Two construction tenderers would be engaged through a Registration of Interest process to work individually with Transport and the designer in a collaborative environment.

By incorporating the tenderers earlier, it seeks to mitigate the risk of incorrect or ineffective scope definition and incorrect or inefficient construction methodology. This aims to improve risk identification, understanding and management, leading to improved project outcomes. As a result, this model allows pricing and contract award to occur on a more developed design and with a better understanding of project risks.

There are many versions of three phase procurement, some are referred to as Early Contractor Involvement and Early Tenderer Involvement.

Transport continues to explore opportunities to trial three-phase procurement on upcoming projects.

Further information is included in the:

- **Productivity Packaging discussion paper:**
<https://media.caapp.com.au/pdf/68vlzy/6ecf75e8-d66a-4cfd-bb32-9b6c2e6f1198/Productivity%20Packaging%3A%20discussion%20paper.pdf>
- **Productivity Packaging feedback summary:**
<https://media.caapp.com.au/pdf/53inh9/35284815-2e1d-40a0-8ade-43ec14c641de/Productivity%20Packaging%20feedback%20summary%20report.pdf>

QUESTION 6. p38

The CHAIR: Okay, thank you very much. I have another question about a previous policy. There was a Premier's Memorandum in 2021 about procurement for large, complex infrastructure that sought to increase the capacity of tier 2 contractors to partner with tier 1 contractors. That's about developing local capacity. I wondered how that's been implemented. Is there an update? Has it been changed? Is that you again, Ms Ritchie?

BELINDA RITCHIE: Yes, it probably is, Chair. I might need to take that on notice, in terms of the current status of that document. I would say, though, that there's ongoing work in terms of packaging strategies to engage with tier 2 contractors. So we actively – as part of developing a delivery strategy for a project, we look at how the project can be packaged to efficiently engage with industry.

ANSWER:

Transport has a dedicated industry engagement team whose objective is to drive meaningful conversations with industry. One aspect of the team's role is partnering with Transport project procurement teams to host market interaction processes to help them make market-informed decisions. Market interaction processes can be used to test various aspects of the project such as procurement strategies, risk sharing and project timing. Across 2023, over 200 industry interactions were recorded via this process. This approach aligns against Infrastructure NSW's Interactive Tendering Guidelines.

Further, Transport is always looking for ways to utilise procurement approaches to diversify its engagement and boost productivity across its portfolio. This includes things such as breaking down work packages to open the market to a wider range of contractors.

For example, this approach was used on the M12 Motorway Project in Western Sydney. Rather than awarding a single multibillion dollar contract, Transport divided this work into three smaller packages (West, Central, East). This provided an opportunity for a Tier 2 contractor to successfully bid for one of the packages.

Transport also works closely with Infrastructure NSW and other government agencies through the Construction Leadership Group. The Construction Leadership Group is currently considering a revised approach regarding the NSW Government's commitment to industry following the expiration of the Premier's 2021 Memorandum last year.

SUPPLEMENTARY QUESTIONS**QUESTION 1.**

Your submission states on page 35 that “in relation to contingent labour, Transport uses the Whole of NSW Government Contingent Workforce Scheme SCM0007”. What was your expenditure on contingent labour for 2022-23 and what challenges do you see in reducing your procurement of contingent labour by 25% by 2025-26?

ANSWER:

Total spend on contingent labour from 1 July 2022 - 30 June 2023 was \$497 million. Transport is on track to meet its reduction target for contingent labour.

QUESTION 2.

Noting the positive results arising from the use of this scheme that your submission sets out (on page 37) including for Aboriginal participation and social enterprises do you see any of these achievements being at risk with a forced reduction by quota in the procurement of labour hire?

ANSWER:

Transport's approach to driving participation of Aboriginal-owned businesses and social enterprises across its supply chain will mitigate risk of reduced labour hire spend impacting participation from social enterprises. Transport's Aboriginal Participation Strategy outlines measures to create opportunities for Aboriginal-owned businesses and encourage Aboriginal employment through Transport's supply chain. It includes initiatives to engage with Aboriginal businesses, increase supplier diversity, and promote economic prosperity for Aboriginal peoples in NSW.

QUESTION 3.

