



Justice

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Mr Lewis Rangott
Executive Director, Corruption Prevention
Independent Commission Against Corruption
GPO Box 500
SYDNEY NSW 2001

Your ref: E16/0338
Contact: Lyncoln Chee
Phone: (02) 8346 1846

19 DEC 2018

Dear Mr Rangott,

NSW Department of Justice report on the implementation of the plan of action in response to: *Investigation into the conduct of a former NSW Department of Justice Officer and others*

I refer to your letter dated 4 December 2018 requesting the Department of Justice's report on the implementation of its plan of action by 19 December 2018.

Under section 111E(3)(a) of the *Independent Commission Against Corruption Act 1988* (the Act), please find enclosed the Department's interim report on the implementation of its plan of action together with the following attachments:


- Justice Infrastructure and Assets Governance Framework;
- Justice Infrastructure and Assets Procurement Framework;
- Secretary's Direction 2018-13 – Purchase to Payment Policy;
- Procedure on 'Project Code Creation'; and
- 'Terms of Reference' for the Program Review Group (Minor Works Governance)

The attachments are sensitive and confidential. The public disclosure of these records may jeopardise the systems and controls in place for the management of risk. The Department provides these materials to the Commission strictly on the basis that the documents remain confidential and are not to be published or otherwise disseminated.

The Department is mindful of its obligations under section 111E(3)(b) of the Act to provide a further written report to the Commission of the progress of implementing the plan in twelve (12) months from the date of this letter.

If you have any questions please contact Lincoln Chee, Director, Inquests Inquiries & Representation on (02) 8346 1846.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lida Kaban', with a long horizontal flourish extending to the right.

Lida Kaban
General Counsel

NSW Department of Justice report on implementation of plan of action in response to *Investigation into the conduct of a former NSW Department of Justice Officer and others*

Please indicate which applies:

- This is a final report; the plan of action is fully implemented
- This is an interim report; a further report will be provided in twelve months

Interim Report

Asset Management Services, which was subsequently renamed Property and Asset Services, has been consolidated with Justice Infrastructure to form a branch known as Justice Infrastructure and Assets.

On 12 December 2017, Martin Berry commenced his engagement to provide services as the Chief Executive Officer of Justice Infrastructure and Assets ('JIA').

Recommendation 1

That the NSW Department of Justice undertakes a review of its systems to identify ways to ensure that Corrective Services NSW (CSNSW)'s minor works program commences at the start of each financial year and that delays are minimised

The Executive Steering Committee (ESC) for Minor Works met in April 2018, with monthly Divisional Program Review (PRG) meetings scheduled to be held.

All minor works priority bids were submitted by divisions, endorsed by the ESC and approved by the Secretary to start a rolling 3 year forward plan. This rolling forward program contains funded priorities for year 1 and unfunded priorities for the remaining year 2/year3 window (Treasury currently allocates funding on a 1 year basis).

An allowance has been included in the funded year 1 priorities for planning of year 2/future projects to ensure continuity of the program pipeline across all divisions including Corrective Services NSW.

This recommendation was implemented on 24 April 2018.

Recommendation 2

That the Department reviews its existing minor works scoping practices. This review should identify inefficient project scoping practices that delay the commencement of minor capital works programs. In particular, the practice of scoping minor works projects twice, once by CSNSW and once by Asset Management Services (AMS), should be examined.

In response to this recommendation, the attached governance framework has been implemented

This recommendation was implemented on 26 September 2018.

Recommendation 3

That the Department continues to prioritise its development of accurate and comprehensive asset registers to facilitate detailed project scoping and timely completion of works.

A stage 3 Asset Condition Assessment was completed by Asset Futures in October 2018, which continued to build on condition data collected in the two previous stages of condition assessment completed in 2017.

The asset condition data is hosted in a cloud platform known as the Justice Asset Platform (JAP). The JAP platform is a key source data base for informing maintenance planned programs and future capital works priorities.

Ongoing updates to asset data/condition will be integrated into requirements for maintenance services providers to facilitate up to date asset registers.

This recommendation was implemented on 15 November 2018.

Recommendation 4

That the Department revises its method for awarding minor works projects to include criteria other than cost.

The attached Procurement Framework has been put in place with Prequalified suppliers selected from approved panels. It is required that Contractor Performance is considered during selection.

This recommendation was implemented on 23 March 2018.

Recommendation 5

That the Department analyses minor works expenditure at different levels of aggregation to highlight expenditure patterns, including the volume of work awarded to particular contractors.

Procurement now submits 6 monthly reports on construction suppliers' spend profiles. All agency Cost data is also provided via the 'Opera Solutions' spend intelligence platform.

