

INDEPENDENT COMMISSION AGAINST CORRUPTION

STATEMENT IN THE MATTER OF: Operation Gerda

PLACE: University of Sydney

NAME: Srinath Vitanage

ADDRESS: University of Sydney

OCCUPATION: Category Manager

TELEPHONE NO: (02) 9114 0965

DATE: 06/02/2019

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1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.
 2. I am 35 years of age.
 3. On 22 and 12 October 2018, I participated in electronically recorded interviews with Barry Davidow and Andrew Howe at the University of Sydney. During those interviews I was asked questions and shown a number of documents. This statement was drafted from the digital recording and transcripts of those interviews. I have been given the opportunity to read the draft statement and make any necessary amendments prior to signing this document.

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4. To my knowledge, I think that prior to the 2014 tender process the security patrol vehicles were owned by SNP. I am not sure if it was all of them.
5. There are a number of reasons why you go to tender the contract, either the contract is expiring or there are issues with the contract. But mostly, you would go there to renew a contract or put in a new arrangement to get the best value for money outcome for the organisation with the most favourable terms and conditions for the University.
6. Obviously, our Procurement Policy is quite strict on how we should approach tendering. It has come down from the New South Wales procurement and tendering guidelines, and it has been endorsed by Senate. So, there is a pretty strict way we need to do this process.
7. Probity is important. Normally the procurement function would perform the probity and procurement services. We do the probity for smaller value and less risky tenders, but for the likes of security and cleaning and these big buildings that are coming up, we are actually getting independent probity advisors to assist us. We definitely consider probity as an important factor in the tender process.
8. The probity advisors make the decisions on what we can and cannot do. So, if we have an issue about how to handle a tender query or how to evaluate, how to respond to certain debriefs or things like that, we seek guidance from the probity advisor on that. That is their scope.
9. Probity is important to make sure that there is an independent review of the process that has been happening and that we do not do anything unethical or immoral or corrupt and that we have that extra layer of control and oversight.

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10. Fairness is important. In terms of the process, we have to make sure we give everyone a level playing field on how to be able to be best - a level playing field to be able to respond to the tender as best as they can and we should not be unfairly promoting or giving advantage to certain suppliers and not others.
11. It is treating everyone who is participating, tenderers and potential tenderers – equally and equitably.
12. We make sure everyone gets the right information. And after that, then we assess it from a commercial point of view and what is best for the organisation.
13. Transparency is also important. People want to understand what the process is and you do not want to keep them in the dark. So that you explain to them what the steps are and the process. If it is giving them information on why they were successful/unsuccessful, you give as much information as you can without triggering off any sort of confidentiality and privacy issues. But basically, making sure that people understand what is happening and they got all the information there, which is not confidential or privileged *et cetera*.
14. Accountability is basically taking responsibility for what is happening. So, you cannot palm off if you have made a mistake or you need to change something, then confirm and notify that you have done that, whatever the issue is, if there is an issue.
15. I think you have got a certain duty of care to the participants. You do not want to preferentially treat any one over another.
16. We have provided debriefs to unsuccessful tenderers on a number of occasions - it is part of our standard process. And whether they take it or not is up to the tenderers but

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we make sure we give them as much information as we can and we do not want to unfairly impact them in any way.

17. Value for money – that is standard procurement. We do not want to just base it on price. We do not want to choose the cheapest option. We also do not want to just ignore price and just get the best quality response on paper without testing it. So, I guess we need to do quite a level of diligence and evaluation to make sure that both those things match up and marry-up so we have got the right quality and the right price. Not necessarily the cheapest is the best and - and *vice versa*. We want to make sure there is a combined qualitative and non-qualitative aspect to it.
18. In a tender we develop a procurement strategy. That is the standard template that we populate. It is standard for anything over \$200,000. So, once we populate that and we go through a number of iterations, we get it approved.
19. We have changed the process since - only a year and a half ago or so where all procurement strategies other than open tenders would have to go to the Tender Board.
20. In this case, the procurement strategy was approved by the business, the key stakeholders within the business and the Chief Procurement Officer.
21. Usually if it is an open tender, there are no real concerns.
22. We develop all the scope, the schedules in parallel. We develop the tender evaluation plan.
23. We make sure that we lock that criteria down and we sign off with all the declarations, conflicts of interests, everything like that, before we open any tenders.
24. We do not change the weightings after opening the Tender Responses.

