

TfNSW report on implementation of plan of action in response to Operation Ember

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

Recommendation 1:

That Transport for NSW (TfNSW) updates and reissues its online training and other awareness-raising products relating to conflicts of interest, fraud and corruption prevention and procurement. TfNSW should also consider delivering customised training to staff that manage high-risk programs and budgets.

Action Plan:

TfNSW will:

- Continue with the current (scheduled review) of all Transport Essentials modules to identify and implement any additional changes needed, including those arising from Operation Ember.
- Undertake a project to analyse gaps and explore options to develop and deliver additional online training in 2023 to staff that manage high risk programs and budgets.

Action 1: Continue with the current (scheduled review) of all Transport Essentials modules to identify and implement any additional changes needed, including those arising from Operation Ember.

Progress Update: This action is in progress.

TfNSW has continued with the scheduled review of the Transport Essentials modules to identify and implement additional changes needed, including those arising from Operation Ember:

- Living Our Code – storyboard reviewed and finalised, and module is built – ready to go live.
- Professional Ethics for Public Officials – storyboard reviewed and finalised, and module currently in development.
- Professional Ethics for Leaders – storyboard reviewed and currently being finalised. Module development will commence.
- Ethics and Probity in Procurement – High level design being finalised for subject matter experts sign off.

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Once the modules go live, they will replace the current modules and the assignment rules will be implemented.

Action 2: Undertake a project to analyse gaps and explore options to develop and deliver additional online training in 2023 to staff that manage high risk programs and budgets.

Progress Update: This action is in progress.

TfNSW is currently considering the possibility of developing an internal version of the ICAC MP96 training, for staff conducting procurement activities. The Corporate Services Contract Management team are also developing an in-depth module specifically targeting contract managers with specific scenarios to cover a range of contracts from low to high complexity and risk.

In addition, TfNSW secured 9 additional half-day MP96 sessions with ICAC over 2023 (225 additional places). The first two sessions were dedicated exclusively for staff in high risk functions in the Infrastructure and Place division. TfNSW has also secured 3 sessions of the ICAC's strategic approaches to Corruption Prevention course for 75 Transport senior executives, 3 sessions of ICAC's grant making workshop, and 1 session of ICAC's regulatory workshop.

Recommendation 2:

That TfNSW:

- **reviews all supplier panels created or used by the former Compliance and Regulatory Services (CaRS) Division (that remain in existence) with a view to assessing compliance with past and current procurement policy, any undisclosed conflicts of interest or similarities with the conduct identified in this investigation**
- **considers mandating additional oversight or involvement by agency procurement experts in the formation and maintenance of all TfNSW supplier panels.**

Action Plan:

TfNSW will:

- Implement a new goods and services contract management framework in late 2022, which will include the requirement around the maintenance of established panels.
- Whilst this is not currently mandated, consideration will be given to how this requirement may be expressed within the Infrastructure Procurement Standard (currently under development) prior to completing and implementing the standard within the business.

Action 1: Implement a new goods and services contract management framework in late 2022, which will include the requirement around the maintenance of established panels.

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Progress Update: This action is completed.

In February 2023, Regulatory Operations implemented a [Branch Commercial Management Framework](#) that describes Regulatory Operations' approach to procurement and how contracts with vendors, government agencies and regulatory partners are created, managed and monitored. It applies to all branch staff participating in procurement activities. The framework is made up of four key elements: branch planning, procurement policies and procedures, procurement systems and procurement governance.

Any supplier panels created or used by the former Compliance and Regulatory Services (CaRS) have been replaced. Panel Management Plans (PMP) are created by the Procurement and Commercial team within Regulatory Operations in collaboration with Transport Shared Services (TSS) Sourcing, Contract Management in Corporate Services (advisory) and the contract manager for all contracts \$250,000 or above. PMPs establish guidelines on the how the contract will be administered. Every contract is overseen by the nominated governance manager for the contract (usually the Procurement & Commercial Manager within Regulatory Operations) to ensure that both TfNSW and the supplier adhere to the rules under the contract. Contract managers must meet with the governance manager monthly to discuss upcoming procurement under each panel and any spend must be endorsed by the governance manager. Branch panel contract spend reports are provided on a quarterly basis to contract managers to ensure fair and equitable distribution of work where possible.