This recommendation was implemented on 23 March 2018, and is subject to regular reporting and review.

Recommendation 6

That the Department takes steps to ensure competition between members of capital works panels. This could include increasing the number of approved and vetted suppliers that are prepared to compete for work.

As with recommendation 4, the Procurement Framework has been put in place with Prequalified suppliers selected from approved panels.

This recommendation was implemented on 23 March 2018.

Recommendation 7

That the Department clarifies its criteria for classifying maintenance, minor works and major capital works, and communicates these criteria to all stakeholders.

As advised in the Department's initial report on the implementation of recommendations, an independent consultant from the Litmus Group, a division of PPB Advisory, was engaged to conduct an in-depth review. A report following this review was provided on 11 October 2017 ('the PPB Report'). The PPB report clarifies the Department's criteria for classifying maintenance, minor works and major capital works, and communicates these criteria to stakeholders.

The progress to date in response to the recommendations of the PPB Advisory review of minor capital works includes key action plans, such as a new governance model for minor works and future planning which involves a 3-5 year forward program.

JIA will provide regular reports to the Justice Executive Team ('JET') as part of the new proposed governance model.

This recommendation was implemented on 3 October 2018.

Recommendation 8

That the Department develops a service level agreement between AMS and CSNSW in relation to the provision of minor works and maintenance services that details the roles and responsibilities of each. This could include ensuring that both AMS and CSNSW have visibility over expenditure on CSNSW assets.

Implementation of this recommendation is ongoing and remains on track. JIA are working with the relevant service divisions and developing Service Level Agreements, including an Infrastructure Service Contract with CSNSW, to be reviewed and endorsed by the JET.

This recommendation is on track to be implemented by June 2019.

Recommendation 9

That the Department ensures that minor capital works are allocated separate, discrete project codes.

In response to this recommendation, the following attached documents have been implemented:

- Procedure on 'Project Code Creation'; and
- 'Terms of Reference' for the Program Review Group (Minor Works Governance)

This recommendation was implemented in November 2018.

Recommendation 10

That the Department develops a performance management system that is used to inform the awarding of minor capital works projects. This should be based on a range of objective measures such as the time, cost and quality of the work performed.

As with recommendation 4, the Procurement Framework has been put in place with Prequalified suppliers selected from approved panels. It is required that Contractor Performance is considered during selection.

This recommendation was implemented on 23 March 2018.

Recommendation 11

That the Department ensures that the performance of minor works and maintenance contractors in NSW correctional centres is appropriately verified. Where relevant, this should include input from the asset owner within CSNSW.

JIA now undertakes verification of the performance of minor works and maintenance contractors in NSW Correctional Centres as follows:

Minor works projects:-

- Each minor works project has a scope of works agreed with the client (i.e. Corrective Services NSW);
- JIA and the client define and sign off on the project brief and detailed design documents;
- Contractor site meetings are held to progressively review the work at each stage with the client;
- Progress payments are validated by the JIA project officer through the goods receipting function within SAP prior to payment;
- A consultant defect inspection is carried out on completion (if consultants have been engaged to prepare design documentation);
- Pre handover inspections are conducted to confirm scope has been delivered with JIA;
- An Occupation OR 109R Certificate is issued if the works are not considered Exempt Development;
- Handover documents are signed off by client and are retained JIA.

Maintenance:-

- Instructions to maintenance service providers for works to be carried out by contractors is undertaken via documented work orders (note that approximately 30,000 work orders were raised in FY18 for correctional centres);
- When works are completed the maintenance service provider submits verification of completion of works by the contractor;
- Stakeholders who raise orders receive notification of completion of works to enable independent validation of performance;
- JIA undertakes spot audits on work orders and completion of work under these orders. These processes are undertaken for works instructed by JIA.

This recommendation was implemented on 3 October 2018.

Recommendation 12

That the Department reviews its subcontracting arrangements with facilities maintenance providers with a view to prohibiting “wash through” jobs. Relevant training for contractors and staff should reflect this requirement.

A 'Purchase to Payment' policy has been prepared, approved and implemented. The policy has been included in the attached Secretary's Direction Purchase to Payment Policy (SD2018-13) emailed to all department staff and policy and procedure uploaded to the Intranet by the Communications Unit.

This recommendation was implemented on 6 July 2018.

Recommendation 13

That the Department amends relevant documents, including its *Code of Ethics and Conduct Policy*, to provide that staff must declare departmental works contractors who are providing goods or services to them in a private capacity, as a potential conflict of interest. Consideration should also be given to prohibiting staff from engaging contractors in a private capacity where they are involved in the selection and management of those contractors.

As advised in the Department's initial action plan, the *Code of Ethics and Conduct* has been updated to incorporate this recommendation.