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## **Information relating to Public Service and why they are compelled to secure Investigative / Fraud Control / Mercantile Collection qualifications.**

### **Relevant Courses**

- **Certificate III in Financial Services (Mercantile) FNS40110**
- **Certificate IV in Government - Investigations PSP41504**
- **Certificate IV in Government - Fraud Control PSP40604**
- **Certificate III in Investigative Services CPP30607**

### **The issues are:**

1. All States have signed an agreement to adopt the AQTF Public Service Training Package. This includes Local Governments (**Training and Skills Recognition under the State Government Department Certified Agreement 2003**). (Supplied if necessary 71 pages).
2. The Standards were set by the Federal Government through the DEEWR/ AQTF Vocational Education Scheme and Australian Qualifications Framework (AQF). The Qualifications once secured, are transportable between ANY Government Agency.
3. OH&S law compels Government to ensure relevant employees secure these qualifications in order to perform the work tasks asked of them by the Government Department or Agency. OH&S law is very specific - If there is a standard in place, training or industry work practice, Code of Practice etc., then those standards **MUST** be followed and met. IF they are not actually met, then the entity must show by suitably documented evidence that they are indeed in the process of meeting the training, educational and standards requirements. There are indeed such standards set and in place in Australia in relation to Investigations, Fraud Control and Mercantile Activities.
4. Government is compelled to have employees and contractors (irrespective of State or Federal licensing laws), not requiring a qualification, to secure the **Investigation, Fraud Control, Financial Services (Mercantile)** qualifications and in some cases such as Managers require a safety qualification, e.g the Certificate IV in OH&S BSB41407 or Government equivalent PSP41104 under the 'Due Diligence' requirements of OH&S Law, if they manage persons must be suitably qualified under the Australian legal requirements. Reliance on statutory powers to 'investigate' is not sufficient. The persons carrying out the work must be qualified. They must also ensure a continuous improvement process exists.
5. They are further obliged to secure the Investigation / Fraud Control qualifications as there is a Gazetted Federal Government Directive in place to do so for persons conducting any part of the investigation process, even reading/monitoring investigation reports. (See <http://www.ag.gov.au> 'Fraud Control Guidelines'). Further obligation is inherent under OH&S law as there are no State courses in Australia in this area of occupational application, therefore the Commonwealth standards must be adopted as well as recognised industry standards and established guidelines.

6. Those involved in Debt Collection, Repossession of Property and issue of Court Process are obliged to secure the **Cert III in Financial Services (Mercantile) FNS30404** as the standard was set by DEEWR / AQTF by publishing the Course and its adoption in 2006 by the NSW Government for commercial operators in the field (CAPI requirements). Government cannot conduct these activities without at least meeting the national standards. The ASIC & ACCC procedural guidelines for these activities in the Financial Services Industry as well being the regulators for the Financial Services Industry nationally, require all persons in the Financial services industry to be suitably qualified. **These mercantile guidelines and the national educational standards must also apply to Government Agencies as none are appropriately included in the Public Sector Training Package.** Most of those in field Debt Collection activities will also require an Investigation qualification, based on the Federal Directive of the Minister for Justice and Customs, issued and gazetted in May 2002 and last updated in May 2007 where they are involved in investigating person or entities. The educational standards have also been set as mandatory by the NSW Government in their new CAPI Licensing Act which requires a person issuing process or collecting debts or repossessing property to hold an investigative qualification if their duties extend beyond the actual attendance at a location to perform the specific task. If for instance, the subject has moved address and the agent conducts ANY enquiries to locate that person, the officer/agent is required to hold an Investigative qualification as well. In the case of a government officer this is the **Certificate IV in Government Investigations PSP41504** and in the case of a commercial operator it is the **Certificate III in Investigative Services CPP30607**. In the case of a commercial operator conducting these activities for Government, three (3) qualifications are now required, being FNS40110, CPP30607 and PSP41504 (and perhaps also the **Certificate IV in Government Fraud Control PSP40604** as well, for a government employee or a commercial agent, subject to the extent of the person's activities.)

7. Government Officers in **Investigative, Fraud Detection & Debt Collection and related mercantile activities** should also consider securing a Practising Certificate from the A.I.P.D., which is a leading representative body for these industries and the only body offering CPD and Practising Certificates to Investigation, Fraud, and Mercantile professionals and with portfolio endorsements recognising areas of professional competency. This is the same basis on which Government lawyers and legal officers are required to be qualified and a member of the relevant Law Society as well as meeting all CPD provisions set by the Society. Similarly the same process is now applied to government accountants and accounting contractors who are required to hold membership as a CPA or CA's and hold a Practising Certificate. The objective is ongoing improvement, compliance with OH&S Laws to meet industry standards and to promote integrity in professional standards. **PSP04 Public Sector (revised)**

The PSP99 Public Services Training Package was endorsed in November 1999. Subsequently, some sectors were added to the Training Package: Workplace Inspection, endorsed in February 2002; Customs, Parliamentary Clerks and Court Compliance, endorsed in September 2002. The review of the Training Package with two phases began in June 2002 and was completed in May 2004. Extensive consultation occurred with the involvement of appropriate representatives from industry, industry associations (employers and unions) and training organisations,

with numerous opportunities provided for input throughout the re-development process, to ensure that the revised Training Package reflects industry needs.

