

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

Tuesday 2 April 2024

Supplementary Questions

Infrastructure NSW

1. When will your new Construction Leadership Groups' Construction Industry Playbook be released?

RESPONSE:

Infrastructure NSW is working on a refresh of the *10 Point Commitment to the Construction sector*, previously titled the *Construction Industry Playbook*. It is expected that the document will be released in later this year.

2. Regarding the Construction Leadership Group's subcommittee of culture and diversity, what are the objectives and how are the outcomes measured and reported?

RESPONSE:

The objective of the Culture and Diversity Sub-Committee of the Construction Leadership Group (CLG) is to develop whole of government principles and initiatives on construction industry culture improvement initiatives, align on pilot projects and share best practices across government.

The Culture and Diversity Sub-Committee reports annually to the CLG. Key outcomes from 2023 include:

- Agreed whole of government definitions for 'women in trade' and 'women in non-traditional' roles.
- Updated Procurement Board Direction for all new NSW Government infrastructure projects over \$10M to report on women in trade and non-traditional roles, effective from 1 September 2023.
- Implementation of the NSW Government Women in Construction Program, which includes the following elements:
 - **Industry Innovation Program:** An industry grants program to support a diverse range of innovative industry ideas to remove obstacles to women entering or staying in the construction sector.
 - **Communications & Engagement:**
 - Launch of the Women in Construction website to enhance communications of and promote opportunities under the program.
 - **Targets for major infrastructure projects:**
 - Piloting increased targets for women in trade (doubling from 2% to 4%) and the introduction of a new non-traditional role target (7%) on major government infrastructure projects (Women in Construction focused Infrastructure Skills Legacy Program).
 - As part of the pilot, 16 officers have been embedded across 19 NSW Government infrastructure projects in regional and metro NSW.
 - Project officers support the employment, upskilling and retention of women in the construction sector and work to improve the culture within the industry to make it more inclusive.

- **Industry Survey:** An annual industry survey was developed to understand baseline participation levels and sentiment across the sector. The survey is intended to be repeated annually providing a longitudinal picture of the industry. The first survey was in market from June to July 2023 and a Survey Report released on the [NSW Government Women in Construction website](#).
- Identification and sharing outcomes from trial projects for the Construction Industry Culture Standard, including the 5-day work week.
- Information sharing on several Department of Education initiatives targeting diversity including Connecting Women to Trades, Aboriginal and Torres Strait Islander peoples mentoring program, and Girls Can Too program.

3. The Civil Contractors Federation submission raises concerns around fair risk allocation, the need to use standardised contracts and the benefits of early engagement. On these issues they paint a less positive picture than suggested by the 2023 progress report on the 10 Point Commitment to the construction sector. Do you regularly dialogue with this Federation and how do you respond to their concerns? Are they addressed in the new Playbook?

RESPONSE:

Infrastructure NSW regularly meets with all sections of the construction industry supply chain, including the Civil Contractors Federation, to discuss key issues raised by industry participants, including risk allocation, contracts and early market engagement.

The upcoming refresh of the *10 Point Commitment to the construction sector* will include actions for NSW Government infrastructure delivery agencies and asks of our industry partners to address key issues raised by both government and industry.

4. How would you respond to the submission from Australian Owned Contractors (AOC) calling for “infrastructure agencies to break up major projects into individual packages under \$500m in value to immediately increase the pool of contractors able to bid for them and consequently, maximise market competition”? Do you see merit in this proposal? Are there any risks?

RESPONSE:

There has been good progress in packaging projects and incorporating industry feedback on appropriate work packages in early market engagements. For example, see the [Transport for NSW Productivity Packaging Report](#).

It may not always be feasible to break up contracts into individual packages under \$500m due to the size and complexity of specific projects, however most NSW Government infrastructure contracts are under \$500M.

5. The AOC contend that directions in the 2021 Premier’s Memorandum Procurement for Large, Complex Infrastructure Projects to “Size contract packages across the NSW portfolio to facilitate competitive bids from a wide range of participants” have not had the desired outcome. Do you agree with this assessment? Is this direction still in force? How is it being implemented and monitored?

