

Corruption risk management

FEBRUARY 2008

In many of its publications, the ICAC refers to the need for NSW public sector agencies to undertake corruption risk management. The aim of this publication is to explain what is meant by the term 'corruption risks' and how 'corruption risk management' fits with the regular and familiar process of risk assessment and management.

This brochure is for public sector employees responsible for, or involved in, risk assessment and management within their agency. It is applicable to senior managers responsible for enforcing risk assessment and management processes, and for employees who have a specific responsibility in designing and coordinating risk assessment and management processes and procedures for their agencies.

This brochure is not a step-by-step guide on how to conduct a risk assessment or how to institute risk management strategies, practices and processes. There is now a significant amount of literature on these topics which is readily available to public sector agencies, some of which is listed in the resources section at the end of this brochure.

The importance of risk management and corruption risk management

The importance of risk management in the NSW public sector has been reinforced by the NSW Legislative Assembly Public Accounts Committee.¹ A large number of Australian public sector agencies also recognise that effective risk management is important in achieving their agency objectives.²

There are a number of legislative and government policy provisions and best practice guides that require or encourage NSW public sector agencies to undertake risk management. As a result, many NSW public sector agencies engage in varying degrees of risk assessment and management activity. However, there is no legislative and government policy in respect of corruption risk

management, notwithstanding that the failure to properly manage corruption risks can be serious and include both short- and long-term negative consequences, such as:

- damage to reputation
- loss of public confidence
- direct financial loss
- wasted resources
- the financial and resource cost of an internal and/or ICAC investigation
- adverse effects on other staff and the morale of the agency generally.

The purpose of this brochure is to reinforce the importance for agencies to address corruption risks in a systematic and comprehensive way and as part of their overall approach to risk assessment and management. An overall risk management strategy should always address an agency's corruption risks.

What are corruption risks?

Corruption risks can exist in relation to almost all functions and activities of an agency. Unmanaged corruption risks can expose an agency to the possibility of an employee engaging in corrupt conduct. Corrupt conduct is defined in section 8 and section 9 of the *Independent Commission Against Corruption Act 1988*³ but, ordinarily speaking, it is dishonest or partial behaviour, misuse of information or breach of public trust by a NSW public sector employee which, if proved, could amount to a crime or disciplinary offence. The term also refers to the conduct of any person (whether or not that person is a public official) that adversely affects or could adversely affect the exercise of official functions by public officials and could constitute or involve a criminal or disciplinary offence.

The definition of corruption is directed to improper conduct by one or more individuals. And it is the risk of that improper conduct occurring that is of concern to the ICAC.

1 *Risk Management in the NSW Public Sector*, Public Accounts Committee, Legislative Assembly, September 2005

2 *A Research Report on Risk Management in the Public Sector*, CPA Australia, 2001

3 The ICAC Act 1988 can be accessed at the following web address: <http://www.icac.nsw.gov.au/index.cfm?objectid=245304E9-D0B7-4CD6-F9AC8FA2191AAC70>

The ICAC is not concerned with risks beyond the influence or action of individuals, for example, the risk of a catastrophic natural event is not a corruption risk. Systems, policies, procedures, and informal work practices that create the opportunities for individuals to engage in corrupt conduct, or are conducive to corrupt conduct, are areas which can expose the organisation to significant corruption risks.

ICAC case study

In 2005, the ICAC investigated the conduct of officers attached to the Licensing Process Unit within the WorkCover Authority of New South Wales (WorkCover) to establish whether any WorkCover officer or any other person had corruptly issued certificates of competency or licences for the use of heavy plant and equipment.

The investigation revealed that thousands of certificates of competency were improperly issued over several years by officers of the WorkCover Certification Unit, which forms part of the Licensing Process Unit. The certificates were issued without the applicants having undergone any assessment process.

The investigation also identified a number of deficiencies in the management practices and systems associated with the issuing of certificates of competency. These included sharing of log-on details and passwords, lack of supervision and controls in approving and printing certificates of competency, and lack of reconciliation between certificates issued and application fees received.⁴

For the most part, corruption risks are no different from the risks that would be routinely identified through a comprehensive risk assessment. However, on a risk continuum they are usually at the more serious end.

Where do corruption risks occur?

Corruption risks can occur in most areas of a public sector agency. They can stem from external, internal and/or individual factors:

■ **External factors.** These are factors outside the control of the agency but of which the agency should be aware. For example, an increase in the illegal market for improperly obtained proof of identity documents is a risk factor that agencies producing these documents should understand. These agencies should consider controls designed to protect such documents from improper external access and have procedures that can detect and prevent any improper authorisation.

- **Internal factors.** These are factors largely within the control of the agency and are the result of agency actions or inactions. They include inadequate work review and audit mechanisms and poorly managed contracting or commercial relationships. Agencies should ensure they have effective policies, procedures and systems, adequate staff supervision, and also a system of checks and sound management.
- **Individual factors.** These relate specifically to factors that could motivate a staff member to commit corrupt conduct. They include motivators which are outside the agency's control, such as personal debt from gambling or drug addiction. Job dissatisfaction is another individual factor that could motivate an employee to behave improperly.

