

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

Response to questions on notice taken by the New South Wales Auditor-General.

Question 1

The Hon. DAMIEN TUDEHOPE: In preparing the audits which you have prepared, do you make any observations in relation to the varying quality or training of chief procurement officers or those people who are charged with doing procurement on behalf of those agencies that you have audited?

CLAUDIA MIGOTTO: I think in terms of capability, our reports on HealthShare and also on contract management capability within education talk broadly around organisational capability to manage what can be sometimes complex procurements. I would need to take on notice if we commented specifically on the roles of chief procurement officers. I can't recall an instance of that off the top of my head, I must admit.

IAN GOODWIN: I was just going to say, I think that we haven't specifically made, in the context of the Auditor-General's reports, any comments about the CPOs. What I would offer, though, is that obviously CPOs—it's a profession. You would be looking—if we were looking at that—to make sure that they're professionally qualified. The other thing you'd be looking for is to make sure they've got sufficient seniority to be able to hold ground in making decisions around procurement.

Response

Audit Office of NSW reports have not commented on the varying quality or training of Chief Procurement Officers or those people who are charged with doing procurement on behalf of those agencies that we have audited.

However, we have recommended the provision of more guidance to staff (e.g., on when consultants should be used and applying the definition of consulting for their annual reporting purposes), as well as commenting on the skills and experience required to manage contracts from an organisational perspective. The main relevant performance audit reports are:

- NSW government agencies' use of consultants (report tabled March 2023)
- Ensuring contract management capability in government – HealthShare NSW (October 2019)
- Ensuring contract management capability in government – Department of Education (June 2019)

Question 2

The CHAIR: One last question—it might be to you, again about the consultants report. We have had questions asking about central monitoring self-attestation and that kind of thing. In your consultants report, you did talk about that NSW Procurement within Treasury should monitor strategic risks and agency compliance with New South Wales procurement policies et cetera. Did you find any level of oversight from NSW Procurement of those things, or was that completely absent?

CLAUDIA MIGOTTO: It's probably hard to be nuanced there. Because we looked at 10 individual agencies there, there's probably an answer that relates to each agency in each case, in terms of how their particular systems were set up and Procurement Board's visibility

of those systems. I could probably take the detail on that one away and come back to you on notice.

The CHAIR: That would be good, if you could. That would be excellent. Thank you.

Response

In our audit on NSW government agencies' use of consultants (March 2023) we note that a 'devolved governance model' is used for procurement in New South Wales, as acknowledged in the NSW Procurement Policy Framework. This means the heads of government entities that are required to comply with the NSW Procurement Board's directions are responsible for managing the entity's procurement, including managing risks, reporting and ensuring compliance, in line with procurement laws and policies.

Regarding NSW Procurement's oversight of agency compliance with NSW government procurement policies, our audit found several examples of non-compliance with procurement rules. These included contract variations that exceeded allowable limits. For example, a NSW Treasury consulting engagement in the audit sample included contract variations that increased the cost of the contract from \$100,000 to \$500,000. This exceeded the maximum increase allowed under the NSW Procurement Policy. These breaches of policy had been approved by staff at the relevant agencies and NSW Procurement had not identified or acted on the breaches in the examples we identified. Our audit found that NSW Procurement was not responding to agency non-compliance consistently. For example, it was not enforcing the requirement that agencies submit post-engagement reports to NSW Procurement for all engagements valued at more than \$150,000.

Response to supplementary questions directed to the Audit Office of NSW.

Question 1

How much did you spend on consultants in 2022-23?

Response

As disclosed in the Audit Office's 2022-23 Annual Report on page 127, the Audit Office spent \$83,475 on consultants.

This spend is based on the definition in Procurement Board Directive PBD 2023-05 Engagement of professional services suppliers, namely "*a consultant is defined as a person or organisation engaged to provide recommendations or professional advice to assist decision-making*". This means that subject matter experts and audit firms the Audit Office engages to deliver performance and financial audits are not classified as consultants because their work is not of an advisory nature and their work is performed under the Audit Office's direct supervision and direction.

Questions 2-3

Are you required to contribute to the Government's commitment to reduce spend on consultants by \$35 million per annum? If so, what is your share of this target?

Response

The Audit Office is not required to contribute to the Government's commitment to reduce spend on consultants.

Questions 4-6

Has your use of consultants ever been subject to an independent performance audit? If so, who conducted this audit? If not, why not?

Response

The Audit Office's procurement and contract management practices (including the engagement of consultants) are subject to periodic audit by the Audit Office's internal audit service provider. The last internal audit of procurement and contract management practices was conducted in July 2021. The Audit Office's internal audit function is structured and operates to provide independent and objective assurance to the Auditor-General and Audit and Risk Committee.

More broadly, the Audit Office is subject to a quadrennial statutory review, led by an independent assessor appointed by the NSW Parliament's Public Accounts Committee and review reports are tabled in Parliament. The last quadrennial review was undertaken in 2022.