

**Alleged fraud on the former NSW Department of Education and Training****ICAC FINDINGS**

The ICAC has found that David Johnson engaged in corrupt conduct by:

- preparing and presenting contractor assessment forms containing false representations to the then Department of Education and Training to obtain approval to engage five people associated with Mr Johnson's own private company, Ogawie Pty Ltd, as contractors so that he could benefit financially from those appointments
- falsely representing that two of those Ogawie contractors had performed services for, and on behalf of, the department, when they had not, so he could benefit financially
- falsely representing that another IT company, Catalina IT, was an approved contractor and by purporting to authorise payment of two invoices received from the company so he could benefit financially from its engagement to provide services.

**ICAC RECOMMENDATIONS**

The ICAC is of the opinion that the advice of the Director of Public Prosecutions should be sought with respect to the prosecution of Mr Johnson for offences of obtaining money by false or misleading statements contrary to section 178BB of the *Crimes Act 1900* in relation to:

- misrepresentations contained in the contractor agreement and selection forms for each of the five Ogawie contractors
- misrepresentations contained in two submissions in respect of Catalina IT and the purported authorisation of payment of two invoices
- misrepresentations contained in the timesheets completed by two contractors.

**CORRUPTION PREVENTION**

The ICAC has made seven corruption prevention recommendations to the newly created Department of Education and Communities, including that:

- Its Information Technology Directorate (ITD) reviews its use of contract staff when it exceeds its predetermined ratio of contract staff to permanent staff, focusing on: whether the engagement of contract staff – as opposed to permanent employees – is justifiable; and the continuing need for individual contractors to be retained.
- The ITD takes measures to verify the arrangements surrounding the contracting of individual personnel including personnel pay rates, how contracted personnel were sourced, and to whom personnel are contracted. The ITD should also take steps to communicate these arrangements to relevant staff involved in the recruitment and engagement of contractors.
- The ITD takes measures to ensure that candidates it has sourced have the requisite skills for the position.
- The ITD places obligations on contractors to disclose any subcontracting arrangements that relate to the performance of their contracts.

**BACKGROUND**

The Commission initially received an anonymous complaint in February 2009, concerning the conduct of Mr Johnson. The department confirmed that it had also received the allegations and was undertaking an internal investigation. As that investigation was well underway, the Commission made no further enquiries at that time. In August 2009, the director-general of the department reported to the ICAC that Mr Johnson had possibly engaged in corrupt conduct involving fraud. The report was made under section 11 of the *Independent Commission Against Corruption Act 1988* which requires the principal officer of a public authority to report matters that they suspect involve or may involve corrupt conduct. A copy of the department's report on its own investigation, which had found a number of systemic and procedural issues as well as identifying possible corrupt conduct, was attached to the report to the Commission. The ICAC decided to investigate following the receipt of the section 11 report.

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