



**Australian Government**  
**Department of Social Services**

# Submission to the Senate Finance and Public Administration Reference Committee for the inquiry into the management and assurance of integrity by consulting services

Department of Social Services

April 2023



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## Introduction

The Department of Social Services (the Department) welcomes the opportunity to provide a submission to the Senate Finance and Public Administration Reference Committee (the Committee).

The Department is providing this submission to provide the Committee with information about the inquiry into the management and assurance of integrity by consulting services (consulting services).

This submission addresses the following terms of reference:

- a. the management of conflicts of interest by consultants;
- b. measures to prevent conflicts of interest, breach of contract or any other unethical behaviour by consultants;
- c. enforcement measures taken in response to integrity breaches, such as the inadequate management of conflicts of interest, breach of contract or any other unethical behaviour by consultants;
- d. the management of risks to public sector integrity arising from the engagement of consultants;
- e. the transparency of work undertaken by consultants, and the accountability of consultants for this work; and
- f. any other related matters.

The Department engages consulting services where particular skills are required to assist the workforce. Consulting services may be required due to the specialised nature of the work being undertaken, or where the specifics of the work requires a level of independence. Services of this nature include, but are not limited to, social research, market research, assessment and evaluation, or policy and project skills that are currently not available within the Department. The Department applies the Commonwealth Procurement Rules and the broader Procurement Framework when engaging consulting services and publishes all active contracts on AusTender.

## The management of conflicts of interest by consultants

The Department utilises a devolved procurement model where individual business areas are responsible for the engagement and management of consulting services, with support from a centralised procurement helpdesk.

Consulting services have historically been undertaken using various Government panel arrangements and on occasion Indigenous suppliers. More recently, consulting services by the Department have been engaged via the Mandatory Management Advisory Services Panel (MAS Panel), a panel administered by the Department of Finance.

Under standard Government contract terms and conditions for consulting services, all suppliers are required to declare to the Department any conflicts of interest prior to commencement or that may arise during the provision of services. Generally, these terms and conditions also oblige suppliers to avoid conflicts of interest where possible and to take steps to deal with any conflicts as directed by the Department where they do arise.

*Example of standard terms and conditions:* [MAS Panel Head Agreement \(finance.gov.au\)](https://www.finance.gov.au).

The Department's Contract Management Guide highlights the need for conflict-of-interest declarations to be completed for procurement engagements. Additionally, probity requirements specify that conflict-of-interest forms need to be obtained during the planning stages of a procurement from all Departmental officials who are involved in evaluation tasks.

The Department is in the process of enhancing its current operational instructions, guidance and training materials that address the specific circumstances and needs of the Department's procurement activities, including strengthening the documentation and clarification of when conflict-of-interest declarations and probity plans are required.

## Measures to prevent conflicts of interest, breach of contract or any other unethical behaviour by consultants

The Department applies appropriate conflict of interest procedures and controls. In the first instance, the Department seeks to eliminate actual, potential, or perceived conflicts of interest. Where this is not possible, effective management strategies are implemented to manage conflicts and to mitigate risks, supported by business area experts in legal and procurement as well as advice from the Department of Finance.

Probity and ethical considerations are embedded in the Department's operational guidance, which is based on the Department of Finance's 'Buying for the Australian Government' policy guidance.

The Department manages contracts in line with the Department of Finance's guidance on 'Behaving ethically and conflicts of interest' to appropriately plan and manage contractual arrangements. Effective contract management by the Department ensures breaches in contractual arrangements are minimised.

## Enforcement measures taken in response to integrity breaches, such as the inadequate management of conflicts of interest, breach of contract or any other unethical behaviour by consultants

The Department would manage potential integrity breaches, conflict of interest or other breach behaviours based on what has been legally agreed and documented in any given contract. Generally, contracts include appropriate rights and protections for the Department to use in managing any integrity concerns that may arise during the engagement. These will generally be based on the Department's assessment of the specific risks arising from that engagement as discussed further in the next section. For instance by including requirements to comply with particular codes, standards or professional rules (for example, applying a requirement to comply with the Australian Public Service Values and Code of Conduct, where appropriate).

Should any situations arise that warrant enforcement measures, the Department will treat each issue proportionately in accordance with policy, legal advice (where needed) or expert probity advice (where required).

## Management of risks to public sector integrity arising from the engagement of consultants

The Department considers procurement, business and other risks for every consultancy procurement. Guidance and requirements on risk management are based on the Department of Finance guidance and the requirements of the Commonwealth Procurement Rules.

Procurement Risk considerations are embedded into the Department's operational guidance and the procurement risk rating is recorded in the Department's procurement workflow management systems.

On 8 October 2021, the Secretary directed changes to the way the Department engaged consultancy services to ensure that there was greater senior leadership visibility of planned engagements through regular reviews of forecast engagements and through a tighter approval regime by increasing the level of seniority required to approve the engagement of consulting services as shown below:

- Up to \$1,000,000 (GST inclusive) – requires Deputy Secretary approval
- Over \$1,000,000 (GST inclusive) – requires Secretary approval.

This change to Departmental processes is reflected in internal controls and Departmental financial delegations in line with the *Public Governance, Performance and Accountability Act 2013*.

As a result, expenditure on consultancy services undertaken by the Department have been on a downward trend, as demonstrated below:

	2020-21	2021-22	2022-23 (as at 31 January 2023)
Total expenditure (\$ million, GST incl.)	35.1	24.8	7.2

The Department applies appropriate scrutiny to consultancy contracts. Every two months, the Executive Management Group (comprised of the Secretary and all Deputy Secretaries) receives a report outlining all new consultancy contracts entered into, along with those in the early planning stages. Maintaining this as a rolling report allows for robust conversations around how the Department is engaging consultants for services, and increasing visibility of these arrangements amongst the Department's senior executive.

Regular procurement training is provided to Departmental officials to build capability and reinforce behaviours in respect of procurements.



## Transparency of work undertaken by consultants, and the accountability of consultants for this work

The Department applies all the transparency requirements of the Procurement Framework, including the requirement to report all relevant contracts on AusTender within 42 calendar days as required by the Commonwealth Procurement Rules. The Department's compliance rate for 2022-23 (year to date) is 98.18 per cent.

Other transparency requirements include compliance with the requirements of the Senate Order 13 Entity Contracts, and participation in regular internal and external ANAO performance audit processes.

Consultancy contracts entered into by the Department contain agreed objectives, statement of requirements/ terms of reference, along with clear and concise guidance on the reporting framework. Milestone deliverables are documented and generally payments are made based on invoice following satisfactory completion of services.

As reported in the 2021-22 Annual Report, the Department reported the following new and ongoing consultancy arrangements:

	Number	Expenditure \$'000 (GST inc.)
New contracts entered into during the reporting period	80	16,250
Ongoing contracts entered into during a previous reporting period	60	8,591
<b>Total</b>	<b>140</b>	<b>24,841</b>

In 2022-23, current spend by the Department up until 31 January 2023 is \$7.2 million.