

Plan for Implementation of Recommendations

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

ART Gallery NSW

Please complete this schedule with information about how your agency plans to implement each of the ICAC's corruption prevention recommendations arising from the investigation into Operation Tilga. The implementation plan should include details of the actions, timeframes and how your agency proposes to evaluate the effectiveness of the implementation of each recommendation. Please provide the name of a contact person in your agency from whom we can seek more detail if needed. This document should be returned to the ICAC in writing and electronically to Bill Kokkaris by no later than Friday 20 December 2013.

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 response

The recommendation will be:

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

Action proposed

Recommendation 1 was endorsed by the Trustees of AGNSW in July 2012, subject to noting that, by virtue of the nature of its organisation, it may be impossible to bring certain functions in-house and that appropriate alternatives will be put in place. Consistent with that endorsement, Recommendation 1 will be implemented by AGNSW as described below.

AGNSW will ensure that the following functions are performed in-house:

- (i) determining project budgets;
- (ii) selecting tenderers to bid for contracts (in the case of limited and select tenders) in a manner that is consistent with:
 - the Procurement Plan to be developed by AGNSW;
 - the NSW Trade & Investment's procurement policies and requirements; and
- (iii) communicating with tenderers.

However, AGNSW may need to rely on external specialist advice with respect to:

- (i) determining the scope of projects;
- (ii) coordinating tender evaluation panels and making recommendations; and
- (iii) evaluating tender submissions and writing selection reports.

Accordingly, it may not be possible to completely bring these functions in-house.

To give effect that as part of Recommendation 1 in an alternative way, AGNSW intends to implement a process of separate consultancy for each project function consistent with Recommendation 4 below. For example, AGNSW will engage an industry specialist to assist it with development of the scope of a project and a separate and unrelated industry specialist to assist in the evaluation of tender submissions.

Supporting material

To the extent that Recommendation 1 is not encompassed by NSW Trade & Investment's procurement policies and requirements, it will be included in AGNSW's Procurement Plan in the manner described above as best practice for the selection of security integrators.

Proposed evaluation methods

AGNSW does not anticipate that it will need to procure the services of a security integrator through a competitive tender in the short or near term. Even so, AGNSW intends to audit its compliance with AGNSW's Procurement Plan, including Recommendation 1, for any procurement activity as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 2 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 2 will be implemented by AGNSW as described in the report.

Supporting material

To the extent that Recommendation 2 is not encompassed by NSW Trade and Investment's procurement policies and requirements, it will be included in AGNSW's Procurement Plan as best practice for new large-scale security projects.

That best practice will include a requirement that the evaluation panel involved in the product testing will include internal and external specialists, as required for the security products.

Proposed evaluation methods

AGNSW does not anticipate that it will embark on new large-scale security projects in the short or near term. Even so, AGNSW intends to audit its compliance with AGNSW's Procurement Plan, including Recommendation 2, for any procurement activity as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 3 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 3 will be implemented by AGNSW as described in the report.

Supporting material

To the extent that Recommendation 3 is not encompassed by NSW Trade & Investment's procurement policies and requirements, it will be included in AGNSW's Procurement Plan as best practice for the selection of security integrators through a competitive process. That best practice will include a requirement to:

- seek information on similar projects specifically from other NSW cultural institutions and from major interstate art galleries which may have similar project experience; and
- ensure that the role of consultants is restricted to a technical advisory capacity when evaluating tenders.

Proposed evaluation methods

AGNSW does not anticipate that it will need to procure the services of a security integrator through a competitive process in the short to near term. Even so, AGNSW intends to audit its compliance with AGNSW's Procurement Plan, including Recommendation 3, for any procurement activity as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 4 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 4 will be implemented by AGNSW as described in the report.

Supporting material

To the extent that Recommendation 4 is not encompassed by NSW Trade & Investment's procurement policies and requirements, it will be included in AGNSW's Procurement Plan in the manner described above as best practice for the management of large-scale and complex security projects.

Proposed evaluation methods

AGNSW does not anticipate that it will need to procure the services of a security consultant for large-scale and complex security projects in the short to near term. Even so, AGNSW intends to audit its compliance with AGNSW's Procurement Plan, including

Recommendation 4, for any procurement activity as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 5 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 5 will be implemented by AGNSW as described in the report to the extent that AGNSW has the legal authority or capacity to conduct criminal record checks on successful applicants.

Supporting material

To the extent that Recommendation 5 is not encompassed by NSW Trade & Investment's procurement policies and requirements, which have enhanced supplier due diligence guidance, it will be included in AGNSW's Procurement Plan as best practice for the

approach to due diligence enquiries that are conducted as part of a security procurement process.

Proposed evaluation methods

AGNSW does not anticipate that it will need to embark on a security procurement process in the short to near term. Even so, AGNSW intends to audit its compliance with AGNSW's Procurement Plan, including Recommendation 5, for any procurement activity as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 6 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 6 will be implemented by AGNSW as described in the report.

Supporting material

To the extent that Recommendation 6 is not encompassed by NSW Trade & Investment's procurement policies and requirements, it will be included in AGNSW's Procurement Plan as best practice procurement process.

