

**Submission  
No 1**

## **INQUIRY INTO NSW GOVERNMENT'S USE AND MANAGEMENT OF CONSULTING SERVICES**

**Organisation:** Auditor-General for New South Wales

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Ms Abigail Boyd MLC  
Chair, Public Accountability and Works Committee  
Parliament House  
Macquarie St  
SYDNEY NSW 2000

13 June 2023

Dear Ms Boyd

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

Thank you for inviting me to make a submission to the Inquiry into the NSW Government's use and management of consulting services.

The following information included in my financial and performance audits is of relevance to the Inquiry's Terms of Reference.

### **Procurement and reporting of consultancy services, tabled 4 September 2018**

This audit examined 12 agencies' compliance with procurement and reporting obligations for consultancy services between 1 July 2016 and 31 March 2018. The report noted that it is difficult to quantify total government expenditure on consultants as agencies define 'consultants' differently.

All 12 agencies examined did not materially comply with the NSW Procurement Board Direction for the use of consultants between 1 July 2016 and 31 March 2018. Eight agencies under-reported consultant fees in their annual reports.

This audit also examined the effectiveness of the NSW Procurement Board in fulfilling its functions to oversee and support agency procurement of consulting services. The report noted that the Board is not fully effective in overseeing and supporting agencies' procurement of consulting services. The Board's oversight of agency and supplier compliance with the Standard Commercial Framework is limited as it relies on self-reporting, and the information provided is insufficient to properly monitor compliance.

### **Report on State Finances 2021, tabled 9 February 2022**

This report found that external consultants were used extensively to advise government agencies on matters related to the Transport Asset Holding Entity (TAHE). The report found that the extensive use of consultants can give rise to the risk that:

- agencies shop for opinions from multiple experts in order to receive advice that matches the outcome being sought
- so much reliance is placed on the expert that the agency cannot appropriately challenge the expert, or converse on the topic analysed by the expert without that expert being present
- issues raised by the expert, assumptions used, or limitations expressly included in the expert's reports are not appropriately challenged or closed out by the engaging agency.

The report recommended NSW Treasury consider whether there is sufficient oversight of its use of consultants and assess the risk of an over-dependence on consultants at the cost of internal capability.

### **Internal Controls and Governance 2022, tabled 20 December 2022**

This report found that agencies risk over-reliance on the same consultants. It noted that agencies could improve their policies on engaging consultants to include consideration of:

- probity requirements/conflict of interests
- rotation of independent consultants from time-to-time
- additional review where multiple consultants are engaged on the same topic to address the risk of opinion shopping.

### **Report on State Finances 2022, tabled 22 December 2022**

Last year's State Finances report recommended that the 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. This recommendation was raised in response to the extensive use of external consultants to advise government agencies on matters related to TAHE.

NSW Treasury updated its internal guidance to staff about engaging consultants. The updated guidance requires:

- NSW Treasury Secretary approval for consulting engagements valued at over \$50,000
- documentation of the rationale for engaging a consultant, including consideration of the use of internal expertise
- documentation of consideration of undue reliance on any single consulting firm.

The report found that in 2022, the State reported a decrease in consultancy fees of \$6 million bringing total expenditure to \$180 million.

### **Design and implementation of the Transport Asset Holding Entity (TAHE), tabled 24 January 2023**

This audit found that the agencies involved in designing and implementing TAHE (which included NSW Treasury and Transport for NSW) were over-reliant on consultants, and that they also used consultants for tasks that should have been performed by the public service. Key findings relevant to the Committee's Terms of Reference include:

- 16 consulting firms worked on 36 engagements connected with TAHE from 2014 to 2021
- 20 of these 36 engagements were conducted by three consulting firms - Boston Consulting Group (5), Ernst and Young (8) and KPMG (7)
- there was one instance of a consulting firm (KPMG) being engaged by two agencies simultaneously (NSW Treasury and Transport for NSW), and any real and perceived conflicts of interest that arose were left to the consultants to manage
- this use of consultants raised the risks that:
  - agencies were not receiving value for money
  - the advice agencies received was not objective and impartial
  - there may not be sufficient diversity of views or different opinions
  - the relationship between consultants and agencies could have become unclear and consultants' roles might have blurred the distinction between providing independent advice on a range of options and facilitating a pre-determined outcome.

The estimated final cost of the engagements was \$22.56 million compared to the total initial estimated cost of \$12.94 million. Thirteen contracts (36% of the total) had at least one variation, and there were 23 variations in total:

- in eight cases the value of at least one variation exceeded the value of the initial engagement
- there were 11 (out of 23) contract variations where the value of the variation exceeded the threshold for a tender.

## **NSW government agencies' use of consultants, tabled 2 March 2023**

This audit assessed how effectively NSW government agencies procure and manage consultants. It examined the role of the NSW Procurement Board and NSW Procurement (a unit within NSW Treasury) in supporting and monitoring agency procurement and management of consultants.

The audit used four sources of data that contain information about spending on consultants by NSW government agencies, including annual report disclosures and the State's financial consolidation system (Prime).

The audit found that agencies do not procure and manage consultants effectively. Most agencies do not use consultants strategically (to meet an identified business need from external capability that cannot be sourced in-house) and do not have systems for managing or evaluating consultant performance. The audit also found examples of non-compliance with procurement rules, including contract variations that exceeded procurement thresholds.

The report found that NSW Procurement has made improvements to the information available about spending on consultants, including additional analysis and reporting. However, there is no single data source that accurately captures spending on consultants.

Our analysis of data on whole-of-government spending on consultants, drawn from agency annual reports, indicates that four large professional services firms accounted for about a quarter of consultancy expenditure from 2017–18 to 2021–22. This concentration increases strategic risks, including over-reliance on a limited number of providers and potential reduction in the independence of advice.

The report also found that it is highly unlikely that NSW government agencies will meet the government's 2019 policy commitment to reduce consultancy expenses by 20% each year, over four years, from 2019–20. NSW Treasury advised that to implement this commitment, agency budgets were reduced in Prime in line with the savings targets. However, actual spending on consulting in NSW Treasury's Reports on State Finances 2020–21 and 2021–22 was almost \$100 million higher than the savings targets over the first three years since 2019–20.

Thank you once again for the invitation to make a submission to the Public Accountability and Works Committee's inquiry. Please don't hesitate to contact me if you would like further information about my reports to Parliament.

Yours sincerely

Margaret Crawford PSM  
Auditor-General for New South Wales