Action 2: Consideration will be given to how this requirement (mandate additional oversight or involvement by agency procurement experts in the formation and maintenance of all TfNSW supplier panels) may be expressed within the Infrastructure Procurement Standard (currently under development) prior to completing and implementing the standard within the business.

Progress Update: This action is completed.

TfNSW has considered the requirement to obtain the endorsement of the yet to be stood up TfNSW-Managed Schemes and Panels Management Committee with respect to the:

- (a) formation of a new TfNSW-managed Scheme or Panel; or
- (b) changing or extending of an existing TfNSW-managed Scheme or Panel,

is written in the Infrastructure-Related Procurement Standard. The TfNSW-Managed Schemes and Panels Management Committee will be stood up ahead of Go-Live of the Infrastructure-Related Procurement Standard.

Recommendation 3:

That TfNSW considers requiring use of a secure, electronic system for seeking quotations from suppliers. The system should prevent staff from opening RFQ responses before the due date.

Action Plan:

TfNSW will:

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- Finalise the development of a new Construction Procurement Standard, replacing the previous TfNSW and RMS procurement frameworks. The new standard will require the use of the e-tender/e-quote system to seek and receive RFQ responses. This system will restrict responses from being opened until the due date and will capture audit log data to record the activities users undertake within the system.

Action 1: Implemented a consolidated Goods and Services Procurement Standard in 2020, which requires all competitive procurement activities to be undertaken via TSS sourcing. TSS sourcing uses an electronic system to seek and receive RFQ responses. This Standard has since been updated with the Transport Procurement Standard for goods and services, which continues to require all competitive procurement activities to be undertaken via TSS sourcing.

Progress Update: This action is completed.

TfNSW has implemented the [Transport Procurement Standard for goods and services](#). This standard requires all competitive procurement activities to be conducted through Transport Shared Services (TSS). TSS sourcing employs a secure electronic system, ensuring that requests for quotations (RFQs) can only be opened by staff members after the designated due date, thus enhancing the security and integrity of the procurement process.

Action 2: Finalise the development of a new Construction Procurement Standard, replacing the previous TfNSW and RMS procurement frameworks. The new standard will require the use of the e-tender/e-quote system to seek and receive RFQ responses. This system will restrict responses from being opened until the due date and will capture audit log data to record the activities users undertake within the system.

Progress Update: This action is completed.

To complete this Action, Infrastructure Procurement Alert No. 15 has been issued requiring that all competitive approaches to suppliers and submission of responses to infrastructure-related procurement opportunities falling under Transport's current Construction Accreditations, will be advertised and managed through one of the following secure transaction platforms:

- the NSW eTendering platform for the majority of infrastructure procurement activities,
- the Ansarada Data Room platform for nominated large infrastructure projects, and
- Ariba for infrastructure procurement activities being managed by TSS.

The eTendering platform can also be used to manage the issue and receipt of single quotations but this has not been mandated at this stage, although it is likely to be mandated when the Infrastructure Procurement Standard becomes operational.

To improve visibility and record keeping of competitive infrastructure procurement activities, a central Submission Opening Committee is being established to open all responses through the NSW eTendering and Ansarada platforms (TSS will continue to open Ariba submissions).

Recommendation 4:

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That TfNSW revises its supplier due diligence procedures. This could include but not be limited to:

- **enhancing the suite of checks that are performed by Transport Shared Services when adding new suppliers to the vendor master file**
- **identifying new suppliers that may not have the necessary credentials, capability or experience**
- **strengthening procedures for conducting referee checks.**

Action Plan:

TfNSW will review its supplier due diligence procedures, including, but not limited to, the matters described. TfNSW reviewed the Vendor Master File Data Procedure in March 2022, and in Q4 2022 will commence a review of Transport supplier sourcing and onboarding risk assessment processes to ensure third party risks are pro-actively identified and managed at the commencement of the procurement lifecycle.