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25. We basically follow the tender evaluation plan in terms of the assessments of the submissions.
26. We had the spreadsheets where we assessed each tender response. We did quite a rigorous assessment. We had the initial qualitative score and initial pricing score and a value for money score.
27. Then we go and see where the separation is and do the evaluations, more evaluation, negotiations, best and final offer, and then recommend the final that goes to the Tender Board and the Finance and Audit Committee.
28. The procurement strategy - we jointly prepared this strategy with the business. I probably would have drafted the majority of it, but I required the stakeholders to give me some information on the strategic drivers, their project budget, their needs; just to get their understanding of the needs. We would have done a bit of industry and market analysis. I would have got their input on the stakeholder analysis and the cons and we would have worked together on the resource and responsibilities and timelines because we cannot put a timeline without the business endorsing it. The sourcing strategy was standard, which was an open tender. The purchasing strategy is a little bit weird in this document. It is not really related to services, it is more of a goods aspect when you are buying things. I think we just said we have a master goods and service agreement that we would use. Savings, we ultimately report to the CFO. So, we have to put an input into savings and what potential savings we can have, but it is only a thumb in the air at that stage. It is not a commitment to deliver that much because we do not know what is going to happen. Exceptions, it is not applicable. I think we may have extended some of the contracts or something. It could be in the tender bundle, but I am not sure if it is

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in the Procurement Strategy. Managing risks is a pretty standard approach that those factors that we look at a high level.

29. I worked with Kevin Duffy and Steve Sullivan mostly on identifying the needs of the business, the project budget, things like that. I think even Morgan Andrews as well. I think we coordinated as a team to come up with some of those needs and requirements and the scope of what we are trying to go get at.

30. Dennis Smith may have provided some input.

31. I did the industry and market analysis. We probably did not have the right reports at that stage, so I probably would not have done that bit. The stakeholders, that stuff, I worked with Kevin, Steve and Morgan. The resource plan – it was basically Kevin, Steve and Morgan from my memory that worked with me in preparing all that.

32. The sourcing strategy, it is a standard. We have to do an open tender.

33. So, I think in terms of the contract management. We are still not great at it, we did not really have an organised framework at that stage. I think the stuff in here is more just the theory of how we do it because procurement does not manage the contracts.

34. We hand it back to the business. I believe the University is still working on the actual vendor management framework. But it is just the high level, standard stuff at this moment.

35. The procurement strategy covers five criteria to use for the prices submitted by suppliers. When this tender was done, we did not have a standard way to calculate savings. So, I think we would have just spoken about what are the possible ways we

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can calculate hard savings which impact budget, and then soft savings. I think it was just agreeing as team on how we calculate savings.

36. At the strategy stage, it was just an indication of how we would do it. It was not locked in stone because we did not know what was going to happen when we went to market and got the responses. But I think in principle, people were happy with the way we had calculated savings from a tender and it was probably reflected in how we calculate the savings anyway in the Tender Board report. It was indicative of what we as a group were thinking at the time.

37. The procurement strategy looks pretty standard. We would probably do very similar things even now.

38. This would have been approved by Morgan, Steve and it would have gone to Kevin and Harry Banger, the then Chief Procurement Officer, and potentially Greg Robinson, but I am not sure about Greg.

39. In the strategy it says that the aim of the procurement strategy is to describe the proposed approach that will be used to balance the efficiency against risk factors in achieving value for money. I think that is a very standard, generic, that never really changes. That is what the intent of the document is.

