



Inquiry into Commonwealth Procurement:

ANAO Report No. 1 (2016-17) - Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program

Joint Committee of Public Accounts and Audit
Airservices Australia Submission

November 2016

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1. Introduction

This submission seeks to provide the Committee with:

- An implementation status update on actions to address the Australian National Audit Office (ANAO) audit recommendations; and
- An overview of enhancements to procurement practices and cultural changes underway due to audit findings (but not specifically recommended in the audit).

2. Background

On 31 August 2016, the ANAO published its report into *Airservices procurement of the ICCPM to assist on the OneSKY Australia Program*. The report made six recommendations for improvement, all of which were accepted by Airservices:

- **Recommendation 1:** that Airservices Australia address systemic failures in the adherence to the organisation's procurement policies and procedures and the cultural underpinnings of those failures;
- **Recommendation 2:** that Airservices Australia improve the value for money it obtains from major and strategic procurement activities;
- **Recommendation 3:** that Airservices Australia improve its procurement framework by including enhanced guidance in relation to the different roles of probity advisors and auditors and the circumstances which would necessitate the need to engage an independent probity auditor;
- **Recommendation 4:** that Airservices Australia proactively manage probity in procurement activities;
- **Recommendation 5:** that Airservices Australia's governance arrangements address the requirement for having suitably skilled and qualified individuals employed in probity related roles; and
- **Recommendation 6:** that Airservices Australia enhance its procedures for managing probity in procurement processes.

In accepting the recommendations, Airservices has acknowledged that improvements can be made to its procurement framework, and the organisation's compliance with that framework, and we have implemented actions to address all of the recommendations. These improvements are discussed further in section three.

A number of other improvements, beyond those specifically identified to address the audit, have also been introduced, much of which is aligned to the current business transformation occurring within the organisation and are addressed in section four.

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3. Improvement actions to address ANAO recommendations

Airservices has accepted the six recommendations in the ANAO report and has implemented actions to address each of the recommendations in the report.

Improvement actions have broadly included: updating our procurement framework; implementing best practice program management principles (P3M); improved monitoring and oversight of project governance; and a range of contract management improvements.

A table detailing each of the recommendations and associated actions is provided in a table at [Attachment A](#).

An overview of the key improvement actions grouped into some key themes is set out below.

Adherence to procurement policies and procedures

Airservices has introduced a number of initiatives to improve adherence to our organisational procurement policies and procedures and create a cultural shift in the organisation's approach to procurement activities.

As a result of the ANAO audit, Airservices identified a practice of "authorised exemptions" for procurements ranging from \$50,000 to \$300,000. This exemption process provided, upon approval from the relevant financial delegate, an ability to sole source requirements for reasons of expediency where there was a demonstrated need (for example to meet regulatory or industry demands through a time of significant change).

Since the audit, we have focussed on changing the culture through enhancements to policies, procedures and compliance activities to establish a more effective and efficient procurement environment. This has included tailored communications and coaching for both senior management and those staff undertaking procurement activities to better explain the rationale behind the policies, describe the benefits of competitive procurement activities and to support the execution of defensible and transparent processes.

An education program aimed at reinforcing this change through improved commercial decision-making and outcomes has been developed and is being systemically rolled out across the organisation. The education program has commenced with the OneSKY program team completing the training in mid-October 2016.

An additional more comprehensive training package is being developed that will cover all aspects of the procurement lifecycle to drive both effective and efficient procurement processes. Training will include market approach strategy development, how to develop Statements of Work and how to undertake effective negotiations. These targeted training packages are being developed to build better organisational capability and will be delivered both through in-house capability and the engagement of specialist third party organisations over the course of the 2016-17 and beyond.

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Improved monitoring activities have been introduced including better oversight by Airservices Executive in relation to project delivery and governance, and improved procurement compliance reporting.

As an example, we are now conducting monthly assessments of completed procurement activities to identify potential 'non-compliant' procurement processes or the adoption of inappropriate sourcing strategies. Where non-compliant activities are identified, non-compliance notices will be issued detailing the findings and outlining remediation activities to be undertaken. Repeated instances of non-compliant activities may result in an individual's ability to undertake procurement activities being withdrawn until such time as remedial training is completed.

The required cultural shift that understands the benefits of competitive market approaches and sound commercial decision-making in respect to procurement activities is an ongoing body of work that will require continued focus. To supplement these activities, we have also tightened the procurement rules to require that any proposal to sole source a procurement over \$50,000 requires the approval of Airservices Chief Financial Officer.

