

I·C·A·C

INDEPENDENT COMMISSION
AGAINST CORRUPTION

NEW SOUTH WALES

Lessons from Operation Hector

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Overview

- **Significance of Op Hector**
- What happened
- What allowed it to happen

Variety of procurement corrupt conduct

Lots of entities involved

Inner West Council (**IWC**): 6 companies corruptly awarded work
Transport for NSW (**TfNSW**): 9 companies corruptly awarded work
Other companies involved in a variety of capacities

Different procurement arrangements

Directly engaging a supplier
Subcontracting from quasi-alliance contract

An evolving scheme

	2014 Glenfield station	2016-2020 IWC	2018-2020 Infrastructure projects
Project Value	<\$250K	<\$300K	<\$2M
Corrupt benefits	Profit sharing	Kickbacks	Profit sharing & kickbacks
Confidential information leaked	Budget	Budget and competing bids	Budget, work breakdown and competing bids
Rigged bids	Yes	Yes	Yes
Trusted Insider	Direct influence	Direct influence	Indirect influence
Conflicts of Interest	Detectable	Somewhat detectable	Difficult to detect
Use of sub-contractors	Hidden	Hidden	Deeply hidden

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TfNSW - Glenfield car park defect rectification

- Mr Abdi (TfNSW) corruptly awarded defect rectification work at Glenfield station car park to ASN Contractors without declaring conflict of interest.
 - ASN was jointly owned by Mr Abdi, Mr Nguyen and Mr Sanber (also from TfNSW).
- ASN was only real bidder:
 - Mr Nyugen arranged one dummy bid.
 - Mr Abdi arranged one dummy bid.
 - Each dummy bid was above:
 - TfNSW budget
 - \$250,000 threshold for an open tender.

IWC – Minor constructions, repairs and refurbishments

- Work corruptly allocated at IWC was construction and repairs/refurbishment.
- Vast majority was relatively minor, so not tendered – for instance:
 - Baseball cage upgrade (\$140,000)
 - Adding astroturf to aquatic centre (\$48,400)
 - A kitchen upgrade in the administration building (\$18,000)
 - Scoreboard painting (\$5,400)

TfNSW – Infrastructure projects

- Managing contractor (MC) framework used to manage projects with high complexity and ill-defined risk.
- Used a collaborative, open book contracting model. Typically, 4-5 projects were grouped under a tranche, which usually had a total value of about \$100,000,000.
- Downer EDI was MC for tranches relevant to Op Hector.
- Collusive bidding between subcontractors, TfNSW employees and Downer employees.

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Shared systemic failures

Means of corruptly awarding works

Dummy bids
Failure to declare conflicts of interests
Leaking of confidential information

Procurement systems issues

Excessive funds available
Unfettered control of procurement process
Poor supplier due diligence

Excessive funds

- Glenfield budget was \$234,000 but subcontractor was only paid \$110,000.
- TfNSW infrastructure projects

	Victoria Street	Central	Lithgow
Initial value of subcontract	\$789,804	\$92,200	\$1,747,855
Final value of subcontract (after variations)	\$1,737,970	\$510,498	\$1,976,589
Profit corruptly obtained from subcontract	\$872,895	\$198,622	\$1,322,000

Supplier due diligence

IWC

- New creditor added without managerial review.
- No referee or financial checks undertaken.
- Red flags missed (e.g. less than 2-months old, no experience on website).

TfNSW

- Senior project manager conducted due diligence and questioned choice of subcontractor but was told by his manager he had trust issues when he identified issues.

Underlying issues - IWC

- Absence of a lot of important controls
- Procurement governance (e.g. budgeting, market analysis, off panel spend, variations, order splitting)
- Project planning and oversight (e.g. overarching project framework, project management, central project oversight)
- Line management
- Conflicts of interest management

Ongoing change at IWC

May 2016

Formed via an amalgamation of three councils

May 2016-Mar 2023

7 CEOs

May 2016-Mar 2023

At least 5 major organisational changes to that impacted risk and governance functions

Underlying issues - TfNSW

- Problem was control implementation, rather than an absence of controls.
- Control environment can be summed up in four phrases:
 - Fraud and corruption is very unlikely.
 - We can't challenge Downer as we are collaborating with them.
 - On time and on budget delivery is what we need to verify.
 - The frontline and senior management don't communicate well.

Take home messages

- Op Hector identified evolving corrupt conduct involving different companies, public authorities and procurement types. It thus points to several features of procurement corruption risk.
- The conduct at IWC demonstrates that repeated organisational change can undermine governance functions and ultimately operational functions.
- The conduct at TfNSW demonstrates how considered controls can be undermined by failings such as poor risk awareness, limited understanding of contractual frameworks, inadequate assurance and poor internal communication.

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