

# ***TfNSW report on implementation of plan of action in response to Operation Paragon***

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 TfNSW reviews its processes surrounding construction procurement to ensure that planning of minor works:**

- **is based on a meaningful analysis of need**
- **properly considers relevant market(s), including the existence of relevant panels of suppliers or prequalification schemes**
- **is guided by an appropriately detailed procurement strategy, with controls to avoid the splitting of work**
- **is only conducted in accordance with its delegation framework.**

### **Action Plan:**

TfNSW will:

**Action 1** - finalise the Infrastructure Procurement Standard to incorporate a meaningful analysis of the need for projects, where the Capital Projects Framework isn't utilised. This will be part of the development of a detailed 'Procurement Strategy' document for the proposed procurement activity. The 'Standard' will also require the review of relevant supplier markets, including existing panels or suppliers established within TfNSW or at a Whole of Government level. The 'Procurement Strategy' will:

- collate the items highlighted in the recommendation, and
- document the scope of work anticipated, so that individuals that are reviewing and approving can determine the full quantum of work and better understand whether there is any likelihood or potential for order splitting.

The approval of documentation in the Standard will be mandated to be in accordance with the relevant parts of Delegations.

**Action 1 Progress Update:** This action is in progress.

TfNSW's Infrastructure-Related Procurement Policy Framework has been updated and will be 'Going-

**DLM**

Live' in 3 stages. The Procurement Strategy templates, either developed or in the finalisation stage, will incorporate necessary updates aligned with the staged rollout. Minor clarifications will also be made to the Delegations Manual as part of the State-wide Operating Model changes and the rollout of the Infrastructure-Related Procurement Policy Framework.

## **Recommendation 2:**

**That TfNSW ensures that it has a robust supplier due diligence framework that includes:**

- **routinely obtaining full ASIC records of new suppliers**
- **routinely conducting internet searches on new suppliers**
- **further due diligence checks being conducted on a risk-basis**
- **due diligence checks being conducted by an individual who is not involved in selecting the supplier.**

### **Action Plan:**

TfNSW will:

**Action 1** - finalise the Infrastructure Procurement Standard to incorporate a standalone supplier due diligence process that will address each of the recommendation's dot points and best practices implemented by goods and services procurement, for infrastructure projects. This due diligence will be conducted as part of the tender evaluation process prior to the finalisation of the Tender Evaluation Report to approve the preferred tenderer. It will include nominated subcontractors in the tender process that have a significant role in the project. There will also be additional due diligence checks during the 'manage' phase of the contract on subcontractors that were not included in tender submissions or replaced during the contract period. Training for members of Infrastructure Procurement Teams will be developed on the due diligence process to enable timely conduct of reviews.

**Action 2** - deploy a new version of the goods & services procurement risk navigation tool which will uplift risk scoring and tiering capability across the procurement lifecycle. This will enable a risk-based approach to supplier due diligence. Supplier due diligence questionnaires will be included as part of the new version of the tool, in consultation with specialist risk SMEs for modern slavery, environmental & sustainability, work health & safety, subcontractor risk, operational risk, cybersecurity and privacy. Red flags and issues with supplier responses to the due diligence questionnaires will follow an agreed escalation matrix. These new questionnaires will enhance supplier due diligence during the sourcing process.

**DLM**

**Action 3** - develop and implement a governance and assurance framework which will include regular audits to monitor compliance to the supplier due diligence framework across all procurement activities.

**Action 4** - conduct a review of TfNSW due diligence processes using the ICAC guideline on Due Diligence (2020) as a guide to rectify any gaps identified.

**Action 1 Progress Update:** This action is in progress.

TfNSW has commenced work on developing an organisation wide Supplier Due Diligence (SDD) process. This is to be agreed upon and implemented.

In the interim, TfNSW has developed a draft Interim SDD procedure, with input from SMEs, to be finalised by July 2024. This draft aligns with the ICAC Supplier Due Diligence Guide and includes measures such as obtaining full ASIC records and conducting internet searches on new suppliers. Red flag procedures and governance documents have been shared with internal auditors for feedback, and a training program for procurement teams will be rolled out once the interim procedure is approved. Eventually, the organisation wide SDD process will be implemented, with relevant training provided.