The Training Package title has been changed from the Public Services Training Package to the **Public Sector Training Package**.

The reviewed PSP04 Public Sector Training Package now has 57 qualifications:-

- 5 generalist qualifications ranging from Certificate II to Advanced Diploma;
- 51 specialist qualifications ranging from Certificate III to Advanced Diploma; and
- 1 imported qualification from the BSB01 Business Services Training Package.

All existing 121 units of competency have been revised. Due to the diverse coverage of the

Training Package, 318 units of competency have been imported from other endorsed Training

Packages and the introduction of 268 new units of competency.

The revised Public Sector Training Package was evaluated by ANTA and State and Territory

Training Authorities on **17 August 2004**.

**Once qualifications standards have been produced, and qualifications formally nationally recognised and supported by the industry representative bodies, government licensing standards, the Industry Code of Practice, government statutory bodies themselves providing industry regulations, government directives and OH&S law - it is not possible for any Agency to simply ignore these.**

Failure for Government Departments, Agencies and external contractors to meet industry

qualification and industry practice standards is a breach of OH&S law and could lead to civil liability claims, OH&S breaches, discrediting of evidence/reports presented before a Court if prepared by an unqualified person, even criminal prosecutions where lack of training was a key factor in a major loss, fatality or death.

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**Professional Standards**

**[www.aipd.com.au](http://www.aipd.com.au)**



**Independent Investigation Unit**

**Proposal**

**for**

**New South Wales Government**

**under**

**Premier's Department**

## Submission

### **To establish a truly independent medium to investigate matters within Government Authorities, Agencies and Corporations**

The issues are:

Pressing requirement to achieve substantially more transparency of Government and their accountability;

1. Such transparency and improved accountability was an electoral promise of the incoming NSW Liberal Government;
2. Public confidence in Government investigative processes (at all levels of government) has never been lower and all self-government investigative processes lack credibility in the eyes of the public and the commercial business sector. Such internal based investigations are not viewed as being 'independent'. In fact, the perception is that internal government investigations **always** result in 'cover-up' and corruption in order to protect the entity and selected individuals either within the entity, related ministerial office or even in related government entities.
3. Government entities cannot investigate themselves and market their investigative findings as being independent or credible. Police can no longer investigate Police, The Ombudsmen Office cannot investigate complaints or impropriety against themselves, WorkCover cannot investigate themselves, the RTA cannot investigate themselves, Health Department investigating themselves and so on., is no longer acceptable in the public view.
4. Not only is the current process of department/agency self-investigation unworkable, and unacceptable in the view of the community at large, many of the personnel conducting these internal investigations (particularly at a State and Local Government level) are not suitably qualified to conduct the investigations and do not meet the Australian Qualifications Framework (AQF), industry Code of Practice or OH&S law. This even extends to offices such as the Ombudsmen which is a body established with the sole and dedicated role to investigate. The irony with the Ombudsmen's Office is that it is even in the Ombudsmen legislation that the Ombudsmen's Act that he/she may choose whomever he/she believes is competent or suitable to conduct investigations and in fact ignore industry and government standards as well as OH&S law. The Act of 1974 is outdated and considerably predated the OH&S Act 2000 and regulations 2001 which requires personnel to be suitably trained, qualified and meet industry standards and Codes or Practice when carrying out employment duties;
5. All States have signed an agreement to adopt the AQTF Public Service Training Package - PS04. This includes Local Governments (**Training and Skills Recognition under the State Government Department** (See Annexure 'A' attached hereto), yet generally do not meet the qualification standards., notwithstanding that all Departments, Agencies etc., undertake investigations, fraud control and debt collection, all involving investigation skills. The standard of investigations is now paramount in order to achieve justice. Investigations can result in life changing circumstances for affected persons and every effort to ensure personnel conducting investigations are., 1/. suitably qualified., and 2/. unbiased, is paramount. Government do not meet their own set standards (AGIS and AGFCG) let alone private sector standards emanating from laws government themselves set. This includes but is not restricted to:- appropriate qualifications, general business standards, OH&S law, Risk management standards.



6. As direct analogy, Government would agree that a person could not be accepted to act as a Police Officer unless they held the appropriate training and qualifications (Attend Police Academy and secure the nationally accredited AQF *Certificate IV in Policing* and/or *Certificate IV in Public Safety*. Similarly then, why does Government allow internal government investigators to fail to meet the government and industry standards for investigations for non-criminal matters of investigation?

This cannot continue.

### **SOLUTION PROPOSAL**

The NSW Government consider adopting the unprecedented proactive solution of establishing a Qualified Investigation Unit to investigate on behalf of ALL Government Departments, Agencies and Corporations (including State & Local Government entities) as a matter of due process, under the instruction of the control and instruction of Premier's Department.