Action 1: Review TfNSW supplier due diligence procedures, including but not be limited to:

- enhancing the suite of checks that are performed by Transport Shared Services when adding new suppliers to the vendor master file
- identifying new suppliers that may not have the necessary credentials, capability or experience
- strengthening procedures for conducting referee checks.

Progress Update: This action is completed.

TfNSW has completed its review of supplier due diligence processes. In addition to this, relevant procurement documentation has been updated to ensure the following due diligence processes are undertaken for all goods and services procurement activities;

- validation checks to ensure both the ABN and name exist in the Australian Business Register (ABR), and
- validation checks to ensure supporting documentation provided by the supplier clearly displays the ABN, business street address, business postal address, purchase order contact details (phone, email), remittance contact details (email) and business bank details for EFT payment.
- Additional controls include segregation of duties, and the supplier details are checked at two levels throughout the master data process.
- A Risk Management Tool and management process to address the risk of supplier capability across 9 main risk categories and ensure that the relevant SMEs review the information and provide expert advice to the Tender Evaluation Committee (TEC) and Contract Managers. This was rolled out in October 2022 and continuous improvement activities have commenced and will continue to ensure that it remains fit for purpose.
- A new Contract Management Framework has been published to ensure due diligence checks are maintained, as per the Risk Management Tool outcome for the life of the contract. Training and support has been rolled out to Contract Managers to ensure they have the necessary skills to undertake these checks.
- TfNSW has finalised a number of harmonised contract agreements to ensure that we have consistent standards and due diligence check for all suppliers.

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- A new harmonised evaluation template was released in December 2022 which provides more guidance for operational procurement (low risk) to help the business manage their risks, including undertaking due diligence checks
- As part of our continuous improvements TfNSW is drafting harmonised templates for the RFQ and these will be released this financial year.
- Centralised guidance has been provided for reference checks and the information that is required to be managed through that process
- The Tender Briefing documentation has been updated to include information on probity and provide suppliers an anonymous hotline to raise concerns about probity and ethics for investigation and action.

Recommendation 5:

That TfNSW develops a data analytics program aimed at detecting suspicious conduct including but not necessarily limited to:

- **order-splitting**
- **recently registered suppliers or suppliers that are not registered for GST**
- **consecutively numbered invoices**
- **misuse of delegations**
- **Pos associated with budgets not controlled by the approver**
- **goods and services that are receipted shortly after the PO has been raised.**

Action Plan:

TfNSW will:

- Explore the expansion of the range of tests applied to purchasing cards (PCards), and the potential to apply the range of tests to other procurement types as well as PCard transactions.
- Finalise its draft fraud and corruption detection strategy, which will align with all analytical functions across TfNSW. This will also inform the data analytics methodology.
- Establish a Working Group with key stakeholders to drive an immediate term response to detecting suspected corrupt behaviour through data analytics.

Action 1: Explore the expansion of the range of tests applied to PCards, and the potential to apply the range of tests to other procurement types as well as PCard transactions.

Progress Update: This action is in progress.

TfNSW has approached this action with the view of achieving a more specific outcome, which is the implementation of a range of tests relating to other procurement types. Out of the tests that had

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been suggested through this recommendation, the following have been developed and are now pending a quality assurance review:

- order-splitting
- recently registered suppliers or suppliers that are not registered for GST.

In addition, the following tests / data analysis have also been developed and are pending a quality assurance review:

- Undeclared secondary employment / conflict of interest detection (QA complete)
- Contract variations
- Contract created after the effective date
- Possible overspend
- Value monitoring
- After the fact purchase orders (PO)
- PO on weekends
- Invoices posted on weekend
- Invoices paid on weekend
- Benford's Law
- Unusual supplier invoice references
- Vendors by geographical locations
- Multiple vendors to one ABN

TfNSW has grown its detection capability through data analytics. This will be further supported through a detection strategy. Quality assurance reviews are now required to ensure that the above tests have been developed correctly and are displaying an accurate reflection of the control environment. Once the QA has been completed, implementation will include reviewing the results to identify where assurance activities and deep dive reviews are needed, business reporting and escalation protocols.