**Action 2 Progress Update:** This action is completed.

On 31 July 2023, TfNSW launched an updated version of the Transport Goods and Services Procurement Risk Navigation Tool. This tool employs a risk-based approach to sourcing, improving due diligence and simplifying risk identification, assessment, and management in procurement. Furthermore, TfNSW introduced a new Enterprise Supplier Risk Hub to assist staff in identifying and managing supplier risks.

**Action 3 Progress Update:** This action is in progress.

TfNSW implemented a Goods and Services Procurement First Line Assurance program covering both Strategic and Operational Procurement processes. It reports on various aspects like completion of the Risk Navigation Tool, sustainability obligations, conflict of interest declarations, and tender evaluation. Results inform actions such as policy updates and improvement programs, with areas selected based on emerging risks and insights from audits and industry practices. Additionally, a Contract Management Governance and Assurance Review program has been launched to ensure compliance with contractual frameworks and legislative obligations.

Furthermore, TfNSW has drafted a governance procedure aligned with the new Infrastructure-Related Procurement Policy Framework, set to be fully implemented by July 2024. A program for ongoing internal monitoring utilising data has been initiated.

**Action 4 Progress Update:** This action is in progress.

TfNSW has undertaken a thorough review of the ICAC Supplier Due Diligence Guide and current supplier due diligence activities, leading to the creation of a Goods and Services Supplier Due Diligence Strategy and Roadmap to address identified gaps. This includes integrating recommended

**DLM**

controls into the procurement process and establishing data subscriptions with third-party risk analysis providers. The Vendor Master Data Creation and Maintenance Operating Process has been aligned with the ICAC Due Diligence Guideline, ensuring diligent review and approval processes, regular training on cybersecurity, and periodic data cleansing activities. Sourcing event processes have also been reviewed for compliance, with collaboration across various teams to strengthen risk and supplier due diligence processes.

Additionally, the draft I&P Interim Supplier Due Diligence (SDD) procedure and the organisation wide SDD process will align with the ICAC Supplier Due Diligence Guide.

### **Recommendation 3:**

**That TfNSW strengthens its controls surrounding subcontractors and makes any necessary enhancements to ensure that it monitors the role of subcontractors throughout the construction procurement process.**

#### **Action Plan:**

TfNSW will:

**Action 1** - undertake a review of the subcontractor approval requirements contained in the TfNSW standard contract templates and strengthen where appropriate to give TfNSW greater oversight.

**Action 2** - review contractor requirements to pass TfNSW obligations for various governance and integrity mechanisms such as the Statement of Business Ethics and conflict of interest declarations and where necessary, include it in the contract documentation.

**Action 3** - conduct assurance activities including testing, monitoring, and reporting of subcontractor management compliance.

**Action 1 Progress Update:** This action is in progress.

TfNSW is updating standard infrastructure contracts to ensure they comply with integrity and ethics requirements, as well as subcontractor management.

**Action 2 Progress Update:** This action is in progress.

TfNSW is updating standard infrastructure contracts to ensure they comply with integrity and ethics requirements, as well as subcontractor management.

**Action 3 Progress Update:** This action is in progress.

A draft assurance and governance procedure based on the new Infrastructure-Related Procurement Policy Framework has been developed with implementation planned for July 2024.

**DLM**

## Recommendation 4:

That TfNSW develops and implements a plan to:

- **assess the procurement competence of relevant TfNSW employees and contractors who perform procurement activities, making allowance for the fact that different activities may require different competencies, and rectify any competency deficits**
- **adopt mechanisms to ensure that staff with new procurement responsibilities are competent.**

### Action Plan:

TfNSW will:

**Action 1** - further develop the competency testing for staff involved in procurement activities based on the Infrastructure Procurement Standard.

**Action 2** - systematically track completion of any procurement training courses, together with refresher training.

**Action 3** - train all new staff affected by the Infrastructure Procurement Standard, including labour hire staff and contractors involved in procurement and/or contract management activities across TfNSW.