Noting your submission references the demonstrated benefits of the NSW Government Legal Services Panel which you administer; as well as the Government's commitment to cut procurement of legal expenses by \$20 million per year including by directing agencies to use the Crown Solicitor and internal legal resources:

- a) What was the value of external legal services procured in 2022-23?
- b) How much of this could feasibly be carried out by the Crown Solicitor or internal legal resources?
- c) Have you been set a formal share of the \$20 million per annum target?
- d) Can you achieve this without, as the Parliamentary Budget Office warns increasing “the risks of adverse legal findings against the NSW government and contractual provisions in capital works projects which do not adequately protect government interests”?

ANSWER:

- a) The NSW Legal Services Panel reports annually on billing data from firms on the panel. The FY2022-23 Annual Report is still currently undergoing final validations. Once approved, the FY2022-23 NSW Legal Services Panel Annual Report will be published on the NSW Communities and Justice website.

RESPONSES TO POST-HEARING QUESTIONS

- b) Transport values the services provided by the Crown Solicitor's Office, which include both "Core Legal Work" and other legal services.

Although Government agencies are able to procure legal services from the private sector in respect of certain matters arising within their administration, arrangements have long been in place to ensure that Core Legal Work of Government is referred to the Crown Solicitor to be managed in a consistent and coordinated way. *Premier's Memorandum 2016-04 NSW Government Core Legal Work Guidelines* provides clear guidelines for identifying the types of legal matters that are regarded as Core Legal Work, and therefore must be referred to the NSW Crown Solicitor. In addition to Core Legal Work, advice is sought on certain matters and types of law that are the speciality of the Crown Solicitors Office.

There are other forms of legal work that are outside the speciality practice areas of the Crown Solicitor's Office. For example, major construction procurement – which are accordingly either managed internally or briefed to private sector firms on the NSW Legal Services Panel to ensure the best outcome for the people of NSW and the NSW Government.

- c) Yes.

- d) Transport carefully considers each engagement of external legal services to achieve value for money, including mitigating the risks of adverse legal findings against the NSW Government and ensuring contractual provisions in capital works projects adequately protect Government interest. This assessment is undertaken on a risk basis, having regard to the Government's commitments in relation to legal expenditure.

QUESTION 4.

Your submission states (page 42) "The first term of the Zero Emission Bus Program, between 2024 and 2028, will create opportunities for local growth in buses with a target of 50 per cent local content. Manufacturers will be required to confirm claimed local content percentage materiality using a consistent method of measuring local content." Have you developed the measuring methodology yet? How complex is it?

ANSWER:

Transport uses a proforma – a preliminary form of invoice that breaks down the components of an item to be invoiced – on Bus Panel 4 to collect pricing on Zero Emissions Bus components. Transport will use this existing process to also understand the level of local content in each of those components. This means the methodology is familiar to the manufacturers already. Additionally, Transport is including the ability to audit local content in the manufacturing process to substantiate local content claims and will be providing example scenarios of what constitutes local content and what does not.

Procurement for the first stage of the Zero Emissions Bus program for Greater Sydney will progressively introduce local content requirements. This is being done to support the

RESPONSES TO POST-HEARING QUESTIONS

growth of local industry capability. From 2027, it is anticipated there will be a minimum 50 per cent local content requirement for fleet procurements.

QUESTION 5.

In its submission to this inquiry, the Civil Contractors Federation raises concerns about the “onerous administrative requirements” related to admission to and maintenance of status under the Technically Assured Organisation (TAO) scheme. Are you aware of these concerns and what are you doing to address them?

ANSWER:

The Technically Assured Organisation scheme is used across the rail sector and is one of the primary mechanisms for fulfilling Transport’s obligations under National Rail Safety Law. Improvements are made to the scheme on an annual basis, via an improvement program based on industry and customer feedback.

The rigour associated with the Technically Assured Organisation scheme is due to the delegated nature of engineering decision-making in the rail sector, where industry partners take on accountability for making technical decisions on Transport’s behalf. The scheme uses a management system approach (similar to international Standard Accreditations such as AS ISO 55001 and AS/NZS ISO 9001) and defines the engineering and assets where a company is permitted to provide services. It offers organisations flexibility to develop an approach appropriate to their business. The application process is scaled to the size of the organisation applying. This supports larger companies as well as smaller specialist suppliers gaining accreditation and participating in the rail supply chain.

