



Case study – Operation Betka

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Operation Betka was an IBAC investigation into allegations of serious corrupt conduct at the Department of Education and Training.

Background

In July 2016, IBAC received a notification from the Department of Education and Training (the Department) pursuant to section 57(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act), concerning allegations a contracted Senior Project Manager (the Project Manager) in the Information Technology Division (ITD) of the Department was involved in serious corrupt conduct.

IBAC investigated allegations that the Project Manager used his position within the Department to provide business opportunities to a company he owned (Company A). Company A provided almost \$14 million in contracted staffing resources to the Department between 2003 and 2016.

What did IBAC do?

IBAC used a range of investigative techniques during the course of Operation Betka, including obtaining substantial documentation both voluntarily and by way of summons, interviewing key witnesses and conducting private examinations.

What were the outcomes?

IBAC found there were significant failings in how the Project Manager identified, declared, and managed the conflict of interest produced by his concurrent roles at the Department and as the director of Company A, which provided IT contractors to the Department. While some departmental managers were aware of the Project Manager's connection to Company A, the Project Manager failed to appropriately document and manage the conflict of interest.

Additionally, IBAC found those responsible for supervising the Project Manager failed to document, report and monitor his conflict of interest. They also lacked awareness of departmental procurement procedures and policies.

While the available evidence was not sufficient to support criminal charges, IBAC found the poor disclosure and mismanagement of the Project Manager's conflict of interest enabled him to use his position to influence the engagement of the Department's IT staff to the benefit of his company and the disadvantage of competing IT contractor suppliers.

The Department ceased the Project Manager's engagement in July 2016.

Lessons learned and challenges

Operation Betka identified issues with the Department's policies, systems and controls in the areas of conflicts of interest, procurement and contracting, record keeping, and complaint handling.

The Project Manager's supervisors failed in their responsibility to take meaningful action to effectively address conflicts of interest and complaints related to the Project Manager. These supervisors should have properly documented his conflict of interest, developed and documented a plan to manage the conflict, and actively oversaw that plan to ensure it was working effectively. Their failure undermined the integrity of the Department's processes.

Operation Betka also identified issues with how the Department engaged workers under the Staffing Services State Purchase Contract (SPC), including the use of unapproved tier two suppliers. The Staffing Services SPC¹ is used when a Victorian department or agency wants to contract an individual for a temporary or casual role within their organisation. Given the wide application of the Staffing Services SPC and the frequency with which contractors are engaged across the Victorian public sector, agencies should consider whether their existing systems, processes and controls are sufficient to ensure compliance with whole-of-government procurement processes including the Staffing Services SPC.

¹ Buying for Victoria, 2019, Staffing Services State Purchase Contract, User Guide, November 2019

Lessons learned and challenges (cont)

Since the allegations investigated in Operation Betka were notified to IBAC in 2016, the Department has worked to improve awareness of conflicts of interest among its staff. This work was already underway as part of the Department's response to IBAC's Operation Ord and Operation Dunham.² As part of this work, the Department developed a central, electronic conflicts of interest register with an online declaration form which departmental VPS staff are mandated to use when a conflict arises. The register enables the Department to monitor, report on and audit conflict of interest data.

While acknowledging the work undertaken by the Department regarding conflicts of interest, IBAC identified further opportunities for improvement and suggested the Department:

- address corruption vulnerabilities related to procurement including strengthening controls around the engagement and oversight of contractors, reviewing contracting arrangements, and undertaking checks for conflicts of interest between contractors and other departmental staff or contractors
- advise IBAC how the Department will ensure employees and contractors comply with its conflict of interest framework, including ensuring supervisors, employees, and contractors understand their obligations regarding conflicts of interest.

IBAC outlined its findings and recommendations from Operation Betka in a special report to Parliament, tabled in May 2020.³

What was done?

The Department has introduced a number of measures since the conduct investigated in Operation Betka occurred, to address the vulnerabilities identified. These include:

- implementing a new conflict of interest process for labour hire
- cross referencing employee and vendor bank accounts to identify potential conflicts of interest
- analysing the Department's conflict of interest database to identify patterns in declarations to inform further improvements
- developing induction processes and materials for contractors including on the Code of Conduct and in relation to conflicts of interest
- proactively analysing the Department's procurement records to identify tier two suppliers (pursuant to the Staffing Services State Purchase Contract) and whether they are approved suppliers.

The Department's full response to IBAC's Operation Betka⁴ recommendations, including additional detail on the above reforms, has been published on IBAC's website.