**Action 4** - include education on the types of contracts and the correct KPIs that should be monitored.

**Action 5** - implement a First Line Assurance program for goods and services procurement.

**Action 6** - launch a contract governance and assurance program to further assess standards of contract management practices across Transport and identify improvement opportunities in business processes.

**Action 1 Progress Update:** This action is in progress.

TfNSW is in the process of developing Mandatory Procurement Training eLearning modules for TfNSW Personnel, as outlined in the Infrastructure-Related Procurement Policy Framework. Collaboration with the Learning & Development team is ongoing to identify personnel requiring specific modules and to facilitate training using Equip. Additionally, consultation with the Learning & Development team will extend to developing monitoring reports for TfNSW's Fraud & Corruption Prevention team and assessing competency results to determine the need for retraining.

**Action 2 Progress Update:** This action is in progress.

TfNSW is in the process of developing Mandatory Procurement Training eLearning modules for

**DLM**

TfNSW Personnel, as outlined in the Infrastructure-Related Procurement Policy Framework. Collaboration with the Learning & Development team is ongoing to identify personnel requiring specific modules and to facilitate training using Equip. Additionally, consultation with the Learning & Development team will extend to developing monitoring reports for TfNSW's Fraud & Corruption Prevention team and assessing competency results to determine the need for retraining.

Furthermore, TfNSW monitors compliance with the Transport Goods and Services Procurement Standard via the Goods and Services First Line Assurance program, which includes tracking completion of mandatory Probity and Ethics training. All mandated procurement training progress is regularly reported in the monthly Transport Goods and Services Procurement Risk Oversight Committee and shared with the Fraud & Corruption Prevention team.

**Action 3 Progress Update:** This action is in progress.

TfNSW is in the process of developing Mandatory Procurement Training eLearning modules for TfNSW Personnel, as outlined in the Infrastructure-Related Procurement Policy Framework. Collaboration with the Learning & Development team is ongoing to identify personnel requiring specific modules and to facilitate training using Equip. Additionally, consultation with the Learning & Development team will extend to developing monitoring reports for TfNSW's Fraud & Corruption Prevention team and assessing competency results to determine the need for retraining.

**Action 4 Progress Update:** This action is completed.

TfNSW has undertaken the following actions to address this action:

- Goods and Services Contract Management Training Modules have been released for TfNSW staff, which define contract types in alignment with Goods and Services Contract Management Framework, Contract Manager guides on performance management, including KPI's based on contract complexity and performance reporting.
- A Community of Practice Event "Managing Supplier Performance through KPI's" was hosted in March 2024 and was attended by a wide range of TfNSW Goods and Services Contract Managers and stakeholders.
- Records and statistics on Goods and Services Contract Management training completion and attendance are retained by TfNSW.

**Action 5 Progress Update:** This action is completed.

TfNSW implemented a Goods and Services Procurement First Line Assurance program covering both Strategic and Operational Procurement processes. It reports on various aspects like completion of the Risk Navigation Tool, sustainability obligations, conflict of interest declarations, and tender evaluation. Results inform actions such as policy updates and improvement programs, with areas selected based on emerging risks and insights from audits and industry practices.

**Action 6 Progress Update:** This action is completed.

The Transport Goods and Services Contract Management Governance and Assurance Review Program was launched in April 2024. This program provides first-line assurance on compliance with the Contract Management Framework across Transport, as well as NSW legislative obligations.

**DLM**

TfNSW is implementing this review program progressively across the organisation over the next two years, with supporting tools and procedures in place to drive consistency and continuous improvement in the execution of contract management activities for goods and services contracts. Review results and any recommendations will be reported to the monthly Transport Goods and Services Procurement Risk Oversight Committee by September 2024.

## **Recommendation 5:**

**That TfNSW reviews its governance of procurement information to ensure that accurate and completed records are kept.**

### **Action Plan:**

TfNSW will:

**Action 1** - use the Infrastructure Procurement Standard to make it clear what information is required to be collected and stored in the various records, procurement and contract management systems currently used by TfNSW.