QUESTION 6.

In relation to each contract for the procurement of new ferries, including the new Parramatta River Class ferries, over the past six years, what was the percentage of work done and content sourced in NSW by dollar value?

ANSWER:

The value of NSW sourced work and content was \$7.45 million, which equates to about 17 per cent of the project cost.

QUESTION 7.

Could you tell us more about the Social Value Mapping Project?

ANSWER:

In 2021, Transport launched its Social Value Community of Practice. This is a cross-agency forum for information sharing. It has over 200 members and continues to meet regularly.

In February 2023, Transport commenced work on the Social Value Mapping Project. The aim of the project was to assess best practice and better understand how to integrate

RESPONSES TO POST-HEARING QUESTIONS

social value for Transport as a delivery agency. The project was led by internal resources, facilitating:

- Workshops with 400 participants
- Completion of 367 surveys
- over 10,000 visits to internal webpages
- twelve case studies
- 20 technical collaborations.

The outcomes of the project identified initiatives to inform future work at Transport, including:

- An integrated framework or system, paired with embedded expertise to measure, track, and account for social value in our workforce and community
- Analysis of existing strategy, business case, project life cycles and service planning processes to further embed social value
- Work with Treasury to articulate social value through reporting, aligned to State and Federal performance and wellbeing frameworks
- Developing community partnerships across NSW
- Support growth of in-house social value capabilities through leadership, talent and training programs
- Work with partners across government to strategically leverage capabilities and programs to increase social value, potentially in line with Transport's existing Social Value Community of Practice
- Better land use planning and beneficial use of vacant or underutilised spaces to enhance social, environmental, cultural and economic outcomes
- Earlier investment in First Nations-led approaches across NSW.

QUESTION 8.

In the submission (p. 38) it is noted that Sydney Metro's procurement governance framework includes measures to ensure that goods and services procured by and for the agency are not the product of modern slavery within the meaning of the Modern Slavery Act 2018 (NSW). – and Transport for NSW references a modern slavery framework. Would you be able to tell us more about that and the Goods and Services First Line Assurance program more generally?

ANSWER:

Transport recently undertook a risk assessment on its supply chain to identify the categories of highest inherent modern slavery risk. All addressable spend (both goods and services and construction) for FY22-23 was considered.

This risk assessment informed the inaugural Transport Modern Slavery Statement, which details the steps taken over FY22-23 to ensure that goods and services procured by and for Transport were not the product of modern slavery.

Transport has committed to continuously monitoring modern slavery risk in its supply chains and assessing the effectiveness of the modern slavery framework.

This includes measures to improve modern slavery risk identification, requiring completion of modern slavery supplier assessment questionnaires, monitoring, and reporting modern

RESPONSES TO POST-HEARING QUESTIONS

slavery concerns and reportable incidents, and updating the Procurement Policy Framework as required.

Transport continues to work in partnership with the Anti-Slavery Commissioner's office alongside actively participating in whole-of-government initiatives such as the NSW Treasury Modern Slavery Risk Services pilot. The pilot seeks to build a unified approach to addressing modern slavery risk in government supply chains.

Transport's Goods and Services Procurement Policy and Governance function undertakes First Line Assurance testing against Transport's sourcing projects monthly. This includes testing compliance with key procurement policy obligations. For example, assurance testing is undertaken to ensure conflict of interest declarations have been completed, signed, and saved on file for all Tender Evaluation Committee members.

QUESTION 9.

The Transport for NSW submission lists opportunities to develop reporting on well-being and performance measures in the future e.g. Social value mapping, but also revisiting pre-qualification schemes and looking for chances to involve SMEs and microscale organisations. What's the timeframe for these changes? How far along are they?

ANSWER

Within Transport's construction contracts there are some requirements for engagement of and reporting on Small and Medium Enterprises. This is not a requirement for all engagements. Transport also includes requirements for head contractors to advertise procurement opportunities to Small and Medium Enterprises. An example of engagement with Small and Medium Enterprises is on the Regional Rail project. Transport advertised opportunities with the Industry Capability Network providing opportunities for Small and Medium Enterprises to tender for work. This supports the building of capability and capacity for Small and Medium Enterprises and other local/regional businesses.