² Additional information on IBAC's Operation Ord and Operation Dunham is available on IBAC's website: www.ibac.vic.gov.au

³ IBAC, 2020, *Operation Betka: An investigation into alleged corrupt conduct by a former contractor of the Department of Education and Training*, www.ibac.vic.gov.au/docs/default-source/special-reports/special-report---operation-betka---may-2020.pdf

⁴ Department of Education and Training response to IBAC's Operation Betka: www.ibac.vic.gov.au/docs/default-source/responses/det-response-to-ibac---operation-betka---november-2020.pdf

Vulnerabilities and prevention measures

IBAC identified the following vulnerabilities and prevention measures as a result of Operation Betka. Public sector agencies more broadly can effectively mitigate the risk of corruption by identifying if they are susceptible to these vulnerabilities and are undertaking appropriate prevention measures.

Issue	Vulnerability	Prevention measures
Management inaction	Not acting on warning signs	<ul style="list-style-type: none"> • Management/supervisors need to take positive and meaningful action when reports are received alleging misconduct by staff • Managers to clearly communicate and model standards expected of staff • Centrally record issues and concerns raised, to assist in identifying patterns of concerning conduct • Ensure staff understand what constitutes corrupt conduct, how they can report (including to IBAC) and the protections available under the <i>Public Interest Disclosure Act 2012</i>
Conflict of interest	Undeclared and poorly managed conflicts of interest	<ul style="list-style-type: none"> • Regularly review policies and procedures to ensure they are clear, and to identify and address gaps • Clear conflict of interest policy framework that identifies what constitutes a perceived, potential and actual conflict of interest, and activities at higher risk of conflicts (eg procurement and recruitment) and how it is to be recorded and managed by staff and managers • Regular mandatory training and awareness raising conducted within the organisation • Online declaration form to facilitate an easy process of formally declaring conflicts of interest • Central electronic register of conflicts of interest, to enable analysis and monitoring of declarations • Ensure contractors who are performing a public function understand their obligation to comply with conflict of interest requirements
Procurement issues	Lack of compliance and internal controls	<ul style="list-style-type: none"> • Apply a thorough audit and risk management approach to procurement and contract management (including sound governance arrangements in relation to financial delegations and payment authorisation workflows) • Conduct regular audits of procurement to ensure correct practices are adhered to
	Poor understanding of procurement processes by senior leaders and supervisors	<ul style="list-style-type: none"> • Regular mandatory training in departmental and whole-of-government procurement processes (eg Staff Services SPC) • Ensure staff are aware of procurement guides and resources including those relevant to the Staffing Services SPC • Promote points of contact where staff can get advice or help if they need it
Record keeping	Lack of transparency around decision making	<ul style="list-style-type: none"> • Develop and implement record keeping protocols, that ensures sufficiently detailed and secure record keeping • Proactive auditing of record keeping to test compliance with obligations

Useful links and information

IBAC special report on Operation Betka examining the alleged corrupt conduct by a former contractor of the Department of Education and Training:

www.ibac.vic.gov.au/publications-and-resources/article/operation-betka-special-report-may-2019

IBAC report examining the corruption risks associated with conflicts of interest. The report highlights many examples of good practice to address conflicts of interest:

www.ibac.vic.gov.au/publications-and-resources/article/managing-corruption-risks-associated-with-conflicts-of-interest-in-the-victorian-public-sector

IBAC information sheet examining the myths and misconceptions associated with conflicts of interest and how to manage conflicts of interest:

www.ibac.vic.gov.au/publications-and-resources/article/information-sheet-conflicts-of-interest-myths-misconceptions-and-management

IBAC research report examining State government agencies' integrity frameworks. The report identifies good practice and opportunities for improvement:

www.ibac.vic.gov.au/publications-and-resources/article/state-government-integrity-frameworks-review

IBAC research report highlighting corruption and misconduct risks associated with employment practices in the Victorian public sector and opportunities to strengthen systems and mitigate vulnerabilities:

www.ibac.vic.gov.au/publications-and-resources/article/corruption-and-misconduct-risks-associated-with-employment-practices-in-the-victorian-public-sector

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IBAC is Victoria's anti-corruption agency responsible for preventing and exposing public sector corruption and police misconduct. We do this by:

- investigating serious corruption and police misconduct
- informing the public sector, police and the community about the risks and impacts of corruption and police misconduct, and ways in which it can be prevented.

To report corruption now, visit **www.ibac.vic.gov.au** or call **1300 735 135**.

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