40. We did not have a preference to bundle at all. It was whatever would give the best outcome for the University.

41. Ensuring greater transparency was an important thing.

42. We wanted to make it a safe campus but make sure it was an efficient, commercially viable contract.

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43. I think Dave Owens' appointment as the subject matter expert was driven by the business in terms of having more subject matter expertise. His involvement in this document was just looking at what we were doing and he really got involved with the scopes, the evaluations and advice.
44. I do not remember, reading his report. I may have just heard of it. It being mentioned to me, but I did not review it.
45. The quote from the procurement strategy "*This demonstrates that contractor workload is at capacity and, that in fact, there are several deficiencies that have developed such as within the monitoring room through the increased GFA of the transformation projects. This will be addressed within the tender process.*" I think the campus is growing and buildings like that and nine other buildings have come up since 2015. So, the ground floor area of the campus has gotten a lot bigger so they needed a lot more presence with guards, so that was what they were trying to say here.
46. The procurement strategy referred to a probity rich process. We are semi-government so we have a pretty strict process that we need to follow. That is definitely one of our core aims.
47. Prior to us releasing the tender, we did not want to lock in criteria that we were going to set in stone.
48. The procurement strategy says: "*Regular quality assurance checks will be undertaken by management on work performed and random work requests and other jobs will be checked against university reporting systems to ensure that work is being performed.*" The security people wrote that on how they were going to manage the contract. Procurement do not get involved with the actual day-to-day operations.

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49. The risk assessment in the procurement strategy was a combined effort. This was sort of standard risk factors that we use at this stage of the process. It was a joint team effort. It was not just my opinion. It was signed off by other people. No strategy is done without consultation and review of the whole thing.
50. On this I would have consulted with the likes of Kevin, Steve and Morgan.
51. The Tender Evaluation Plan basically tells you how you are going to assess the submissions that come back from the tender. And the critical part is how you are going to do it and the people involved in the committee and the weightings – that is really the crux of the document. The rest of the stuff is a bit of a catch-all document where if you somehow do not have a procurement strategy, it gets you to think about things like that as well, like the scopes, the introduction and the risks. The primary focus of this document is to find, in the evaluation team, the methodology, the criteria and the weightings.
52. A lot of the things that we put in the Tender Evaluation Plan, I think we would not normally put in. Like, the schedules from the RFT and things like that. We thought it was probably an overkill. So, this was coordinated by Zoe (External Project Manager engaged by CIS to lead this procurement activity) with the probity advisor.
53. All the evaluation team members plus Kevin, Steve and Morgan, and potentially Dennis would have inputted into some of the advice in finalising the Tender Evaluation Plan as well.
54. It would have been signed by the entire evaluation team. It would have been presented to them saying, *"This is our evaluation plan. If you have concerns, etcetera please give us feedback."*

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55. People would not sign the Tender Evaluation Plan unless they were comfortable with it. So, I would say that we were all comfortable with it.
56. It is best practice to sign this off before the request for tender documents are sent out. We would try to aim as best as we can to do it before we release the tender documentation. But I guess sometimes the timings does not work, but we definitely do not open anything until we sign this. Before we open the tender responses, we get this signed off. Not the day before. We usually give it a week or two, minimum, then we sign off.
57. From my understanding, the RFT document was prepared in parallel to the Tender Evaluation Plan. So, it was a matter of just finalising and bedding down the criteria and the weightings. From my understanding, it was just trying to get it signed off but in advance of the tenders closing.
58. We put the assessable criteria in the request for tender documentation. So, we have to match it up to what we are actually going to evaluate. It has to match up because otherwise, if we change this, we are going to evaluate stuff that people have not responded to.
59. There is the initial step there in the RFT document where we lock down our criteria, or what we are going to cover, then we just bed it down in the tender evaluation plan.
60. I think there is definitely a probity issue if you actually change your criteria and so forth.
61. Even though you have not opened the tenders, if you suddenly decided to ask for more things after the tender is released, then there is a concern, then that leads to a fairness issue. So, you are asking for things that suppliers do not know about and you are going

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to assess them against things that they have not submitted yet. It is definitely a fairness concern.

62. My experience is that we reflect what we ask in the RFT and the schedules we ask in the RFT. That is what gets bedded down in the Tender Evaluation Plan.

