

PROCUREMENT & FRAUD CONTROL

What are the Issues & What Can You Do About Them ?

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BACKGROUND: WHERE ARE WE IN 2011 ?

SUPPLIERS TO THE NSW GOVERNMENT ARE CONCERNED ABOUT PROCUREMENT PRACTICE

NSW ICAC 2010/11 survey of suppliers to the NSW government

Summary

- Almost half see corruption in NSW government procurement as a moderate to major problem

In detail the survey showed that:

- 55% believed that there was improper favouritism
- 48% reported they offered gifts and benefits over \$20
- 36% reported the acceptance of gifts or benefits over \$20
- 39% believed that there was provision of unequal information to different bidders
- 25% believed that there was leaking of confidential supplier information prior to close of tender

THE NSW ICAC HAS JUST COMMENCED PUBLIC HEARINGS INTO ITS LARGEST EVER INVESTIGATION

October 2011:

- NSW ICAC commences public hearings into its largest ever investigation: Operation Jarek

The investigation is all about procurement:

- Involves 3 companies
- Business model : sales staff are encouraged to build relationships with the buyer (the employee responsible for procurement) rather than the customer (the organisation)
- Obtaining a sale/securing further orders the driving force
- Gifts are stepped in a sliding scale: the bigger the order, the bigger the gift !

Involves 110 public authorities

- Mostly Councils but also includes Department of Finance & Services; Sydney Water, TAFE, Police, Fire & Rescue etc

BUSINESS WANTS TO BUILD CLOSER RELATIONSHIPS WITH PURCHASERS TO WIN MORE BUSINESS

Business believes

- The best customers are your existing customers
- It is much easier/less costly to sell more of your goods and services to existing customers
- Getting new customers is costly, time consuming and fraught with difficulties
- Business is confused about how to build and manage relationships with government agencies
 - Different agencies can have different approaches to procurement which can be confusing to outsiders
- Business finds it difficult to communicate new products, technical developments to purchasers
- Business is also concerned about how to manage its Intellectual Property: it fears that this information will be given to its competitors

HOW DID WE REACH THIS SITUATION ?

What developments have occurred that have led to the current situation ?

HOW DID WE REACH THIS SITUATION ?

A series of key trends have been evident over the last decade:

- The value of projects outsourced has risen
- The volume of projects outsourced has risen
- The complexity of projects outsourced has increased

THE VALUE OF PROJECTS HAS RISEN

A series of examples make this clear:

- RailCorp NSW is purchasing 76 passenger train sets which will replace all existing carriages operating on the outer metropolitan areas of Sydney : a multi billion dollar purchase over a 20+ year time frame
- The ATO purchased a new core computer system at a value of over \$500 million
- The Department of Defence is in the process of purchasing the joint strike fighter, one of the most expensive planes ever produced

THE VOLUME OF PROJECTS HAS RISEN

The NSW Auditor General recently examined the use of consultants in the NSW government

- Sept 2011 Report “Prequalification Scheme: Performance and Management Services”
- Makes it clear that it is easier and quicker to engage consultants than ever before
- The volume of work carried out under this scheme has increased significantly since the scheme commenced
- The value of consulting work carried out under the scheme is estimated by the Auditor General to exceed \$300m since 2008

THE COMPLEXITY OF PROJECTS HAS RISEN

Some examples make this clear:

1) NSW Integrated Ticketing System

- The aim of this system was to replace all existing ticket systems for public transport in metropolitan NSW
- The system aimed to allow a customer to make a single ticket purchase to cover all forms of public transport – bus, rail, ferry, light rail
- The system was to cover both publicly and privately provided transport

2) Federal Government Jobs Network

- Aimed to move the provision of assistance in seeking work from the government to the private sector
- Created an entire new market for services and over time increased the expectations of service provision so that best outcomes were achieved for job seekers

THIS IS AN INTERNATIONAL PROBLEM

Recent examples from England and Scotland include:

- The problems being experienced with the National Health System Patient Information System
 - Source of significant controversy: appears regularly in the press
 - 6 billion pound already spent; estimated that it will eventually cost 11 billion pound
 - The system currently applies to 8.5 million people; another 33.5 million people are yet to go on the system
- A new borders railway in Scotland
 - Problems with the tendering process have led to the process being abandoned
 - Being taken over by the government and the work insourced

Recent examples from the USA

- The joint strike fighter

CONSEQUENCES

There are a series of consequences from the above:

- Our ability to deliver government services has become very dependent on the private sector
- The difficulty of managing outsourced projects has increased
- Business is wanting to build closer relationships with purchasers to win more business

THE VIEW FROM THE FIELD

What Improvements Have Been Made ?

*What are Senior Executive and Managers Thinking
About Procurement Issues ?*

IMPROVEMENTS TO PROCUREMENT

Agencies are improving approaches by:

- Increasing use of risk management methodologies
- Increasing use of project management methodologies
- Increasing use of probity auditors
- Increasing use of specialist contractors/specialist advisors for the process as a whole/at particular points in process
- Ensuring that staff are formally trained in procurement methodologies
- Putting in new purchasing systems that are more transparent and robust than ever before

Additionally

- Central agencies more focussed on this issue (eg. Gateway review process by NSW Treasury)
- “Watchdog” agencies also increasingly interested in this area (Auditor General, ICAC etc)

THE SENIOR EXECUTIVE VIEW

Senior Executives want to do the right thing about procurement but:

- Procurement is competing for the attention of Senior Executive staff
- They receive endless reports on everything under the sun
- The reports can be very detailed and complex
- Improvements have been made to procurement policy and process which provide some comfort to executives
- Senior executive also know that organisations have a tendency to cover up bad news
- So senior executive left uncertain just how well things are actually going in regard to procurement

THE MANAGER VIEW

Managers want to do the right thing about procurement but:

- Organisations are leaner than they have ever been before
- This “thinning out” has affected mid level management in particular. These were traditionally the people that did the checking
- Managers are overseeing projects where they have limited technical expertise in house
- More and more organisations are becoming dependent on contractors to provide technical input and oversight
- Managers have also become increasingly risk adverse
- Procurement takes longer, costs more and can be so overly controlled as to be inefficient/ineffective

SIGNIFICANT IMPROVEMENTS HAVE BEEN MADE BUT....

Senior Executive still nervous about this:

- Keep seeing stories in the press about the many and varied bad things that can happen
- They are looking for further tools and assistance to help them understand what the risks are/ how to manage them

Managers are still nervous about this too:

- Increasingly being held accountable and responsible for projects that are sometimes beyond their technical competence
- Are increasingly reliant on outside assistance which makes them nervous
- Also read all the stories in the press and worry
- They are looking for further tools and assistance to help them understand what the risks are/how to manage them

RISKS THAT NEED TO BE BETTER MANAGED

Research from the NSW ICAC

THE NSW ICAC HAS IDENTIFIED A SERIES OF KEY RISKS

The ICAC 2010 discussion paper

- “Procurement Risks in the NSW Public Sector”

Focussed on 4 major areas:

- People – the human factor
- Systems and processes
- Markets – where to buy and what to pay
- Structures – the way procurement is organised

Each major area then broken up

- Overall 12 key risks identified

THE NSW ICAC HAS IDENTIFIED 12 KEY RISKS

1. Expertise of procurement staff
2. Relationships
3. Management of staff
4. Public/private sector differences
5. Information about procurement policy
6. Tight timeframes
7. Direct negotiations
8. Use of subcontractors
9. Lack of genuine markets
10. Outsourcing
11. Bypassing the DSTA (Department of Services, Technology and Administration)
12. Discretion

SO WHAT CAN WE DO WITH THIS INFORMATION ?

Series of things that can be done:

- Draw attention of procurement staff to the ICAC discussion paper
- Summarise the paper/parts of the paper and circulate to relevant managers/their staff
- Workshop the risks identified by the ICAC with key staff in your agency
- Review procurement policy and practice so that it better deals with the risks identified by the ICAC
- Develop a dedicated approach to procurement risk management
- Develop specialist tools to help your agency better manage procurement risk

RELATIONSHIPS

As noted earlier:

- The ICAC is concerned about relationships with suppliers

But...