To date, over 57 local businesses have been engaged on the Regional Rail project, along with 19 Recognised Aboriginal Businesses. Transport has achieved more than 90 per cent of the total spend on goods during construction of the Mindyarra Maintenance Centre with Small and Medium Enterprises.

Workshops were also carried out to assist small businesses to engage trainees and apprentices, growing their business while working on the Regional Rail project.

Cross government and industry advisory groups are led by Transport, including in the Dubbo area, Blue Mountains region and Hunter region. These groups help raise awareness of procurement opportunities and engagement of SMEs.

QUESTION 10.

There was a premiers memorandum issued in 2021 about procurement for large complex infrastructure that sought to increase the capacity of Tier 2 contractors to partner with Tier 1 contractors to assist in developing local capacity – how was this implemented?

ANSWER:

Please refer to the response to Question on Notice 6.

RESPONSES TO POST-HEARING QUESTIONS

QUESTION 11.

What information do you provide to the Procurement Board regarding your procurement activities?

- a) How often do you provide this information?
- b) When did you last report to the Procurement Board?

ANSWER:

Transport provides the NSW Procurement Board with reports relating to its procurement activities, including:

- the annual goods and services procurement self-assessment attestation of the Transport Secretary, Chief Executive of Sydney Trains and Chief Executive of NSW TrainLink
- the annual Transport goods and services procurement accreditation outcomes report
- Transport's annual procurement plan
- Transport's annual construction procurement accreditation reporting
- any procurement accreditation trigger events and associated management plans,
- Transport's quarterly consultant engagement data, and
- Transport's bi-annual emergency procurement reporting.

Transport reported its consultant engagement data to the NSW Procurement Board in April 2024.

QUESTION 12.

Have you ever identified and or reported non-compliance in your annual report and/or self-attestation for accreditation?

ANSWER:

Transport has not previously reported non-compliance in its annual reports or self-attestation for goods and services accreditation. Transport's self-attestation for FY2022-2023 confirmed that there were no overdue management actions resulting from goods and services procurement-related assurance processes.

Transport has notified NSW Procurement of two trigger events in the construction self-attestation being two ICAC investigations – Operation Hector and Operation Paragon. This contributed to Transport updating its Infrastructure-Related Procurement Policy Framework to replace the two existing construction accreditations held by Transport with a single harmonised version which is currently being finalised.

QUESTION 13.

What records do you keep when you undertake a procurement activity?

- a) How do you keep these records (i.e. in what systems)
- b) Are these records provided to anyone aside from the group undertaking the procurement? If so who are these provided to?

ANSWER:

RESPONSES TO POST-HEARING QUESTIONS

Transport's goods and services and construction procurement policy frameworks state that full records of the procurement process must be retained for record and audit purposes to comply with the State Records Act 1998 (NSW) and Transport's Records Management Policy. These records are to be kept on applicable entity record management systems. Transport's goods and services procurement policy framework contains a comprehensive list of procurement-related records that must be retained. This is also being further enhanced for construction procurement as part of the new Infrastructure-Related Procurement Policy Framework.

Records cannot be accessed by individuals outside of the respective procurement process, unless these records are required for compliance, investigative or legal purposes. Only staff with a legitimate requirement to access procurement documentation are provided access in line with the Privacy and Personal Information Protection Act 1998 (NSW).

QUESTION 14.

Who do you deal with in Treasury/NSW Procurement when undertaking a procurement process? Who in Treasury/NSW Procurement has oversight of your procurement processes?

ANSWER:

Due to the devolved nature of the procurement model across NSW Government, Transport does not generally deal with specific individuals in NSW Treasury/NSW Procurement when undertaking Transport's procurement activities or processes.

As outlined in Supplementary Question 11, Transport regularly reports on procurement activity to NSW Procurement and participates in other NSW Procurement-led governance forums.

QUESTION 15.

Can you walk us through your procurement process?

