

## 24 month progress report

### *Investigation into allegations of corrupt conduct in the provision of security products and services by suppliers, installers and consultants*

#### Port Authority of New South Wales

Please update this schedule with information about the status of each item as at February 2016. Include details of the latest action/update in respect of each initiative, dates where relevant and attach copies of any documents referred to, where possible, in support of implementation of particular initiatives. Please provide the name of a contact person in your agency from whom we can seek more detail if needed. Please return this document to the ICAC in writing and electronically to [ymiles@icac.nsw.gov.au](mailto:ymiles@icac.nsw.gov.au) by no later than 14 February 2016.

#### **Recommendation 1.**

**That NSW government agencies ensure that overall responsibility for identified tasks associated with the selection of security integrators is maintained in-house, including:**

- **determining project budgets**
- **determining the scope of projects**
- **selecting tenderers to bid for contracts (in the case of limited and select tenders)**
- **communicating with tenderers**
- **coordinating tender evaluation panels and making recommendations**
- **evaluating tender submissions and writing selection reports.**

#### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- Not implemented

#### Action taken to implement recommendation

The Sydney Ports Corporation Procurement Policy implemented in April 2012 (and adopted by the amalgamated Port Authority of New South Wales (Port Authority) in October 2015) details responsibilities for tasks conducted during the tender process which are similar to the steps listed in this recommendation.

The Procurement Procedures direct that the “Buying Department’s Project Sponsor” has overall responsibility throughout the life of the tender process. The “Project Sponsor” is predominantly a senior manager if not an executive general manager with the appropriate level of delegated authorities.

This means that consultants (including security consultants) may provide input as “advisors” in the evaluation of tenders. However, in most situations, advisors would not score (evaluate) a tender. In any event, the overall responsibility for the evaluation and all stages of the tender process remains with the in-house Project Sponsor.

In July 2013 Sydney Ports’ Senior Manager, Corporate Services conducted refresher training for Sydney Ports’ project managers, addressing the use of consultants, evaluation code of conduct and check on tenderers.

## Supporting material

Port Authority Procurement Policy  
Port Authority Procurement Procedures Manual  
Tendering Presentation to Project Managers

## Evaluation of implementation (Progress update)

The General Manager, Corporate Services is involved from the initial stages of the tender process, ensuring that policy procedures are followed.

Sourcing and tendering is subject to an internal audit of the procurement process. The last internal audit review in relation to procurement was completed in November 2012 by PricewaterhouseCoopers. The Port Authority of New South Wales’ current internal auditor, Centium Group, will be conducting a further audit of the procurement process during the third quarter of the 2015/16 financial year, in accordance with our three-year internal audit plan.

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#### **Recommendation 2.**

That NSW government agencies embarking on new large-scale security projects adopt a rigorous product selection approach. The selection process could include:

- obtaining feedback regarding product specifications from a variety of sources, including end-users
- extensive product testing and the evaluation of test results by a panel either to inform the development of tender specifications or as part of a tender evaluation process.

#### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- ✓ Not applicable

#### Explanation

Port Authority has not embarked on large-scale security projects since ICAC made recommendations resulting from Operation Tilga and there are no immediate plans to undertake such projects. However, we would implement these recommendations as far as practically possible should we require security services on a large-scale in the future.

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#### **Recommendation 3.**

That NSW government agencies explore alternatives to relying exclusively on the advice of specialist consultants when selecting security integrators through a competitive process. Options for diluting the influence of specialist consultants include:

- identifying in-house security experts from other public sector agencies for tender evaluation panel participation
- ensuring that when consultants sit on tender evaluation panels, it is only in a technical advisory capacity
- identifying and seeking advice from agencies that have undertaken similar projects.

#### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- ✓ Not applicable

#### Explanation

Port Authority has not embarked on security projects requiring the advice of specialist consultants since ICAC made recommendations resulting from Operation Tilga. However, we would consider implementing these recommendations should the need arise in the future.