63. It is important that the evaluation criteria are the same in the RFT and the Tender Evaluation Plan.

64. In the RFT we give the assessment criteria for transparency and fairness. We want to tell them what we are actually looking for. They should be aware of what we are going to assess them on.

65. There is an expectation from the tenderer's side that that is what we are going to assess them on.

66. The assessment criteria in the RFT was set by the project team, the Tender Evaluation Committee. It would also have been overseen by the Steering Committee. There was consensus.

67. We might have gone over time on the Tender Evaluation Plan because we were under tight timeframes.

68. Technically you can sign off the Tender Evaluation Plan until the minute before the tender closes. But that is not advisable at all. We would want to sign this off before we release a tender.

69. There is a perception that the longer you leave it that there is potential to change things in a different direction to what we have actually asked for in the tender documentation.

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So, I think we do not want to create that perception or the chance of that happening. So that is why we want to get that signed off ASAP.

70. The submissions were not sent out for evaluation straight away as there was mandatory screening first.
71. There could be a perception issue if we receive submissions before the Tender Evaluation Plan is approved because, I do not know if they can find that sort of information out legally or not, there could be a perception that we have looked at the responses and then tweaked the criteria.
72. We never send out the weighting of the tender with the RFT. The University is pretty risk adverse, so we want to make sure that we give them enough information to know what we are assessing but not to that level of detail where we start to influence the response.
73. In the Tender Evaluation Plan "purpose and objectives" some sections are replicated here because sometimes there are projects where they do not do a procurement strategy so they want to capture some of those objectives in the purposes and objectives
74. We did not replicate the risks from the procurement strategy in the risk management section of Tender Evaluation Plan because at that stage they were comfortable with the risks.
75. In the RFT we did not ask for subcontracting information as mandatory criteria. At the time nobody had given us an indication that subcontracting was an issue.
76. I think we were quite clear in the briefing in the RFT that we could award the individual contracts or the bundling. I think in the RFT terms and conditions, we have that right

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to choose, at our discretion, what the best alternative is for the University. So, I think tenderers would have gone into it knowing that they were up against providers who can bundle. But does not mean that we are going to go with it. It just had to be commercially viable for the University.

77. Listing the tender service delivery model under price in the Tender Evaluation Plan - essentially, you are looking at how they priced it and you are scoring price.
78. Was this in line with the RFT criteria? We were not explicit on the actual assessable criteria but when the suppliers responded, they would have responded to a standard pricing spreadsheet. And that is why we did it as a standard pricing spreadsheet. So, they would have seen what they were putting forward. It was apples for apples comparison on what suppliers could respond to. So, I think it was quite fair.
79. For the consolidated contract cost for a company that did only line marking, for example, they would have been given either a zero or an average score. I cannot remember what the methodology was.
80. For line marking, mobilisation and transitioning would include people getting inducted, getting passes and permits.
81. For mobilisation and transitioning for security guards - if you are changing the provider, they may want to hire the current members that are performing the contract or they need to source new staff.
82. For the mandatory checking of master license and insurances, those were checked from the documents submitted.

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83. At that stage the University did not have a code of business ethics or business practice for suppliers.
84. Each person on the Tender Evaluation Committee does their own evaluation initially so that we do not influence each other. People can have general discussions as long as they do not go away and change everything before the actual review.
85. Cleaning and security are high risk contracts because I think with security it is quite obvious because you are essentially making the University a safe place for students and staff. So, if something goes wrong and it is something that we have messed up in the process and there are legal issues or things like that come up, that is definitely a concern. So, it puts it in the high risk factor. And the same with cleaning, I think from the research we have done and the issues we have had, the cleaning industry is notorious for the way they treat their staff so we want to make sure that we find a company that is above board and does all the ethical practices and pays the right wages and has the right documentation for those staff and things like that.
86. My knowledge of the security industry was not as good as it is now. I think the reason why we got a subject matter expert was probably alluding to the fact that there were certain risks and lack of knowledge from us, that there was a risk there.
87. The control room was a point of negotiation with SNP, because the other two companies could not provide that resource and I think SNP found another way to tackle that resource with two half shifts or something like that. It was a negotiation point on cost. So, they came and found a solution - I think they dropped the price a little bit which made it a bit more palatable since we were still over budget.