**Action 2** - train, monitor and conduct audits to ensure the minimum procurement records are created and appropriately retained.

**Action 3** - implement regular auditing of procurement records and records management. An updated audit program will be produced, and audits commenced within 12 months.

**Action 1 Progress Update:** This action is in progress.

This action is being addressed within the Infrastructure-Related Procurement Policy Framework through:

- A section in the Infrastructure-Related Procurement Standard focused on record keeping.
- The Infrastructure-Related Procurement File Structure and Naming Convention document, which is being developed and will be available via the Infrastructure-Related Procurement Policy Framework portal.
- A Release Checklist and Engage Checklist that include records checks.

**Action 2 Progress Update:** This action is in progress.

A draft assurance and governance procedure based on the new Infrastructure-Related Procurement Policy Framework has been developed with implementation planned for July 2024.

**Action 3 Progress Update:** This action is in progress.

A draft assurance and governance procedure based on the new Infrastructure-Related Procurement Policy Framework has been developed with implementation planned for July 2024.

## **Recommendation 6:**

**DLM**

**That TfNSW reviews supervision of staff involved in procurement processes to ensure that managers are alert to, and aware of, red flags of misconduct, and act upon them appropriately.**

**Action Plan:**

TfNSW will:

**Action 1** - establish a working group to develop and implement fit-for-purpose governance and assurance activity across TfNSW.

**Action 2** - assign responsibility to Project Directors to include fraud and corruption risk management in procurement activities including within the agenda of their regular meetings with the project teams and within the quarterly reviews of all risks. These risk reviews are to include both project and operational risks, together with KPI performance evaluation.

**Action 3** - implement an annual workshop with all Infrastructure Project Directors to maintain awareness on procurement risks, including fraud and corruption.

**Action 4** - implement assurance activities in line with a Consequence Management Framework focusing on non-compliance with operational, strategic sourcing and Purchasing Card obligations under the Transport Goods and Services Procurement Standard and the Infrastructure Procurement Standard. This Consequence Management Framework will incorporate notification to managers of staff who undertake non-compliant procurement activities, where appropriate.

**Action 5** - release regular and proactive communications to managers and staff involved in procurement processes to raise awareness of red flags of misconduct and facilitate managers acting upon these red flags appropriately.

**Action 1 Progress Update:** This action is in progress

TfNSW is engaging stakeholders to oversee the Consequence Management Framework, which identifies red flags of misconduct. Governance is being centralised to monitor compliance with procurement and contract management policies and procedures.

**Action 2 Progress Update:** This action is in progress.

TfNSW presently integrates fraud and corruption risks into project risk registers, which are recorded and reported using its ARM risk tracking tool.

**Action 3 Progress Update:** This action is in progress.

TfNSW is in the process of implementing the Infrastructure-Related Procurement Policy Framework in three stages. During Stage 2 Go-Live, TfNSW conducted three Awareness Livestreams to educate the business and key users, including Project Directors, about fraud and corruption risks and how the Framework addresses them. This included a presentation by Director, Fraud & Corruption

**DLM**



Prevention highlighting the Framework's necessity and the importance of compliance with it.

**Action 4 Progress Update:** This action is in progress.

The TfNSW Purchasing Card Compliance and Consequence Management Process, implemented with the updated TfNSW Purchasing Card Procedure in October 2023, enhances awareness, and reinforces training on proper Purchasing Card usage. It also clarifies procedures for handling prohibited card use, aiding TfNSW in managing compliance and associated risks effectively. The draft TfNSW Goods and Services Procurement Compliance and Consequence Management Process is undergoing consultation and is expected to be finalised and implemented by September 2024.

Additionally, the review of the Goods and Services Procurement Compliance and Consequence Management Process has begun in TfNSW's Infrastructure and Place (I&P) division, tailored to its procurement needs.