Although not an exhaustive list, the Commission has also identified particular work requirements or organisational functions that are more likely than others to create corruption risks:

- receiving cash payments
- having regular dealings with the private sector, e.g. contracting, purchasing
- inspecting, regulating or monitoring standards of premises, businesses, equipment or products
- undertaking construction projects
- allocating grants of public funds
- issuing qualifications or licences to individuals
- issuing, or reviewing the issue of, fines or other sanctions
- providing a service to the community where demand frequently exceeds supply
- providing subsidies, financial assistance, concessions or other relief to those in need
- providing assistance or care to the vulnerable or disabled
- testing blood, urine or other bodily samples from people or animals
- making determinations and/or handing down judgements about individuals or disputes
- selling tickets
- providing a service to new immigrants
- having discretion concerning land rezoning or development applications
- producing documents, such as driver licences and birth certificates, that can be used for proof of identity purposes
- holding personal information about staff and clients.

⁴ Report on Investigation into Safety Certification and the Operations of the WorkCover NSW Licensing Unit, ICAC Report, December 2005

Can corruption risks be outsourced or shared?

New South Wales public sector agencies may mitigate the consequences of certain risks eventuating, for example, by taking out insurance against damage to property or being indemnified against third-party claims in negligence. But there are many risks, the consequences of which will be borne by the agency alone and which cannot be shared with others. For example, an agency may outsource information technology, security, data entry, transportation, asset storage or purchasing functions or services such as family counselling. However, the agency will be held responsible for ensuring that corruption risks are properly identified and managed. In these cases, and whether or not some of the consequences are subject to insurance cover, failure to manage the corruption risks can result in poor agency performance and loss of public confidence.

Entering into a public–private partnership is an activity which in itself may have corruption risks and public sector agencies must also manage the risks that may come with such partnerships.⁵ For example, agencies may partner with private-sector organisations on infrastructure projects such as roads. However, the public sector agency partner remains responsible for the management of all associated corruption risks.

How does corruption risk management fit into overall risk management?

It is an agency's decision as to whether corruption risk assessment and management should be a separate exercise from routine risk management processes. This decision will depend on a range of factors such as the size of the agency and the number of activities or functions that are particularly vulnerable to corruption risks.

Some agencies may consider that a separate corruption risk management plan that is aligned with their other major risk management plans is most suitable to address the entirety of corruption risks in their environment. Other agencies may prefer to include corruption risks in their functional or operational risk management plans, for example, finance or human resource risk management plans.

The ICAC is concerned that agencies recognise the importance of meaningful processes that effectively identify an agency's corruption risks and document sound strategies to ameliorate those risks.

Whether it is recorded in a separate document or incorporated in an overall risk management plan, corruption risk management should be integrated into an agency's overall risk management and governance framework to be effective. The following excerpt from the Australian Standard on general risk management applies equally to corruption risk management:

*The aim of the risk management plan should be to embed risk management in all the organisation's important practices and business processes so that it is relevant, effective, efficient and sustained. In particular, risk management should be embedded into the policy development, business and strategic planning and change management processes. It is also likely to be embedded in other plans and processes such as those for asset management, audit, business continuity, environmental management, fraud control, human resources, investment and project management.*⁶

Resources

In addition to those resources already referred to, the following resources will assist agencies with their risk management activity:

- *Risk Management*, Australian/New Zealand Standard AS/NZS 4360:2004
- *Risk Management Guidelines*, Companion to AS/NZS 4360:2004
- *TMF Guide to Risk Management – The RCCC Approach*, Treasury Managed Fund, www.riskinsite.com.au
- *Guide to Operational Risk Assessment Part 1 – Key Concepts*, Treasury Managed Fund
- *Guide to Operational Risk Assessment Part 2 – Method*, Treasury Managed Fund
- *Guide to Strategic Risk Assessment Part 1 – Key Concepts*, Treasury Managed Fund
- *Guide to Strategic Risk Assessment Part 2 – Method*, Treasury Managed Fund
- *Risk Management in the NSW Public Sector*, NSW Public Accounts Committee, Report No. 12/53 (No. 155), September 2005
- *Project Risk Management Guideline*, Government Chief Information Office
- *Information Security Guidelines for NSW Government – Risk Management*, Government Chief Information Office
- *Fraud Control Improvement Kit*, NSW Auditor-General Better Practice Guide, July 2006

⁵ *Risk and risk management in the public sector*, Ian McPhee, Auditor-General for Australia, Speech at Public Sector Governance and Risk Forum, 1 September 2005, p. 6 at http://www.anao.gov.au/uploads/documents/Risk_and_Risk_Management_in_the_Public_Sector.pdf

⁶ *Risk Management*, Australian/New Zealand Standard AS/NZS 4360:2004, p. 26

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ICAC tip sheet series

Tip sheets provide readily accessible and practical advice on managing and/or preventing particular types of corrupt conduct. More detailed advice can generally be found in an ICAC guideline publication on the relevant topic. The ICAC's investigation reports also provide useful corruption prevention advice that is often widely applicable across the NSW public sector. To access the full range of ICAC publications go to www.icac.nsw.gov.au/go/publications-and-resources and follow the links.