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88. I think this was a pretty complex tender and also because we had four services. I think if someone like a Dave Owens had more time or the subject matter expertise within the CIS had more time, then probably we should have improved the specifications. We would definitely have removed those layers on layer of clarifications.
89. The likes of Dave and Dennis, and Bob Deacon, former Facilities Services Manager, would have been more influential in terms of providing feedback about the hourly rate for guards from SNP. Because I did not have much technical knowledge on the Award rates and things like that. I do not think we discussed risks of the hourly rate.
90. With the KPIs, that would be standard that any incumbent would have a layer of advantage. Just how much is the question.
91. I was the only procurement resource looking after the entire CIS portfolio. So, my bandwidth was very low.
92. I think Zoe learnt on the fly certain things, and she brought in some experience from other things on certain aspects but she would not be particularly senior or anything like that. But she did not operate in isolation, though. Kevin Duffy was overseeing a lot of the process.
93. I think Zoe was under a lot of stress and pressure. I think the emails probably allude to that. I think there were budget issues, there were approval issues due to the timing, lots of reporting that needed to be done. I think the Steering Committee wanted certain things to be flagged and more information on things, so I think she was pushed but I think she did an adequate job. She was about 23 or 24 at the time.
94. With the mobilisation criteria I think the incumbent operator would be in a better position but I think that there may be things that the security team wanted to change in

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- the new mobilisation. So, the incumbent will definitely be in a better position to transition to mobilise, but definitely elements of stuff they wanted to change as well.
95. We did not consider risks such as security guards being underpaid, the service not being provided properly, probably not to that level of detail. So not the underpayment of that aspect. I think we did not have that knowledge and I certainly did not know the market, the security industry well enough.
96. We released the tender through e-tender box, it is an online tender box, and then we unlocked it and we only provided the information to the Tender Evaluation Committee, the members there, for them to review and the majority, except for Dave, I think, the rest of us were all at University of Sydney so we were looking at our own desktops.
97. Some of the evaluation criteria like the mobilisation to meet contract and transitional strategy with a weighting of 12.5%, would come from the business so they would say they would want "x" percentage because it is important to them because they want a clean transition or mobilisation plan.
98. The provision of a consolidated contract - it was just, there was priority placed on a discount if they could bundle the packages together.
99. The Tender Board do not look at the Tender Evaluation Plan. We would go to them with a Tender Board Report and they looked through to make sure that we followed the process and that it was fair and equitable and it was robust.
100. I think Zoe got a lot of direction from Kevin and the Steering Committee. She did not operate on her own accord.

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101. I think the panic was just to make sure that we hit the Tender Board timing and the Finance and Audit Committee timing. I think she was trying to get those endorsements across the line.
102. SNP did not budge on the price at the end because they said they were at this lowest margin point.
103. We needed to justify why we were still over budget but I think Zoe wanted to get some more qualitative, maybe softer savings that would not hit the budget but they would sort of soften the blow sort of thing, so that would help the big case for SNP even though they had the best proposal even though they were over budget but there were some softer savings or sort of non-tangible savings.
104. In considering subcontracting, that subcontracting issue was not highlighted to us. From a procurement perspective it is common that there is subcontracting but I did not have any knowledge, like right now I know what the issues have been and why there is a potential investigation but at that stage we just assessed it on their response and we clarified that as well and we were comfortable with the scoring.
105. Unless there were fundamental screaming issues that these guys have got subcontracting issues we just assessed it as they could handle that with subcontracting.
106. The risk of subcontracting and the potential impacts of it was not flagged to us as much as it should have been throughout the process. It was at a surface level just saying that these guys are subcontracting and this is their plan to manage the subcontractors.
107. From my perspective we ran the standard processes that the University would run and we got all the approvals that we normally get for up to the contract value as well. So, I think there are things that were highlighted in the interview where as a Tender

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Evaluation Committee we should have been notified of some of the risks of those things but at that time it was a very different scene and scenario and the campus was very different so I think it was not as a high priority as it is now.

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