Proposed evaluation methods

AGNSW does not anticipate that it will need to embark on a security procurement process in the short to near term (either above \$250,000 value, or below). Even so, AGNSW intends to audit its compliance with AGNSW's Procurement Plan, including Recommendation 5, for any procurement activity as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 8 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 8 will be implemented by AGNSW as described in the report.

Supporting material

Since the Trustees' endorsement of this recommendation, AGNSW has engaged a third-party procurement advisory consultant to develop a Procurement Plan to improve their project management systems, including in the manner contemplated by Recommendation 8.

AGNSW expects that the Procurement Plan will be delivered by the end of February 2014. Within 3 months of its delivery, and following the endorsement of the Procurement Plan by the Trustees of AGNSW, AGNSW intends to distribute the Procurement to AGNSW employees as relevant and make the plan available as a resource for all future AGNSW projects.

Proposed evaluation methods

The Procurement Plan will be consistent with the NSW Trade & Investment's procurement policies and requirements and is a live document that will be subject to regular review and audit by a third-party consultant engaged by AGNSW. AGNSW intends to audit its compliance with AGNSW's Procurement Plan for any procurement activity as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 9 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, AGNSW Recommendation 9 will be implemented by AGNSW as described in the report.

Supporting material

In late 2012, following the Trustees' endorsement of Recommendation 9, the AGNSW's Audit & Risk Committee resolved to update all AGNSW policies and procedures, including the AGNSW's Gifts and Benefits Policy.

AGNSW's Gifts and Benefits Policy will be updated to ensure that there is zero tolerance with respect to AGNSW employees directly involved in procurement activities from accepting gifts, benefits and hospitality from potential contractors and consultants, and existing contractors and consultants. Once updated, AGNSW will circulate a copy of the updated policy by email or post to all existing AGNSW staff, and will make the updated

policy available on their intranet. AGNSW intends to complete these steps within 12 months.

AGNSW will also ensure that all new staff are provided with a copy of the policy and obtain a face-to-face briefing regarding their obligations as part of their induction on their first day of employment at AGNSW.

This zero tolerance policy will also be included in the Procurement Plan to be developed by 28 February 2014.

Proposed evaluation methods

AGNSW intends to include the AGNSW's Gifts and Benefits Policy, and the status of its amendment and circulation, as a standing agenda item at the meetings of AGNSW's Audit & Risk Committee in 2014.

In addition, AGNSW intends to audit compliance with the AGNSW's Gifts and Benefits Policy within AGNSW, as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 10 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 10 will be implemented by AGNSW as described in the report.

Supporting material

AGNSW will update the AGNSW's Corruption Prevention Policy and Procedures. Amongst other things, the updated policy will emphasise the need for AGNSW employees to explain the obligations on contractors and consultants to declare conflicts of interest, including those of a pecuniary and non-pecuniary nature. Once updated, AGNSW will circulate a copy of the updated policy by email or post to all existing AGNSW staff, and will make the updated policy available on their intranet. AGNSW intends to complete these steps within 12 months.

AGNSW will also ensure that all new staff are provided with a copy of the policy and obtain a face-to-face briefing regarding their obligations as part of their induction on their first day of employment at AGNSW.

In addition, AGNSW intends to amend its standard form consultancy contracts, letters of engagement and consultancy agreements to make it clear that the obligations of contractors and consultants to declare conflicts of interest includes those of a pecuniary and non-pecuniary nature. AGNSW intends to complete this step within 12 months.

Proposed evaluation methods

AGNSW intends to include the AGNSW's Corruption Prevention Policy and Procedures, and the status of its amendment and circulation, as a standing agenda item at the meetings of AGNSW's Audit & Risk Committee in 2014.

In addition, AGNSW intends to audit compliance with the AGNSW's Corruption Prevention Policy and Procedures within AGNSW, as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.

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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 response

The recommendation will be:

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

Action proposed

Recommendation 11 was endorsed by the Trustees of AGNSW in June 2012. Consistent with that endorsement, Recommendation 11 will be implemented by AGNSW as described in the report.

Supporting material

AGNSW is committed to complying with NSW Trade & Investment's procurement policies and requirements and, in turn, the policies and requirements of the NSW Procurement Board. AGNSW expects that these procurement policies and requirements include the Department of Premier and Cabinet's *Guidelines for the Engagement and Use of Consultants (C2004-17)* (**Consultant Guidelines**).

To the extent that the Consultant Guidelines are not encompassed by NSW Trade & Investment's procurement policies and requirements, specific reference to this document

and its requirements will be included in AGNSW's Procurement Plan as best practice for engaging and using consultants.

Proposed evaluation methods

AGNSW intends to audit its compliance with AGNSW's Procurement Plan, including Recommendation 11, for any procurement activity, including the engagement and use of consultants, as part of its Internal Audit Plan in the 2014/2015 and 2015/2016 financial years.

The Director, Finance and Corporate Services will be responsible for the internal audit of AGNSW's Procurement Plan, with the assistance of the Manager Government Relations and Strategy.