RESPONSE:

This question is best directed to the Premier’s Department.

6. The procurement assurance requirements associated with the Construction Accreditation program are self-reporting and there is no centrally reporting or monitoring of compliance against the accreditation program. Does this raise concerns for you? Have others raised concerns about this with you?

RESPONSE:

In an environment with constrained funding and resources, there is a need to balance practical implementation with feasibility of comprehensive compliance programs. Infrastructure NSW is actively working with Public Works, NSW Treasury and the Construction Leadership Group on identified issues and proposed changes to the construction accreditation program.

7. NSW Public Works has identified to the Construction Leadership Group opportunities for improvement of the construction accreditation program, what has been your response, or the response of the Construction Leadership Group?

RESPONSE:

Infrastructure NSW is actively working with Public Works, NSW Treasury and the Construction Leadership Group to review identified issues and proposed changes to the construction accreditation program.

8. 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?
- c. Have you ever identified and or reported non-compliance in your annual report and/or self-attestation to the Procurement Board?

RESPONSE:

Infrastructure NSW is not required to provide information on procurement activities to the Procurement Board. INSW also has had no reason to report a non-compliance in either our annual report or self-attestations.

9. 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?

RESPONSE:

- a. Portt is INSW's procurement and contract management system, all relevant procurement activity records are stored in this system.
- b. Only relevant and authorised INSW team members have access to procurement activity records. Outside of INSW, access is only granted to internal and external audit organisations.

10. 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?

RESPONSE:

INSW is an independent dual accredited agency and does not engage with either Treasury or NSW Procurement for any procurement activity. We have access to procurement schemes that may be set up by NSW Procurement via NSW.Buy.

11. 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?

RESPONSE:

INSW follows the NSW Procurement Framework of 'plan, source, manage' which was detailed in our written submission for the committee review. We use a customised approach to each procurement event.

- a. INSW uses e-Tender to publish all competitive opportunities and forward procurements are published in the annual procurement plan.
- b. An evaluation and probity plan are developed at the outset of each procurement activity, based on the risk profile. Common assessment criteria include project methodology, quality of project plan, experience and expertise of individuals to be assigned to the deliverables, price social procurement (environment, use of SME's, Aboriginal engagement, compliance with Modern Slavery Act requirements and contribution to local employment)
- c. VFM is a calculated methodology of total cost of ownership that are weighted against non-price and price criteria based on a specific procurement activity risk profile, see above response.

- d. Yes, these types of factors are considered, see response to (b) above. The weighting varies on these specific items generally from 0%-10% dependant on the relevance of the criteria to a sourcing activity or if there is a minimum legislated amount (eg, APP). This weighting is done in conjunction with the end user and evaluation committee and is not transparent to tenderers.
- e. INSW uses a total cost of ownership approach, that considers; initial price, maintenance, service, upgrades, and end of life disposal (if applicable).
- f. INSW inform via email to all applicants and offer debriefs to all unsuccessful applicants. All contracts with a value of equal to or greater than \$150,000 (inc GST) are published on E-Tender and all contracts with a value more than \$5 million are published on INSW website.
- g. The name of the successful contractor and the total value of the contract awarded is available as detailed in the above response. Where unsuccessful applicants are debriefed INSW provides information of the strengths and weaknesses as assessed by the evaluation committee.
- h. The individual business units within INSW who have budget responsibility for the supplier engagement manage the on-going contract and service level agreements.
- i. This is done by the individual business units within INSW who is managing the engagement as they are specialised and skilled to assess the quality and standards of the work engaged.
- j. The engaging business unit within INSW is responsible for outcomes and deals directly with the supplier for any breaches or deviations and if required sets out a remediation management plan to meet expected service levels.
- k. Yes, there are shared specialised resources that the various INSW business units can engage with as required to provide advice.
- l. All records related to the procurement activity are maintained within Portt (as described above in Q9). Data is reviewed on an as required basis, and used to report internally and externally.

12. How many local businesses and suppliers do you currently engage?

RESPONSE:

On a review of contracts awarded over the past few years all companies engaged have provided an Australian registered local office so by that definition we have only sourced from local companies.