Such investigations would therefore be conducted at 'arms-length' from the relevant entity and allow for a premium independent assessment of complaints and issues. Findings may be referred for action by the premiers Department to other Authorities for action if so desired, e.g. ICAC, Police, Tribunals, Parliamentary Committee's, Royal Commissions etc.

Government at every level in Australia utilises the services of commercial investigators and this practice has been accepted for over 40 years. The concept is not new however for the specific purpose of investigating the government entities themselves, this requires a higher standard of personnel and framework.

### **Framework of Unit**

The Framework for the Independent Investigation Unit (I.I.U) procurement could be readily applied by simply adopting the **National Code of Practice for Investigators & Mercantile Agents of 2008**, ([www.ajpd.com.au](http://www.ajpd.com.au)) wherein **Certification for Investigators is required**. This provides assurance of compliance with all industry and government standards as to competency, Australian laws, portfolio expertise and experience, insurances. It also provides within it, a Dispute Resolution Scheme for clients and practitioners and all stakeholders.

Basic Assurances and advantages of utilising **Certified Investigators** includes:-

- Nationally Accredited Qualifications under AQF
- Qualifications meeting both Civil & Government Investigation Standards (Licensing, AGIS and Government Fraud Control Guidelines)
- OH&S legal compliance
- Specific Investigation Portfolio Accreditation
- Professional Indemnity and associated insurances provision
- True 'Arms-Length' independent investigations
- Transparency credibility for NSW Government
- Control capability against internal corruption of investigators and investigation process.
- Quality results achieved to improve performance and integrity of government entities

### **Additional**

Currently the Police administer the licensing of commercial investigators under the CAPI Act since 2005 which has proved to be a disaster. **Every State, (including NSW) that as held a Royal Commission into Police processes, activities and integrity has established that in all cases the Police were found to be corrupt.** This was further identified by the ICAC enquiry of 1990 when Commissioner Adrian Roden QC determined that the Police should

*never have any involvement with the Investigation industry. On these facts, Police should have no control*



*whatsoever of the commercial investigation industry which the previous Labor State Government inappropriately attached to the Security Industry since the commencement of the CAPI Act 2005. The Investigation and Commercial Agents industry was previously always a separate profession and has nothing to do with the Security Industry. A recent ICAC 2010 enquiry into the Security Industry found gross fraud in relation to the training scheme which the NSW Police oversaw and administered for licensing approval. In fact the RTO providers had to been screened by the Police Security Registry unit and therefore completely failed in their statutory duties.*



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## **BAD DEBTS**

**The figures for the Partnerships and the Companies were taken from the statistics tabled in Parliament from the ATO.**

Between the end of the financial year of 1997 and the year 2002 there were between 11,700 and 10,979 partnerships and they obviously had an accrual accounting system and they wrote off bad debts totaling \$864,637,280m. If we divide this figure by 6 we end up with approximately \$144,106,213 average write-off of bad debts per annum. If we then divide that by the average number of partnerships say 11,000 there would be write-off of approximately \$13,100 per partnership.

We now look at the bad debts in relation to companies and between the financial years ending 1997 and 2002 there were between 33,000 – 40,000 companies over that 6 year period wrote off approximately \$22,370,070,873. And in 2002 financial year bad debts of \$5,823,415,533 was written off. If we divide that by 40,000 we end up with an approximate figure of \$145,585 per company.

Both these partnerships and businesses worked on an accrual accounting system. In other words they paid the GST on their invoices and the following year if they didn't get paid they claimed back the bad debts and GST.

We now take from the information from the Australian Bureau of Statistics who indicated that there was approximately 1,233,200 small businesses, these small businesses work on what we call 'a cash accounting basis' and that means that they only pay tax and the GST on the monies that they collect.

If we take these small businesses, who employ up to 100 employees, and they are larger than the partnerships we could then say approximately that if each small business did not collect say \$20,000 in bad debts in any given year that would amount to about \$22 Billion per annum and over a 6 year period that would account for approximately \$132 Billion. That together with the 40,000 companies and that's the \$22 Billion, plus the \$860Million, written off by partnerships, we have a figure pretty much close to \$149 Billion over a 6 year period, of which company tax has not been collected nor has the GST.

It would appear that these figures are an escalating figure in relation to the 40,000 companies and any downturn in the business also means that the smaller businesses have an even larger uncollectable debts so the Federal Government is missing out on the company tax on the best part of \$149 Billion together with the \$15 Billion worth of GST.

It will be noted that these figures from 1997 for the 40,000 companies have gone from in 1997 \$1.79Billion, 1998 \$2.316Billion, 1999 \$3.369Billion, 2000 \$4.988,Billion, 2001 \$4,079Billion, 2002 \$5,823,Billion so the escalating figure will obviously accrue to huge amounts of money that the government is not collecting. It must be assumed that the small businesses will also not be able to collect an escalating amount of bad debts. We have the figures available that were extracted from Hansard.