

monitor contractor performance. Payments to contractors during the contract negotiation period were not supported by Letters of Intent in all instances.

12. The department has substantially implemented the recommendations of Auditor-General Report No.16 2016–17 and JCPAA *Report 465: Commonwealth Procurement* by developing training programs to address skill and capability gaps and by implementing a wide range of procurement and contract management guidance and instructional material. The department has significantly improved its record keeping practices and has reported to the JCPAA on its implementation of the ANAO's recommendations.

Supporting findings

13. For Manus Island, the accountable authority of the department took action under paragraph 2.6 of the CPRs on the basis of human health and security to exempt the procurement process from the open competition requirements. The department was aware of 11 providers that could have potentially offered some or all elements of the required garrison support and welfare services but it did not document its reasons for requesting quotations from the three selected providers.

14. The department used paragraph 10.3 of the CPRs to conduct a limited tender for Nauru. However, the department had almost 18 months' notice in May 2016 of BRS' intention not to continue or extend its contract from October 2017. Whilst the Nauruan government imposed a new layer of decision making and approval processes over regional processing service delivery contracts in August 2017, it is not clear why the department could not have secured a replacement supplier using a more competitive procurement method over this period.

15. Risk management plans were established and largely implemented for all four procurements, but planning should have specifically addressed fraud and corruption risks in the given environments.

16. The department developed a probity management framework, but it was not effectively applied in all instances. Key declaration and acknowledgement forms were not completed by all applicable personnel.

17. The department demonstrated the achievement of value for money for the Nauru procurement. Costs under the most recent contract for services, and various scenarios based on population trends and service assumptions, were used to effectively benchmark tenderer costs. Negotiations resulted in the inclusion of additional services with a modified pricing impact.

18. The department did not demonstrate the achievement of value for money for the PNG procurements. Although the department had limited options for comparing tenderer costs, most of the benchmarks it used were not appropriate. Negotiations with NKW achieved significant savings, noting that the initial tendered costs had been assessed as not representing value for money. The effectiveness of negotiation for Paladin was unclear as savings achieved for some items were offset by increases to others, the addition of a mobilisation payment and the department's substantial expansion of the services required during the negotiation process.

19. The department's due diligence inquiries were limited to financial strength assessments of all four tenderers. The financial risk for each was assessed as moderate to high.

20. Once contract management plans and performance management frameworks were established, the four contractors met all associated reporting requirements in a timely manner. However, reporting requirements did not apply while contractors were operating under Letters of Intent. As a result, contractors were not required to submit performance reports for an average of more than eight months after they first began providing services.

21. The department established a largely fit-for-purpose framework for monitoring contractor performance reporting. Contractors completed self-assessments on a monthly basis against agreed performance metrics, which were then validated through a process of review against supporting evidence and third party data. For Nauru, the permanent presence of departmental officials enabled ongoing verification of performance, whilst for Manus Island, site visits were intended to occur monthly but did not occur in all instances. Reports to the delegate contained trend analysis and highlighted any emerging issues and corrective action required. Feedback was provided to each contractor on a monthly basis and included notification of any penalties to be applied for performance failures where applicable under the contract. The department was not able to provide any rationale as to why it did not establish abatement and PIN clauses consistently across the four contracts.

22. Payments to Canstruct and Paladin were made in accordance with the relevant Letters of Intent (LOIs), but the department did not enforce the conditions of payment for Canstruct. Not all payments to JDA were supported by an LOI or applicable agreement. Payments to NKW were made above the LOI approved limit. Other payments were made to NKW outside the LOI without a contract.

23. The department has undertaken a body of work aimed at addressing recommendations arising from the respective previous ANAO reports on procurement and contract management activities for the offshore processing centres. Specifically:

- there is a suite of procurement-focused training programs tailored to workplace requirements;
- a procurement-specific page on the department's intranet contains a wide range of guidance and instructional material; and
- evidence from the fieldwork conducted for this audit indicates the department has significantly improved its record keeping practices and that staff now use the TRIM electronic data and records management system.

24. The department complied with the recommendation of the Joint Committee of Public Accounts and Audit (JCPAA) by providing the JCPAA with a report in March 2018 on its implementation of the ANAO's recommendations.