- a) How do you advertise available opportunities?
- b) When assessing the various applicants what factors do you consider?
- c) How do you apply value for money?
- d) Do you take into consideration factors like local content, business size, and social, economic, labour and environment outcomes? Do you weight these? If so what are the weightings and how are these determined? How transparent in the weighting process to tenderers?
- e) Do you consider ongoing maintenance that may be required as an outcome of a procurement activity?
- f) How do you advise successful and unsuccessful applicants of a procurement outcomes? Are the results published anywhere that is publicly available?
- g) What feedback do you provide to successful and unsuccessful applicants?
- h) How do you manage contracts while they are active?
- i) How do you assess the quality of work provided? Who does this?
- j) How do you ensure compliance with the terms of the contract and overarching procurement policies and processes?
- k) Do you have specialists in different areas of compliance -for example Labour Standards/labour law, OHS?

- l) What data do you keep for each procurement process? How do you maintain your data? Do you undertake any data analysis across procurement activities in your agency?

ANSWER:

Transport currently uses the NSW Government e-Tendering portal for advertising and release of open tenders. For significant infrastructure projects, Transport then utilises document repositories such as Ansrada to manage the large volumes of information to and from prospective tenderers.

All contracts valued at or above \$150,000 incl GST are publicly disclosed on the NSW eTendering contracts register within 45 working days of the contract's effective date.

Transport assesses value for money in accordance with the NSW Procurement Policy Framework. Value for money requires a balanced assessment of a range of financial and non-financial factors. Criteria may be weighted or non-weighted, depending on the scope of the procurement. This includes assessing quality, cost, fitness for purpose, capability, capacity, risk, social benefits, alignment to Government priorities, whole of life costs and other relevant factors. Evaluation criterion are customised for each procurement to include all applicable policies and legislation.

Commonly used evaluation criteria include, but are not limited to:

- Social outcomes
- Environmental impact
- Contribution to NSW Government priorities, policies, and programs
- Organisational strategic and financial capability
- Demonstrated ability to perform the services
- Compliance with the Scope of Work
- Project management approach, and
- Price (including maintenance and whole-of-life costs where necessary).

Local content forms an important consideration across Transport's tenders. For procurement projects where funding over \$20 million is provided by the Commonwealth Government, a certified Australian Industry Participation Plan is required to be submitted by all tenderers.

The Australian Industry Participation Plan outlines the actions an organisation will undertake to familiarise themselves with the capabilities of Australian industry and provide them with full, fair, and reasonable opportunity to supply goods and services to a given project. Social and labour market outcomes, such as those related to the Aboriginal Procurement Policy and Procurement Board Direction 2023-01: 'Skills, Training, and diversity in construction', regularly form part of the evaluation criteria for Transport's tenders.

Where the estimated construction contract value is between \$10 million and \$100 million, tenderers are required to nominate and commit to minimum targets for trainee hours, in accordance with NSW Procurement Board Direction 2020-03: 'Skills, training and diversity in construction'. These nominated minimum targets are evaluated in assessing the overall tender.

A debrief is offered to any tenderers that have taken part in a competitive procurement activity. The debrief aims to:

- provide feedback on the tenderer's response
- explain how the tender performed against the evaluation criteria

RESPONSES TO POST-HEARING QUESTIONS

- seek feedback from the tenderer on suggestions to improve Transport's tender processes; and
- answer any concerns or questions from the tenderer.

Transport has a devolved contract management model where the respective branch and/or division unit holds the responsibility and accountability to manage active contracts. Transport frameworks set management standards for contract managers with supporting guides, tools, templates, and training modules available.

It is the obligation of the assigned contract manager to manage supplier performance in accordance with the contract. Transport frameworks detail how a contract manager can manage supplier performance through key performance indicators and provide guidance on the level of governance according to contract complexity.

Transport launched a contract Governance and Assurance Review Program in Q3 FY23-24. This provides an independent assurance review of active contracts assessing their level of compliance with Transport frameworks and procurement policies.

Regarding compliance, Transport maintains an Enterprise Compliance Obligations Register. The register identifies relevant policy and legislative owners who are risk subject matter experts. These cover areas such as Work, Health and Safety, Cybersecurity, Privacy (Legal), Environment and Sustainability.

For detail on procurement records management, see Supplementary Question 13.

QUESTION 16.