**Action 5 Progress Update:** This action is in progress.

Over the past year, TfNSW has proactively communicated with managers and staff involved in goods and services procurement to improve awareness of compliance obligations, training resources, and indicators of misconduct. Measures implemented include publishing a Red Flags Fact Sheet, mandatory training for tender evaluation staff, and active engagement with procurement managers. TfNSW conducts ICAC and ABR checks on key personnel before contract awards and continues to review and update the Supplier Due Diligence process to address potential red flags effectively.

## **Recommendation 7:**

**That TfNSW strengthens its governance of change management processes to ensure that the following are addressed:**

- **potential structural weaknesses that might arise**
- **the effect of change on supplier markets, including knowledge of potential suppliers**
- **adequacy of supervisor and management handovers that may be required when accountabilities change (whether these relate to oversight of an individual or a function).**

### **Action Plan:**

TfNSW will:

**Action 1** - update its change management procedure (to manage changes to contracts) and roll out training to all staff. The change management procedure will require commercial review of all contract changes.

**DLM**

**Action 1 Progress Update:** This action is in progress.

TfNSW's change management procedure and its application to all contracts are under review.

### **Recommendation 8:**

- **That TfNSW reviews its infrastructure programs to ensure that the new policy/framework requirements for construction procurements (regardless of asset value) include an appropriate level of assurance and compliance mechanisms to address the systemic risks identified in this investigation.**

#### **Action Plan:**

TfNSW will:

**Action 1** - finalise the Infrastructure Procurement Standard to incorporate a meaningful analysis of the need for projects, where the Capital Projects Framework isn't utilised, as part of the development of a detailed Procurement Strategy document for the proposed procurement activity.

- The Standard will also require the review of relevant supplier markets, including existing panels or suppliers established within TfNSW or at a Whole of Government level.
- The approval of documentation in the Standard will be mandated to be in accordance with the relevant parts of the Delegations document where applicable and with any approval requirements in the Standard itself where there is no relevant item in the Delegations document.
- The Procurement Strategy will include the scope of work anticipated so that individuals that are reviewing and approving the document can determine the full quantum of work.

**Action 2** - finalise the Infrastructure Procurement Standard to incorporate a standalone supplier due diligence process. This due diligence will:

- be conducted as part of the tender evaluation process prior to the finalisation of the Tender Evaluation Report to approve the preferred tenderer.
- include nominated subcontractors in the tender process that have a significant role in the project.

**DLM**

- include additional due diligence checks during the 'Manage' phase of the contract on subcontractors that were not included in tender submissions or replaced during the contract period.

**Action 3** - develop training for members of Procurement Teams across the Divisions on the due diligence process to enable timely conduct of due diligence reviews. There will be separation of duties built into the process so that an independent person conducts the due diligence activity.

**Action 4** - establish a working group to develop and implement governance and assurance across TfNSW's high risk areas. This will include establishing a consequence management framework that includes the enforcement, monitoring and identification of non-conformances and trends of potential inappropriate behaviours for reporting and escalation.

**Action 1 Progress Update:** This action is in progress.

TfNSW's Infrastructure-Related Procurement Policy Framework has been updated and will be 'Going-Live' in 3 stages. The Procurement Strategy templates, either developed or in the finalisation stage, will incorporate necessary updates aligned with the staged rollout. Minor clarifications will also be made to the Delegations Manual as part of the State-wide Operating Model changes and the rollout of the Infrastructure-Related Procurement Policy Framework.

**Action 2 Progress Update:** This action is in progress.

TfNSW has commenced work on developing an organisation wide Supplier Due Diligence (SDD) process. This is to be agreed upon and implemented.

In the interim, TfNSW has developed a draft Interim SDD procedure, with input from SMEs, to be finalised by July 2024. This draft aligns with the ICAC Supplier Due Diligence Guide and includes measures such as obtaining full ASIC records and conducting internet searches on new suppliers. Red flag procedures and governance documents have been shared with internal auditors for feedback, and a training program for procurement teams will be rolled out once the interim procedure is approved. Eventually, an organisation wide SDD process will be implemented, with relevant training provided.