Value for money improvements

Combined with the various communication and education programs to enhance organisational understanding of the benefits of sound procurement practices and to drive a shift in culture, Airservices has also reviewed its document suite. The procurement section of the Finance Manual which provides the requirements and guidance to staff has been amended to:

- better articulate the overarching principles for procurement in Airservices which includes the requirement for procurements to be undertaken in accordance with competitive market approaches;
- ensure processes adopted are robust and transparent and capable of withstanding scrutiny;
- better articulate the Value for Money (VFM) concept and reflect it as core of Airservices' procurement framework; and
- re-enforcing the benefits of competitive processes in achieving a VFM outcome.

Probity improvements

A number of probity related improvements have also been undertaken. Airservices governance documents have been reviewed and amended to:

- clearly articulate the different roles performed by both probity advisors and probity auditors;
- provide guidance on how to determine the need for a probity auditor and to document the decision appropriately; and
- include clearer guidance in relation to the active management of probity during procurement processes, including specific requirements for longer term procurements to update and review declarations on a regular basis.

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In addition to enhancing the governance frameworks and guidance documents, a probity advisor and auditor panel has been established to provide access to appropriately skilled and qualified probity experts. Details regarding the specific instances and considerations of when this panel is to be engaged have also been provided within the respective governance frameworks.

Airservices will regularly review and enhance its procurement processes to ensure they continue to meet the needs of a changing operating environment and address both new and existing risks.

4. Additional improvement actions

Development of an Assurance Strategy

Airservices has developed a procurement assurance framework, which outlines the key controls and assurance activities that are in place to enable achievement of the procurement objectives and to mitigate procurement activity risks.

It underpins the organisation's procurement governance framework to ensure that all procurement activity is being undertaken in an effective and compliant manner.

The principle aims of the assurance framework are to address the key risks and areas of concern that currently exist across the procurement activity within Airservices as highlighted through the recent ANAO report findings. This includes:

- Driving a cultural change across the organisation to give appropriate emphasis to competitive procurement processes;
- Ensuring there is a focus on the requirement to achieve a substantiated value for money outcome through the procurement process; and
- Pro-actively managing probity in procurement activities.

OneSKY Probity Audit

A probity audit of the OneSKY Australia Program commenced on 22 September 2016 and is being undertaken by O'Connor Marsden.

The principal purpose of the audit is to provide assurance that the probity processes and procedures of the program, as updated following the findings of the ANAO report, are being adhered to, as well as that appropriate action is being taken in regards to any relevant probity considerations arising within the program. The full findings of this audit will be provided to the Airservices Board following completion.

The terms of reference for the audit are at [Attachment B](#).

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Attachment A: Summary of Airservices improvement actions relevant to ANAO recommendations

Airservices has accepted the ANAO’s six recommendations for improvement to its procurement processes and has implemented the following actions:

ANAO recommendation	Airservices action
<p>1. The ANAO recommends that Airservices Australia address systemic failures in the adherence to the organisation’s procurement policies and the cultural underpinnings of those failures.</p>	<p>Airservices has implemented a number of initiatives to enhance the awareness of, and adherence to, the organisation’s procurement policies. These include:</p> <p>Awareness</p> <ul style="list-style-type: none"> • Targeted communications to senior managers clarifying responsibilities within the existing procurement frameworks, including the fundamentals of competitive sourcing and consideration of probity • All staff communications regarding the importance of compliance with the organisation’s procurement policies • A factsheet provided to staff as new procurement activities are raised focusing on probity considerations and the benefits of running competitive procurement processes. <p>Training</p> <ul style="list-style-type: none"> • An education program aimed at improving commercial decision-making and outcomes in the organisation has commenced. <p>Monitoring</p> <ul style="list-style-type: none"> • Improved monitoring and oversight by the Executive and Board in relation to project delivery and governance • Improved procurement compliance reporting • Audits into how contracts and projects are being managed • Adoption of best practice program management principles (P3M) in all projects which will improve project governance.