How many local businesses and suppliers do you currently engage?

ANSWER:

Across all Transport agencies, over 3,000 local businesses and suppliers are engaged across goods and services and construction related procurement.

QUESTION 17.

With the exception of local assembly and maintenance, how does Transport for NSW fulfil local content objectives with respect to the procurement of rolling stock and bus fleets?

ANSWER: Transport includes local content targets in rolling stock contracts in line with the NSW Government's commitments. For example, a minimum 50 per cent local content target in rolling stock contracts by March 2027.

Transport is investigating the inclusion of the target in rolling stock contracts for projects currently in development or procurement including, Parramatta Light Rail Stage 2, and the Future Fleet Program which will replace the Tangara fleet.

The first stage of Zero Emission Buses in Greater Sydney is also utilising local content targets through progressively introducing more requirements, with a goal to meet the minimum 50 per cent local content in 2027.

For recent procurements, including the RiverClass Ferries that were built in Australia, Transport has also requested a Schedule of Origin of Goods and Services during

RESPONSES TO POST-HEARING QUESTIONS

procurement. This details goods and services involved in the design and build and where these are sourced from.

Local content targets are communicated in advance of procurement so that industry is clear on the expectation and then specified through procurement documents. These specifications include:

- definition of local content as goods and services produced in Australia and/or New Zealand in accordance with Free Trade Agreements and Bi-lateral Government Procurement Agreements. This can include local assembly, testing and commission, which are important activities in the manufacturing ecosystem and value chain.
- measuring local content as a proportion of the total rolling stock value.

Further, under the NSW Government Procurement Policy Framework, Transport can request Small and Medium Enterprise and Regional Participation Plans during procurement to assess how local Small and Medium Enterprises and regional businesses are involved in providing goods, services, and labour to a project.

TRANSPORT

Project Health & Culture

Survey Tools

April 2024



OFFICIAL



Project Culture & Health – Overview

Overall intent:

To improve project health and culture performance on our TfNSW Infrastructure projects through a consistent approach

Background:

Transport for NSW (TfNSW), Consult Australia (CA) and the Australian Constructors Association (ACA) are working together to identify a shared set of opportunities to improve government-industry collaboration. They have been participating in round table forum sessions where discussions around project health have been discussed. The aim is to identify and prioritise real and tangible outcomes that could be delivered in partnership between government and industry.

It has been agreed that the development of a '360o Health Check Framework' should be prioritised as a major initiative to improve collaborative delivery outcomes across the portfolio. The scope of the Framework is to encompass:

1. Best practice collaborative approaches – e.g. integrated, co-located delivery teams.
2. Collaborative standards of behaviour and interaction between all stakeholders.
3. Implement a 360o process for monitoring and reporting on collaborative practices.
4. Regular Executive dialogue to review performance at the project and portfolio level and intervention if required.

Different Tools tested:

We trialled PHI, an external tool provided by 4Points and an internal TfNSW IP created tool

Agreed approach:

It was agreed that TfNSW IP will adopt both an external tool (4Points) for all Tier 1 projects and the internal TfNSW IP tool for Tier 2 and below, over a period of two years where the aim is to have one TfNSW approved tool for all projects.

01

Survey tools piloted

Project Performance Evaluation

Initial pilot findings of Project Health & Culture survey tool

Sydney Project Delivery piloted a PHC survey designed to measure collaboration, communication and engagement, and assist projects to identify weak signals and act before they become issues.

The [REDACTED] project was identified to participate in this pilot survey with all parties invited including the contractor [REDACTED] and independent verifiers/certifiers [REDACTED] and [REDACTED]. The survey was conducted between 21 August and 1 September 2023.