- We have become dependent on our suppliers to deliver a vast range of government goods and services to the community
- We in government are very wary about improper influences from business, so try to keep suppliers very much at arm's length
- This causes problems for both parties

BUILDING BETTER SUPPLIER RELATIONSHIPS

A series of options exist:

- Do you have a Statement of Business Ethics?
- Are suppliers required to sign the Statement of Business Ethics before commencing work for you?
- Are contractors and suppliers individually inducted into your expectations and requirements?
- Do suppliers have an independent avenue of appeal so they can report concerns?
- Do suppliers have an approved and easy means of getting feedback about their goods and services?
- Do suppliers have an approved & easy means of showing you their new goods and services?
- Do potential suppliers find it easy to access your approaches to procurement?

OTHER USES FOR THE ICAC RISK ANALYSIS

We have

- Taken the 12 key risks & developed a procurement health check
- There are 5 key questions for each of the risks

Example : Expertise of Procurement Staff

- Staff have a detailed knowledge of all aspects of the Agency procurement process
- Staff have all the required technical/subject expertise to make well informed purchasing decisions
- Staff are well informed about the goods and services that are available in the marketplace
- Staff have all the necessary skills to manage and monitor contracts
- Staff involved in procurement are provided with regular training to ensure that their expertise remains relevant

IAB PROCUREMENT RISK ASSESSMENT TOOL

We can use this tool to:

- Facilitate self assessment of individual procurement projects
- Facilitate self assessment of entire procurement functions
- Benchmark improvements over time

In the workshop we

- Work through each of the ICAC 12 risks
- Staff discuss each of the risk categories and use the 5 questions per risk to guide discussion
- Give performance in each risk a score from 1 to 5
- Make a list of the things that are going well and those that need improving, for each risk
- At the end, develop the 5 priority actions to be taken now

GALVANISING YOUR ORGANISATION INTO ACTION

Our experience in recent years clearly shows that some organisations require someone to drive change in the organisation

- Perhaps you are that person ?

Accordingly, we have prepared a series of actions that might help you do this now

- Regard the following as a menu for change
- What you do will depend on your organisation's state of development, organisation culture etc

PROCUREMENT IMPROVEMENTS YOU CAN MAKE NOW

1. Build the case for procurement reform:

- Collect stories from the press and circulate them
- Review the work of corruption prevention bodies: do they have information you need to circulate now?
- Review the research : what are the fraud facts? Who needs these facts now?
 - Association of Certified Fraud Examiners; major accounting companies put out regular publications/podcasts; work of Auditors General; OECD/UN/World Bank now very active as well
 - Who needs this? Head of Audit & Risk Committee? Chief Risk Officer?

2. Improve the workplace culture

- Test the workplace culture on a regular basis
- Encourage exemplary behaviour from the top
- Reward managers/workplace heroes

PROCUREMENT IMPROVEMENTS YOU CAN MAKE NOW

3. Review the procurement control framework

- What controls are in place?
- How do you know they are working?
- All about making sure that existing controls are working rather than knee jerk reactions of putting in more!

4. Improve procurement policy and process

- Do staff actually know what the policy is?
- Are the policies relevant and up to date?
- Can they be easily found? Can they be put in a single place on your intranet?
- Have you got an Employee Handbook which clearly sets out all employee expectations?

PROCUREMENT IMPROVEMENTS YOU CAN MAKE NOW

5. Review your fraud and corruption prevention policy

- Is it consistent with the Australian Standard?
- Do staff actually know what the policy is?
- Are the policies relevant and up to date?
- Can they be easily found? Can they be put in a single place on your intranet?

6. Gather supplier feedback

- Do you gather supplier feedback about your performance?
- Do you do this consistently and regularly?
- Is this feedback given to your agency's executive?
- Do you change your approaches based on this information?

CONCLUSION

There are things that you can do now to improve procurement in your organisation

Why wait? Why not take those first steps now?

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