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#### **Recommendation 4.**

**That NSW government agencies consider the feasibility of separating tasks between security consultants for large-scale and complex projects, in cases where specialist advice is required.**

#### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
  
- ✓ Not applicable

#### Explanation

Again, as stated in response in Recommendations 2 and 3, Port Authority has not embarked on large-scale security projects since ICAC made recommendations resulting from Operation Tilga and there are no immediate plans to undertake such projects. However, we would consider implementing these recommendations should the need arise in the future.

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#### **Recommendation 5.**

That NSW government agencies adopt a broad approach to the due diligence enquiries that are conducted as part of a security procurement process, including:

- the scrutiny of low bids
- consideration of previous performance
- seeking referee reports beyond those nominated by the tenderer
- the verification of case studies provided by tenderers
- conducting criminal record checks on successful applicants
- seeking information from established information networks.

#### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- Not implemented

#### Action taken to implement recommendation

It is Port Authority's standard procedure to conduct reference checks, to review previous projects and perform financial health assessments.

Port Authority has not embarked on procuring security projects since ICAC made recommendations resulting from Operation Tilga and there are no immediate plans to undertake such projects. However, we would consider these additional criteria on a case by case basis with a view to incorporating into tender evaluations at the discretion of the buying

department conducting the tender, the General Manager, Corporate Services and/or the CEO where the benefits of more detailed due diligence outweigh the risks/costs.

## Supporting material

Port Authority Procurement Policy  
Port Authority Procurement Procedures Manual

## Evaluation of implementation (Progress update)

The General Manager, Corporate Services is involved from the initial stages of the tender process to ensure due diligence is adhered to.

Sourcing and tendering is subject to an internal audit of the procurement process. The last internal audit review in relation to procurement was completed in November 2012 by PricewaterhouseCoopers. The Port Authority of New South Wales' current internal auditor, Centium Group, will be conducting a further audit of the procurement process during the third quarter of the 2015/16 financial year, in accordance with our three-year internal audit plan.

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### Recommendation 6.

That NSW government agencies adopt a preference for open tender methodologies (including staged processes that involve open expressions of interest) for new security installation projects above \$250,000 in value. For contracts up to \$250,000 in value, a minimum of three written quotes should be obtained, unless exceptional circumstances exist and are documented or the contract is worth \$30,000 or less.

This recommendation does not apply where whole-of-government or multi-agency arrangements are in place. It also does not apply where the agency has a pre-qualification scheme in place or where existing warrantee or integration issues preclude open competition.

### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- Not implemented

### Action taken to implement recommendation

The Port Authority Procurement Policy stipulates a process for tenders where the value is > \$200K; and a requirement for 3 or more quotes for value between \$30K - \$200K, unless where documented exemption from tendering is provided, such as where NSW Government contract exists.

Whether to conduct an open tender or select tender depends on a number of factors, including:

- (a) In emergency situations;
- (b) For specialist work;
- (c) In circumstances where only one or a limited number of service providers are known to be able to carry out the work;
- (d) For a low value, low risk, off-the-shelf purchase; or
- (e) Where a pre-qualified list of vendors has been obtained through a pre-selection process. Examples of pre-selection processes are, but not limited to, a previous EOI for the goods or services under consideration, or the NSW or Federal government Procurement pre-qualified vendor lists.

## Supporting material

Port Authority Procurement Policy  
Port Authority Procurement Procedures Manual

## Evaluation of implementation (Progress update)

The General Manager, Corporate Services is involved from the initial stages of the tender process to ensure proper procedure is followed.

Sourcing and tendering is subject to an internal audit of the procurement process. The last internal audit review in relation to procurement was completed in November 2012 by PricewaterhouseCoopers, commissioned by Sydney Ports' finance department. The Port Authority of New South Wales' current internal auditor, Centium Group, will be conducting a further audit of the procurement process during the third quarter of the 2015/16 financial year, in accordance with our three-year internal audit plan.

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### **Recommendation 8.**

That NSW government agencies improve their project management systems by:

- clarifying project roles and responsibilities
- developing in-depth project scopes and plans, as appropriate, to the size and complexity of a project
- specifying and ensuring compliance with contract terms and conditions
- introducing tight inventory controls
- close monitoring of project budgets and project expenditure
- establishing processes to verify and approve variations, including the use of quantity surveyors.

### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- Not implemented

### Action taken to implement recommendation

Around four years ago, Port Authority undertook an extensive upgrade of project management procedures.

The upgrade commenced by establishing a Project Management Office which is available to all staff on the intranet. Processes were developed and all relevant staff were comprehensively trained on the following:

Project Management Policy;  
Project Management Framework;  
Project Governance Framework;  
Precinct Steering Committee Charter; and  
Portfolio Management Framework.

The substantial improvements made by the Project Management Office adequately addressed the recommendations of the Commission.

## Supporting material

Project Management Policy	Project Management Framework
Construction & Physical Works Project Management Framework	
Project Governance Framework	Project Management Reference Guide
Precinct Steering Committee Charter	Portfolio Management Framework

## Evaluation of implementation (Progress update)

The process is evaluated via a Governance Checklist. An internal review occurs at the end of each project phase and is defined by the framework. The PMO Manager or the Project Sponsor (nominated on each individual project) has responsibility for the internal review.

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#### **Recommendation 9.**

**That NSW government agencies ban employees directly involved in procurement activities from accepting any gifts, benefits and hospitality from potential contractors and consultants and existing contractors and consultants.**

#### Summary of progress

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
  
- ✓ Not implemented

#### Action taken to implement recommendation

Port Authority's existing policy is that all such gifts, benefits and hospitality should be declared in accordance with the Code of Conduct and the Fraud & Corruption Policy. This allows the monitoring of such activity and ensures that improper relationships do not develop.

#### Supporting material

Port Authority Code of Conduct  
Port Authority Fraud & Corruption Policy

#### Evaluation of implementation (Progress update)

Gifts and hospitality over the prescribed limits are submitted to the Fraud & Corruption Control Officer (who is the Company Secretary) for inclusion on the Gift Register. A summary of the register is provided on a regular basis to the Human Resources Executive. Any anomalies detected would be further investigated.

Email updates are issued twice yearly to all staff to remind them of their obligations under the gifts policy.

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#### **Recommendation 10.**

**That NSW government agencies be proactive in explaining the obligations on contractors and consultants to declare conflicts of interest, including those arising from either a pecuniary or non-pecuniary relationship.**

#### Summary of progress

The recommendation will be:

- ✓ Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- Not implemented

#### Action taken to implement recommendation

Currently, Port Authority's procurement procedures require anyone involved in a Tender evaluation, including contractors or consultants, to complete the Tender evaluation code of conduct which requires a declaration of potential conflicts of interest.

In an effort to proactively raise awareness of the obligation to declare conflicts of interest, the process was reinforced in the training presentation to Sydney Ports Corporation's Project Managers/Contractors by the Senior Manager, Corporate Services in July 2013.

#### Supporting material

Tendering training presentation to Project Managers

#### Evaluation of implementation (Progress update)

The internal review of each project under the Governance Checklist previously discussed in Recommendation 8 adequately checks this process.

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### **Recommendation 11.**

**That NSW government agencies ensure compliance with the Department of Premier and Cabinet's *Guidelines for the Engagement and Use of Consultants (C2004-17)* when engaging and using consultants.**

### Summary of progress

The recommendation will be:

- Implemented as described in the report
- Implemented in an alternative way
- Partially implemented
- Not implemented

### Action taken to implement recommendation

Guidance and instructions for sourcing of Consultants will be aligned with Port Authority's Procurement Policy and Procedures, in particular where there are differences from C2004-17.

Differences apply to such items as:

- (i) thresholds for quotes/tenders;
- (ii) evaluation of exceptions; and
- (iii) limits on variation before new tenders are required.

### Supporting material

Port Authority Procurement Policy  
Port Authority Procurement Procedures Manual

## Evaluation of implementation (Progress update)

Sourcing and tendering is subject to an internal audit of the procurement process. The last internal audit review in relation to procurement was completed in November 2012 by PricewaterhouseCoopers, commissioned by Sydney Ports' finance department. The Port Authority of New South Wales' current internal auditor, Centium Group, will be conducting a further audit of the procurement process during the third quarter of the 2015/16 financial year, in accordance with our three-year internal audit plan.