Action 2: Finalise its draft fraud and corruption detection strategy, which will align with all analytical functions across TfNSW. This will also inform the data analytics methodology.

Progress Update: This action is in progress.

The detection strategy is drafted and currently going through consultation and endorsement prior to it being implemented.

Action 3: Establish a Working Group with key stakeholders to drive an immediate term response to detecting suspected corrupt behaviour through data analytics.

Progress Update: This action is in progress.

Key stakeholders and approvers form part of a group that is consulted during the build and ongoing development of the detection capability. Leveraging expertise from this group of stakeholders will facilitate the build, development and growth of the detection capability and strategy.

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Recommendation 6:

That TfNSW develops a register of heavy vehicle enforcement assets. This register should be used as the basis for future procurement strategies and decisions to replace or maintain assets.

Action Plan:

TfNSW has transitioned responsibility for heavy vehicle regulation to the National Heavy Vehicle Regulator (NHVR). In doing so TfNSW transferred ownership of portable assets, leases, and contracts to the NHVR.

In the course of transitioning to the NHVR, TfNSW developed a comprehensive asset register to inform the transfer process which occurred by way of Ministerial vesting. Accordingly, TfNSW no longer holds responsibility for the maintenance of portable heavy vehicle regulation assets and accordingly, no longer has a need to manage or procure such assets.

TfNSW still retains ownership of fixed assets associated with heavy vehicle regulation. TfNSW manages the Asset and Services Plan (ASP). A component of the ASP is a detailed asset register which aligns all fixed assets associated with Heavy Vehicle regulation to a specified maintenance schedule, which in turn informs Heavy Vehicle regulation procurement needs based on the maintenance schedule. The ASP is an effective and fit for purpose asset management approach to manage the maintenance and replacement of existing Heavy Vehicle regulation fixed assets.

In the event that a new Heavy Vehicle regulation fixed asset is procured, the new asset will be added to the register to ensure the asset is managed and maintained in a manner consistent with all other Heavy Vehicle regulation fixed assets.

All branches within Regulatory Operations contact its Procurement Advisory team as soon as a requirement to procure is identified. The Procurement Advisory team then assist the business to define the need and requirements in order to propose a strategy to approach the market. Transport Shared Services Strategic Sourcing then assist Procurement Advisory and the business to follow the prescribed approach to establish a contract/panel to support ongoing delivery. In the case of panel arrangements, a detailed plan is developed to ensure optimal and compliant use of the panel. This segregation of duties across the procurement process ensures no single individual has end-to-end control of the procurement and ensures transparency over the process.

No Action required.

Recommendation 7:

That TfNSW performs a “lessons learnt” exercise or audit based on the findings from this investigation. This could include an examination of:

- **whether the weaknesses identified in the HVP Unit exist elsewhere in TfNSW**
- **business units that lack adequate supervision**

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- **procurement governance and reporting**
- **the need for a new corruption risk assessment**
- **substantial procurements that proceeded without a procurement strategy**
- **whether the scope of responsibility and resourcing of the procurement advisory function is sufficient**
- **whether the devolved procurement framework provides sufficient assurance regarding value for money and compliance.**

Action Plan:

TfNSW will undertake a lessons learnt review of Operation Ember that will include an examination of:

- Procurement governance and reporting
- Current key controls, identifying any opportunities for improvement within impacted areas
- Procurement assurance activity, gaps and capability development.

The review will include the assignment of actions to address any unacceptable risk exposures.

Action 1: Undertake a lessons learnt review of Operation Ember that will include an examination of:

- Procurement governance and reporting
- Current key controls, identifying any opportunities for improvement within impacted areas
- Procurement assurance activity, gaps and capability development.

Progress Update: This action is completed.

TfNSW undertook a lesson learnt and stress testing exercise on current procurement controls, governance and assurance arrangements. The report contained nine overarching recommendations to improve overall procurement governance, monitoring and assurance arrangements. The recommendations are being considered that will ensure effective and sustainable measures are implemented in the future.

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