**Action 3 Progress Update:** This action is in progress.

TfNSW plans to finalise the draft I&P Interim SDD procedure and then develop a training program for procurement teams. After approval of the organisation wide SDD process, implementation will follow along with relevant training. The peer review process will ensure separation of duties in reviewing completed procurements under the new policy framework.

**Action 4 Progress Update:** This action is in progress.

The TfNSW Purchasing Card Compliance and Consequence Management Process, implemented with the updated TfNSW Purchasing Card Procedure in October 2023, enhances awareness, and reinforces training on proper Purchasing Card usage. It also clarifies procedures for handling

**DLM**

prohibited card use, aiding TfNSW in managing compliance and associated risks effectively. The draft TfNSW Goods and Services Procurement Compliance and Consequence Management Process is undergoing consultation and is expected to be finalised and implemented by September 2024.

Additionally, the review of the Goods and Services Procurement Compliance and Consequence Management Process has begun in TfNSW's Infrastructure and Place (I&P) division, tailored to its procurement needs. Draft assurance and governance documents have been developed for review and finalisation. A peer review template is being developed for assessing compliance with the new Infrastructure-Related Procurement Policy Framework, aiming for completion by July 2024. Further, a program for continuous internal monitoring using data has been initiated.

### **Recommendation 9:**

**That TfNSW strengthens its complaints management and contracts management systems to ensure that:**

- **there is clear and easy access for suppliers to report suspected corrupt conduct by TfNSW employees, including their designated TfNSW project and/or contract manager**
- **adequate processes exist to manage allegations of corrupt conduct raised by suppliers.**

#### **Action Plan:**

##### **TfNSW will:**

**Action 1** - undertake an awareness campaign which will target all suppliers across goods and services and infrastructure. This will include targeted suppliers (including contractors and subcontractors) to provide them with the necessary information and help the general supplier community understand how to raise concerns with TfNSW.

**Action 2** - establish a standard internal operating procedure for responding to/managing reports relating to contractors.

**Action 3** - update all current infrastructure tender and contract documents to include a mechanism for tenderers, contractors and other parties to report suspected corrupt conduct by TfNSW employees or any other parties involved in the contract. A reminder of the details to report any suspected corrupt conduct will also be included in unsuccessful letters to tenderers.

**Action 4** - incorporate reference to its misconduct reporting hotline in its procurement pre-contract communications.

**DLM**

**Action 5** - where allegations involve employees of other organisations, TfNSW will develop and embed a process that outlines where and how we will work with those organisations to seek appropriate responses.

**Action 1 Progress Update:** This action is completed.

TfNSW has updated the Supplier Briefing Template to include the Speak Up program. For all pre- and post-tender briefings from June 2022 and into the future, suppliers are reminded of our commitment to ethical procurement and will be provided with Speak Up contact information.

**Action 2 Progress Update:** This action is in progress.

TfNSW is currently working with the Legal team to update contracts by strengthening existing clauses or adding new ones to allow for the investigation of third parties following an allegation.

**Action 3 Progress Update:** This action is in progress.

Harmonized PSC Rfx documents are awaiting approval, while Harmonized Works Rfx documents are being reformatted. Both will undergo review before publication to ensure necessary mechanisms are included. Additionally, the Unsuccessful Letter template is being updated.

**Action 4 Progress Update:** This action is completed.

The Statement of Business Ethics was updated in July 2023 and is now available on TfNSW's intranet and internet. The external website has been revised to ensure that materials guiding suppliers to the independent complaints mechanism, Speak Up, are current and direct to the latest resources.

Furthermore, the TfNSW Goods and Services Contract Management Framework now incorporates references to the Public Interest Disclosures Act 2022, outlining contract manager roles in addressing reported corrupt conduct. Resources related to the Act are accessible on the Transport Contract Manager Hub, and misconduct reporting hotline references are included in TfNSW's Goods and Services Contract templates.

**Action 5 Progress Update:** This action is completed.

This is a current practice and will continue on an as-needed basis. TfNSW will continue to assess matters for referral to ICAC and work with Legal, Procurement, and local business units to assist them in managing the response.

**DLM**