

Senator the Hon Richard Colbeck  
Chair, Senate Finance and Public Administration References Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

21 April 2023

## Submission to the Inquiry into Management and Assurance of Integrity by Consulting Services

Dear Senator,





Sententia Consulting is a highly respected adviser to the Australian Government, and in that context we are pleased to provide a submission to the Senate's Inquiry into Management and Assurance of Integrity by Consulting Services (the Inquiry).

We are in a unique position to provide an informed submission to the Committee and we hope that you find our input useful. Our professionals have in the past worked for the Australian Public Service, for the "big 4" accounting firms and for major global consultancies. One of the services we provide to Government is probity and integrity advice and assurance, particularly in the context of procurement of goods and services. Finally, we are an assurance provider and work with agencies on how they assure themselves that key risks in their organisations are being managed, including integrity and conflict of interest risk. Consequently, we bring a range of highly relevant perspectives to the Terms of Reference for the Inquiry.

### What is a conflict of interest and how should they be managed

One of challenges in conflict of interest management is that the very existence of a conflict can be dependent on perspective and judgement, and is not necessarily an absolute concept. A conflict of interest arises where there is an interest (in behalf of a consultant in this instance) that conflicts, has the potential to conflict, or could be perceived to conflict, with the interests of the Commonwealth. Inevitably, the interests of two parties cannot be perfectly aligned, as they come from different perspectives. The "art" of conflict of interest management is to ensure that the intersections of interest between two parties exceed the deviations of interest, and that there are suitable controls for both parties to mitigate those deviations of interest.

While there are numerous frameworks that have been created to consider the management of conflicts of interest, the following is simple and well regarded globally. It is published by the OCEG, a global not-for-profit organisation that focusses on governance, strategy, risk, compliance, security and audit.

 Observe environment to identify COIs	This category includes understanding the environment, setting policies and procedures and identifying relationships (including related third parties) at risk of posing a COI.
 Assessment of COI risks and design controls	This includes assessing the risk and impact on different employee cohorts, setting risk appetite and providing guidance aligned to it, setting tighter controls for higher risk areas and analysing current disclosures.
 Verification of COI management capabilities	This category includes activities to monitor and improve management and system capability for recording and handling COI disclosures. It also includes reviewing and responding to audit and assurance findings.
 COI control and monitoring activities	This category includes conducting training, providing guidance, incident response, trend monitoring and audit and assurance activities.

The key to this framework is the need to identify, control and assure the management of conflicts of interest.

## Management of conflicts of interest by consultants

Consultants to Government are typically highly aware of and attuned to the potential for conflicts of interest. Guidance from Government, including from central agencies and the Australian National Audit Office, emphasises the need for the management of conflicts of interest. The majority of consultancy organisations working with Government have well-developed frameworks, policies and processes for demonstrable management of conflicts of interest. Sometimes, as part of selection processes in consultancy procurement, agencies seek an understanding of those frameworks, policies and processes.

Consultancies apply a range of policies and processes, including interest declarations, selection of consultants to work on projects who do not have personal conflicts of interest, the securing of agency information, the use of “ethical walls” to limit different parts of a business where more substantial conflicts may exist from access or influence over a consultancy project and conflicts of interest mitigation processes. These can all be effective to varying degrees.

Contextually, consultancies do not have perfectly aligned interests to the Commonwealth. Consultancy firms are running a business, creating a market profile, ensuring that their staff can be remunerated and developed, and creating and managing a reputation. These are, inevitably, different to the role of the Commonwealth whose role is to support, serve and protect Australia, its citizens and its interests.

However, the points of actual “conflict” between the interests of a consultancy and the interests of the Commonwealth are usually limited. More importantly, the alignment of interests are typically clear. Consultancies want to do a good job that meets the client’s needs in order to ensure payment for services, as well as creating a positive market profile. Further, consultants are motivated by doing a good job for their clients. And in some cases (such as for Sententia Consulting), the support for the Government and our community is a driving part of a firm’s vision. These are all areas of alignment in interest between Commonwealth agencies and its consultants, that can help to ensure that the intersections of interest exceed the deviations of interest. These intersections can then be supported by the frameworks, policies and processes for demonstrable management of conflicts of interest (as referenced above).

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

The most significant measure for most consultants that supports prevention of unethical conduct or breach of contracts, are the professional obligations imposed on consultants by their professions. The majority of consultants (and all leading consultants) are members of professional bodies that are well structured to support excellence in the subject matter that they are consulting in, and their professionalism with which they deliver their chosen area of expertise. Whether that be accountants, lawyers, engineers, information technology, project professionals, procurement professionals, assurance providers, medical consultants, trainers and teachers or other areas of recognised expertise, there is a professional body that good consultants are a member of, which requires them to act with integrity and consistent with legal instruments. For consultants, that professional membership represents a form of “license to operate” and a way to maintain their market leadership.

The second most significant measure supporting consultants acting ethically and consistent with contracts is the management and promotion of a market profile for their business that supports an ongoing viability of their businesses. There are hundreds of credible consultancy businesses in the marketplace, and agencies can select from all of them for their support. Agencies (typically) will not select consultancies that have reputations that lack credibility, ethics or compliance. In this regard, it is noteworthy that there are hundreds of consultancies underway across the Australian Government at any one time, and the vast majority of them take place without ethical, conflict of interest and compliance issues.