The survey explored questions categorised into the following four areas, spread over 30 questions:

- 1.Safety; Community; Environment; and Traffic
- 2.Quality; and Time
- 3.Financial Management/cost; Claims & issue resolution
- 4.Communication; Leadership; Contract relations; and Wellbeing

Benefits

- Aid in a projects ability to **identify weak signals** before they become issues
- **Everyone working on the project** to participate *(TfNSW, Contractor and IV)*.
- This survey is confidential *(no names collected)*
- Performance metrics - **dashboard reports provided**
- 10 mins to complete

Areas covered in the survey are aligned to performance measures of:

- cost
- quality
- communication
- community
- environment
- leadership
- claim/issue resolution
- contract relations
- safety
- time
- traffic
- wellbeing

Project Performance Evaluation

Initial pilot findings of PHI survey tool

- The PHI survey provides insight into individual and team feeling across the project rather than the performance to date of the key contract areas.
- The dashboards provide good data and a thorough review of the survey focus areas
- The debriefs provide high-level identification of issues → additional work is required to fully investigate and mitigate the issues (not part of the product)
- The cost/benefits of PHI should be considered against the size, risk and complexities of the project.
- 4Points, the company that supplies the product:
 - Have created a dashboard that aggregates the data across projects

Next Steps

Work with industry partners

- In conjunction with industry partners discuss an approach and timeline for rollout
- An alignment with industry partners is critical to ensure that TfNSW IP can roll out both survey tools across all projects, and this is done in the agreed timeframe
- Work with Commercial team to incorporate into new TfNSW infrastructure contracts
- The process to roll this across all projects in IP for implementation

CULTURE STANDARD OVERVIEW



CULTURE IN CONSTRUCTION
Time for Life. Wellbeing. Diversity.

Together, we're building a stronger construction industry

The Construction Industry Culture Taskforce (CICT) has been working to develop a new Culture Standard – which is a framework to improve conditions for workers in the construction industry in Australia and ensure we're ready to tackle the national infrastructure pipeline.



Long working hours

- 64%** report working >50 hours per week
- 59%** unsatisfied with work life balance
- 14%** construction industry employees experiencing presenteeism



Wellbeing

- 2x** suicide rate vs national average
- 75%** report moderate to high stress levels
- 46%** experiencing burn-out



Lack of diversity

- #1** most male-dominated industry
- 12%** of the workforce is female
- <2%** of on-site roles occupied by women

Setting a new standard

The new Culture Standard aims to drive change by addressing three key issues holding back our industry:



Time for life

Time for Life: Ensuring our workforce is provided adequate time to rest and pursue life activities outside of work.

- Better working hours
- Flexible working arrangements



Wellbeing

Wellbeing: Ensuring the occupational health and mental wellbeing of our workforce is prioritised.

- Support mental health
- Proactive management of health risks
- Schedules that enable wellbeing



Diversity & Inclusion

Diversity and Inclusion: Ensuring the industry can attract and retain a diverse range of people to work in our industry.

- Everyone can feel welcome and included
- Provide suitable amenities
- Address gaps in pay and representation

Benefits

Adopting the Culture Standard will improve project delivery outcomes for Government and benefit the lives of our workers and their families. Along with other industry reforms, it will provide an economic and social dividend for us all.



Benefits for industry

- ✓ Lift productivity
- ✓ Attract new workers to rewarding and essential jobs
- ✓ Improve workforce diversity and retention rates



Benefits for customers

- ✓ Increased capacity to deliver the record national pipeline of construction work
- ✓ Industry positioned to support economic recovery from COVID-19
- ✓ Purchase services that provide diverse, safe and healthy workplaces



Benefits for workers

- ✓ Lift productivity through healthier approach to work
- ✓ Workplace that supports health and wellbeing
- ✓ Workplace where everyone has a place and feels valued

Implementing the Standard

Everyone has a role to play in making the Culture Standard a reality. Delivering culture change will happen faster and be more effective if we do it together and adopt a consistent approach.



The Culture Standard will establish a standard approach to improved practices for **all members of the industry** to meet



For the **public sector**, this means piloting the Culture Standard across a range of projects of different sizes, types and contract models



Industry customers will can support this by committing to buy construction services that meet the Culture Standard



Our **academic partners** will ensure the Culture Standard is effective in transforming the industry and making critical productivity gains

Who we are

Joint effort by government, industry and academia

The Construction Industry Culture Taskforce (CICT) is a joint initiative of the Australian Constructors Association, the Governments of New South Wales and Victoria and leaders from industry and workplace research institutes.



Contact us

For more information or to get involved in shaping the Culture Standard, please contact us:

 info@cultureinconstruction.com.au

 cultureinconstruction.com.au