

Memorandum of Understanding NSW Ombudsman and IAB Services The investigation of Public Interest Disclosures

This Memorandum of Understanding (MoU) is between the NSW Ombudsman and IAB Services. It outlines the process to be taken when providing investigative services to public authorities in public interest disclosure (PID) matters.

IAB Services is a Government Trading Enterprise and a statutory body representing the Crown. The *Internal Audit Bureau Act 1992* states that IAB Services' functions are to:

- provide audit, management review and consultancy services to public authorities
- provide such other functions as are conferred or imposed by legislation.

For the purpose of the Ombudsman's functions under section 6B of the *Public Interest Disclosures Act 1994* (PID Act), the NSW Ombudsman and IAB Services have entered into this MoU to ensure public authorities are aware of appropriate, cost effective investigative services for dealing with PID matters efficiently and effectively.

The Ombudsman will advise agencies that do not have the capacity to conduct investigations internally of the availability of the IAB PID investigators panel. This advice will be included in Ombudsman PID guidelines.

When the NSW Ombudsman identifies PID matters through its complaint handling and advisory roles where an independent investigator is needed, the Ombudsman will advise the agency of the availability of contracting a provider from IAB Service's PID investigator's panel.

Selection and appointment

IAB Services will develop and maintain a panel of accredited investigators for public interest disclosures matters. Any investigator accredited to join the panel is required to enter into a contractual relationship with IAB Services. Panel investigators must be registered as a company and must have appropriate public liability, workers compensation and indemnity insurance. Each contract will set out the requirements in relation to:

- intellectual property
- confidentiality
- recordkeeping
- code of conduct and ethics, and
- conflicts of interest.

Panel investigators will have the following minimum qualifications and experience:

- At least 15 years successful experience in public administration at a senior level. This will include experience in one or more of the following areas:
 - Industrial relations
 - Human resources
 - Governance
 - Legal Services
 - Investigations
- Relevant qualifications in investigations, including at least:
 - Certificate IV in Investigations, and
 - NSW Commercial and Private Inquiry Agent License (CAPI)

All investigators on the PID panel will also be required to take part in NSW Ombudsman public interest disclosures training. This training will deal with the particular issues that arise in PID matters.

Quality control

IAB Services will conduct a quality review of each PID investigation conducted by panel investigators. This review will assess the standard of the investigation, its findings and recommendations, as well as its timeliness. IAB Services reserves the right to remove any provider from its PID panel following an adverse quality review.

IAB Services will conduct a yearly review of all providers on the PID investigations panel. The methodology for this review will be developed in consultation with the NSW Ombudsman. The review will assess each investigator's performance in handling PID matters. The review will also identify best practice and any systemic problems highlighted through IAB investigations that may be addressed through guidelines or legislative change. The results of this review will be provided to the NSW Ombudsman.

Methodology

IAB Services will then ensure the public authority can choose from a number of appropriate providers.

Each investigation will be monitored by an IAB subject matter expert to ensure:

- Compliance with IAB's investigation methodology
- Consistency of outcomes where appropriate
- Compliance with relevant legislation and guidelines
- Investigations are conducted within reasonable timeframes

IAB Services will review the investigation plan and oversight the investigation process through weekly contact with each investigator. IAB will also review all investigation reports before they are provided to the client agency.

Intellectual property


The contract between IAB Services and each investigator on the panel will provide that any information collected or documents created during the course of the investigation are considered to be the property of the client agency and will be returned to the agency at the completion of the assignment.

Pricing

IAB Services agree to charge public authorities at a maximum rate of between \$185 and \$200 per hour, depending on the scale, complexity and seriousness of the matter. The IAB will consider requests for variations to this pricing structure on a case by case basis.

Review

This MoU will be reviewed before the second anniversary of the date of the signing of this MOU and thereafter every two years.

Signed: 

Stephen J. Horne

Managing Director, IAB Services

Date: 19 / September / 2011

Signed: 

Bruce Barbour

Ombudsman

Date: 19th / September / 2011