The third primary measure of prevention of conflicts of interest, breach of contract or unethical behaviour, is the suite of frameworks, policies and processes for demonstrable management of ethics, compliance and conflicts of interest (as referenced above).

While the above do not operate effectively in all instances, for the majority of consultancy firms, the majority of consultants and the majority of consultancy projects, the combination of the above provide strong confidence for the Australian Government that consultancies can take place ethically, delivering to the Commonwealth's interest and consistent with contract.

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

Noting the matters outlined above, the key measure to prevent conflicts of interest, breach of contract and other unethical behaviour is the selection of the best consultants that can provide agencies with confidence of ethical and compliant behaviour (as well as their technical capability).

Australian Government contracts are (typically) comprehensive documents that impose a strong set of obligations upon consultants. While there can be exceptions to this (which sometimes includes small consultancies and individual appointments), the execution of the contract is an important measure that Australian Government agencies can put into place to prevent conflicts of interest, breach of contract and other unethical behaviour by consultants.

However, any contract is only as effective as the extent to which it is managed by Australian Government agencies. The framework outlined earlier in this letter noted that effective management of conflicts of interest (and the same applies for other unethical behaviour) requires control and monitoring to be assured of ongoing effectiveness.

Our observation is that an area for improvement for some parts of the Australian Government is the capability and diligence in the management, monitoring and enforcement of compliance with the Australian Government contracts that are executed. This needs to be (and can be) done in a way that is not overly resource intensive for agencies, and not overly burdensome for consulting organisations.

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

The use of consultants is, in itself, an important part of managing risks to public sector integrity. While the Australian Public Service at large, and the officials in Australian Government agencies, are highly talented, capable and dedicated, they do not (and cannot) have all of the skills, depth of expertise and experience and breadth of perspective that is necessary to always do everything in the scope of an agency to the highest possible standard. Consultants have a role to bring specific deep expertise and experience as well as a breadth of perspective that comes from working across organisations and sectors, that helps to ensure that public sector outcomes are delivered with quality and integrity.

Beyond this, agencies need to be highly aware and attuned to the source of integrity risks, the appetite for integrity and compliance risks, and the specific actions and tools that will be used to manage those integrity and compliance risks. Sometimes, those risks are managed superficially, and sometimes not managed at all (with the expectation that the consultants will manage them on the agency's behalf). The effectiveness of this management goes to the effectiveness of risk management focus and capability across agencies. This effectiveness also is highly influenced by the application of capability in managing consultants and contracts, which is a skill in itself.

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

Australian Government contracts typically achieve a sensible balance for the management of confidentiality, with foreground intellectual property being protected, and the existence of the consultancy contract and the outputs from the contract disclosable at the discretion of the agency.

The information that is disclosed regarding consultancies provides good information for the Government and for citizens to be aware of how consultants are being used. This is not always as easy to see for individual appointments, which may represent an opportunity for improvement.

The transparency of the outputs of consultancy work is largely at the discretion of agencies, who need to manage the risks versus benefits to the agency from disclosing consultancy outputs.

Transparency is only one way to support accountability of consultants. Earlier in this submission, we have discussed the drivers for consultants to do their work well, ethically and consistent with contracts. These are as strong a driver of accountability as transparency.

## Summary

Consultants serve an important role in supporting the Australian Government and its agencies in delivering important outcomes for the country. While there have been some notable exceptions, most consultancies engaged by the Australian Government deliver effectively, with integrity and consistent with scope and contract. This is as much to do with the inherent drivers that exist between agencies and consultancy firms, as it is due to formal constructs for ethical management.

There are some opportunities in some consultancy organisations to strengthen their internal management of delivery, ethics and compliance. There are also some opportunities for some agencies to strengthen their capabilities and processes for management of integrity risk and management of consultancy arrangements. These improvements can be made in a way that is not overly burdensome to either Government or the consultancy organisations, and they will likely have a net positive impact on the delivery of Government's outcomes.

## About Sententia Consulting

Established in 2020, Sententia set out to diverge from superficial consultancy, motivated by an observed disconnect between brand promise and service quality across the sector. We understood that the most significant component of truly valuable consultancy isn't just sheer volume of problem solvers or resources, but rather unique thinkers who can navigate complex problems, build personal trust, and be forthright and concise. Founded on clear principles, we do not leave our clients feeling stranded, we won't move the goalposts, we won't create surprises, and we will never sacrifice on quality or integrity. We set out to understand your problems to leave you feeling protected, armed to manage risk, and better equipped to contribute to society.

As a values-driven organisation that is focussed on Government, our vision, mission and values drive our approach to delivery for our clients, on every engagement. We see strong correlation between our values and the Australian Government's values of respect, ethics commitment and accountability which aligns our teams' beliefs to work cohesively and with a common purpose.

Thank you for considering our submission. We sincerely hope it assists the Committee in undertaking this important Inquiry.

Yours faithfully,

Mark Harrison  
Managing Director