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<p>2. The ANAO recommends that Airservices Australia improve the value for money it obtains from major and strategic procurement activities by:</p> <ul style="list-style-type: none"> a) requiring that, except in genuinely rare circumstances, competitive procurement processes are to be employed; and b) on those rare occasions when competitive procurement processes have not been able to be employed: <ul style="list-style-type: none"> - documenting the reasons why a competitive approach was not employed; - benchmarking the quoted rates/fee and making records of the basis on which it was decided that the contracted rate/fee represented value for money; and - reporting any such instances to the Airservices Australia Board. 	<p>Airservices has updated its procurement processes to include clearer guidance on assessing value for money, the importance of competitive processes and record keeping requirements that are commensurate with the scale, scope and risk of the procurement.</p> <p>Reporting to executive management on procurement activities, profiles and trends has also been enhanced.</p>
<p>3. The ANAO recommends that Airservices Australia improve its procurement framework by including enhanced guidance in relation to:</p> <ul style="list-style-type: none"> a) the different roles performed by probity advisors and probity auditors; b) determining the circumstances in which the engagement of an independent probity auditor would be appropriate; and c) the manner in which such decisions are to be documented. 	<p>Airservices has updated its procurement processes to include clearer guidance in relation to the active management of probity during procurement processes, including:</p> <ul style="list-style-type: none"> - articulating the different roles performed by probity advisors and probity auditors - guidance on how to determine the need for a probity auditor and to document the decision appropriately <p>Airservices has established a panel of independent probity advisors and auditors which can be utilised across the business where required in the course of procurement activities.</p>
<p>4. ANAO recommends that Airservices Australia proactively manage probity in procurement activities by:</p> <ul style="list-style-type: none"> a) ensuring conflict of interest declarations are updated regularly or their ongoing currency confirmed; b) reviewing existing declarations when the role being performed by an individual changes; and 	<p>Airservices has updated its procurement processes to include clearer guidance in relation to the active management of probity during procurement processes, including specific requirements for longer term procurements to update and review declarations on a regular basis.</p>

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<p>c) regular review of program participants' reporting of contact with industry respondents in order to monitor compliance with reporting obligations.</p>	
<p>5. The ANAO recommends that Airservices Australia's governance arrangements address:</p> <p>a) whether individuals proposed to be employed in key probity management roles possess the understanding and capabilities required to undertake the role effectively; and</p> <p>b) the appropriate separation of duties between key probity management roles associated with a procurement activity.</p>	<p>Airservices has updated its procurement governance framework to clarify expectations regarding the various probity roles within a procurement. Furthermore, explicit guidance has been made in respect of the requirement to engage appropriately skilled and qualified professionals in key probity and procurement roles.</p> <p>To address any future capability and/or capacity gaps in the key roles of probity management, a panel of independent probity advisors and auditors is being established to provide ready access to suitably qualified and experienced professionals.</p>
<p>6. The ANAO recommends that Airservices Australia enhance its procedures for managing probity in procurement processes to require documented consideration of the potential for actual or perceived conflicts of interest to arise when engaging external contractors to participate in tender evaluations and contract negotiations and, where relevant, the management strategies that are to be applied.</p>	<p>Airservices has updated its procurement governance framework and guidance documentation to ensure a clear understanding that conflict of interest declarations are to be completed by all individuals, including external contractors, involved in the evaluation and subsequent negotiation activities for Airservices procurements. This also outlines the considerations to be made in the establishment and on-going management of any mitigation strategies for any identified conflicts of interest.</p>

Attachment B: Terms of Reference for OneSKY program Probity Audit

REVIEW: Conduct an independent review for the Airservices Chief Executive Officer of all policies and procedures relating to the probity and governance of the OneSKY Project (the Project).

The Review should assess whether the prescribed probity requirements have been adhered to and include an analysis of the following areas:

- a) the conflict of interests policy for the Project
- b) governance manuals, probity protocols and all related policies, procedures, manuals, instructions, registers and the like
- c) the confidentiality policy for the Project and all related procedures
- d) the procurement plans for the Project, including tender evaluation plan and reports together with the Request for Information and Detailed Request for Tender from a probity and governance perspective
- e) the procedures in place for the Project to ensure effective compliance with the policies and plans described at paragraphs (a) to (d) above
- f) engagement and conduct of negotiations with preferred Tenderer
- g) maintenance of documentation for all key evaluation and negotiation artefacts
- h) key control and governance group interactions (TEB and CRB)
- i) any other relevant policies or procedures in place to ensure the effective probity and governance of the Project.

The review will be a desktop review, with the potential for interviews with key personnel involved in the Project.

REPORT: Following the review, prepare a report directly to the Chief Executive Officer with findings in relation to:

- a) the application to the Project of policies and procedures in place for the Project's effective governance and probity
- b) the effectiveness of the policies and procedures in place for the probity of the Project
- c) adherence to the prescribed probity requirements
- d) the effectiveness of the procedures implemented by Airservices Australia to ensure compliance with the policies and procedures relevant to the probity and governance of the Project
- e) significant findings and recommendations and details of any major deviation from the approved process and the reason for those deviations
- f) whether the management of that conflict (actual, perceived or potential) was appropriate to ensure the best interests of Airservices were not compromised.