

**Submission
No 24**

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

Name: Michael Parkinson

Date Received: 9 August 2023

[Redacted]
[Redacted]
[Redacted]
Michael J A Parkinson
[Redacted]
[Redacted]
[Redacted]

9 August 2023

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

Via email: PAWC@parliament.nsw.gov.au

Dear Ms Boyd

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

As a private citizen, I recognise the value that the engagement of specialist consulting services can have in the delivery of good government. They can contribute expertise to the decision-making process and therefore contribute directly to efficient and affective administration.

As a resident of South Australia, I also recognise that the government of NSW is the largest government in Australia and therefore tends to be a trend setter in administrative reform.

The attached submission is based upon my extensive career in government service and work as a consultant at all three levels of government within Australia. It is based upon more than 40 years working in assurance functions and more than 10 years in the development of standards that address governance, risk and assurance.

Yours sincerely

Accountability

The primary thesis of my submission is that officials must be accountable for their decisions and that the engagement of consulting resources should not give rise to any dilution of that accountability. In order to achieve accountability it is necessary to be able to identify reasons for decision and be assured that any advice used was objective and free from undue external influence.

The requirement for transparency necessarily leads to requirements in relation to the identification and management of conflicts of interest.

When advice is obtained, it should not matter, from an accountability and assurance perspective, whether that advice is obtained from a public servant or from a consultant. Necessarily this leads to the requirement to maintain appropriate records within the control of the NSW government so that processes applied can be subject to appropriate audit and review.

The final aspect of accountability is that individuals handling and storing information should not be able to hide behind the corporate shield and so avoid the personal accountability that applies to a public servant.

Mechanisms that are established must not depend upon the integrity of individual consultants or in trust of third party mechanisms. It is important that the NSW Government establish systems and processes that promote integrity regardless of the moral calibre of individuals.

Response to Specific Items in the Terms of Reference

1(a) the setting and enforcement of procurement policies

To provide confidence in the governance of service organisations, consultant organisations (with net turnover larger than a specific amount or with aggregate contracts exceeding a particular amount) should be expected to maintain an internal audit function staffed by qualified internal auditor(s) with professional membership of an appropriate professional body.

I believe that there would be value in establishing and publishing clear over-arching principles and standards (parameters) for the engagement and conduct of consultants within the NSW Government. Such parameters could be used as a basis for audit review.

1(b) the transparency of work undertaken by consultants, and the accountability of consultants for this work

As indicated above, the commissioning entity must remain accountable for the decision, regardless of obtaining advice. The public sector manager should remain accountable in exactly the same way they would be if the work had been performed by a public service employee that they supervised.

This accountability should flow to any consultancy engaged to perform the work. In particular:

- The terms of reference and the report of the consultant should be documents accessible via freedom of information (GIPA) request and subject only to the same exclusions as a document produced by a public servant.
- The consultant should not be able to avoid liability by a blanket statement of reliance on advice of the agency. If the consultant has doubt about the completeness or accuracy of information provided, this should be stated in the report.
- The basis for consultant advice should be clearly stated and working records should be retained in the records management system of the engaging agency.

- Consequences of poor advice from the consultant should not be unreasonably harsh, but should be commensurate with the significance of the decision that the advice is to inform.
- Internal audit reports conducted by the internal audit function of the consultant, should be made available to the audit committee of department employing the consultancy if they address a relevant contract.
- Work undertaken by consultants should be subject to review by the internal auditors of the agency and by the NSW Auditor-General.

While noting that a senior manager may well ask a subordinate to rework some advice, I recognise a professional adviser is unlikely to change their advice at request. This is as it should be and a senior manager who does not wish to take advice submitted should offer reasons. This communication should be a part of the official record.

1(c) the adequacy of agency classification, reporting on and disclosure requirements for the use of consultants

To promote transparency and as an additional piece of information to support the identification of conflicts of interest:

- The commissioning of a consultant should be published on the agency website at the time of the contract. The information published should include the value of the contract, the time period of the contract and the general subject matter to be advised on.
- Extensions to contracts with consultants should be published at the time of the extension, together with reasons for the extension.

1(e) the management of and measures to prevent conflicts of interest, breaches of contract or any other unethical behaviour

Standard conflict searches by engaging agencies should require consultants to disclose any current or prospective work that the consultant has in the same general subject area.

It does not seem unreasonable to require consultants, as individuals, to conform to the required behaviours for NSW public servants and to expect the consultant firms to guarantee that their consultants will so conform. The consequences for individuals who breach the confidentiality requirements of the government should not depend upon whether they are public servants or consultants.

This might be extended by ensuring that engaged consultants belong to a professional body that has ethical requirements to maintain client confidentiality.

1(g) integrity and transparency obligations of NSW Government agencies in relation to their use of consultants

The engaging agency should be expected to record the reason for decision to engage consultants rather than to conduct the work in-house.