



**Australian Government**  
**Department of Immigration  
and Border Protection**

# Inquiry into Commonwealth Procurement

Joint Committee of Public Accounts and Audit

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## Introduction

The mission of the Department of Immigration and Border Protection (the Department) is to protect Australia's border and manage the movement of people and goods across it. Fulfilling this mission involves working with a wide range of service delivery partners.

The Department remains committed to ensuring that its procurement practices are efficient, effective, economical and ethical.

As requested by the committee, this submission sets out the status of the actions being taken within the Department as a result of two Auditor-General reports: *Offshore Processing Centres in Nauru and Papua New Guinea: Procurement of Garrison Support and Welfare Services* and *Delivery of Health Services in Onshore Immigration Detention*.

## Portfolio Submission: Auditor-General Report No. 16 (2016-17) *Offshore Processing Centres in Nauru and Papua New Guinea: Procurement of Garrison Support and Welfare Services*

Regional processing of protection claims and settlement in third countries are critical elements of the Australian Government's response to illegal maritime arrivals, and are fundamental to demonstrating that people smugglers cannot offer a path to Australia. In doing this, regional processing ensures that those persons seeking asylum have their claims assessed. Those found to be in need of protection are able to access durable settlement options outside of Australia, while those without valid claims may seek assistance to return home.

In response to unprecedented numbers of illegal maritime arrivals and the tragic loss of hundreds of lives at sea, Australia established regional processing arrangements with the Independent State of Papua New Guinea (Papua New Guinea) and the Republic of Nauru (Nauru) in 2012. In late 2013, regional processing became a central pillar of Operation Sovereign Borders, which also included turning back people smuggling boats when safe to do so and reintroducing Temporary Protection visas. Over 800 days have passed since the last successful people smuggling venture to Australia. Each of these days is a testament to the continued effectiveness of Operation Sovereign Borders.

The Department supports the implementation of regional processing and settlement arrangements in Nauru and Papua New Guinea by, amongst other efforts, engaging service providers to deliver accommodation, welfare, health and other services to transferees and refugees. By necessity, these arrangements were established swiftly. They have then been continuously improved based on experience and external scrutiny on the level and quality and standard of services being provided within the RPCs.

The Department rejects the report's conclusion that the Department acted outside Government authority during the consolidation of contracts in 2013-14 and the open tender process from 2014 to 2016.

Expenditure on these services at Regional Processing Centres is consistent with the Department's overall policy authority under the policies of both Governments. Funding and appropriation levels for the implementation and ongoing delivery of the Government's policy have always been adjusted, in accordance with the Cabinet agreed processes, at the Commonwealth Budget updates over the period in question.

Since integration, the Department has applied significant effort to ensure robust procurement approaches are being applied to the procurement of garrison and welfare services on Nauru and Manus. This is particularly demonstrated by the Department's management of the request for amended tender process for garrison and welfare services at the RPCs.

The RFAT process was initiated in early 2016 because the Department could not satisfy itself that the final negotiated outcome with the preferred tenderer (Broadspectrum) represented value for money. The decision was made on the advice of a multi-disciplinary Steering Committee, which included representatives of the Departments of Finance and Defence, as well as an external probity advisor. The Department recognises the impacts this had on tenderers, however in this situation the purpose of the Steering Committee – to act as a primary control for this procurement process – operated effectively.

The strong oversight role of the Steering Group continued through the procurement process until the process was cancelled on 25 July 2016. Emphasis was placed on ensuring that the additional emphasis on ensuring that key documentation had been reviewed and supported by the relevant external advisers (commercial and financial, probity) and internal legal and procurement areas.

As part of preparing for the next approach to market, a management initiated review has been conducted in relation to the Department's preparedness to release documentation for market in relation to settlement services. A further review will be conducted prior to release of documentation related to garrison and welfare services. Documentation will continue to be reviewed by advisers, endorsed by the Steering Committee and approved by the Delegate prior to release to the market. The Steering Committee membership has been expanded to include the Chief Audit Executive as an observer. The Chief Finance Officer continues to be a standing member of the Committee.

The Department did acknowledge in its response to the ANAO report that its decision-making processes, particularly for the first two phases of the procurement, were not adequately documented, and agreed that two recommendations in the report would strengthen the capability of the Department to undertake efficient, effective and ethical procurement.

After assessing its procurement and contracting practices, the Department set out nine key actions that it would take to improve its contracting and procurement across the Department.

Current Status is as follows:

- A complete health check of the process and planning for current and planned procurement around garrison and welfare, health and settlement services is nearing completion, to ensure that these new procurements will meet the Commonwealth Procurement Rules.
- A wider contract diagnostic, assessing the completeness and appropriateness of the Department's management of its current contracts and procurement activities is nearing completion and will shortly be provided to the Chief Audit Executive shortly.
- A skills and competency framework has been developed that addresses the prerequisite requirements needed to effectively manage contracts. This includes the delivery of APSC procurement and contract management training to staff.
- A compliance check for all high risk procurements against Commonwealth Procurement Rules and Department Policy is being designed and will be instituted from mid-November 2016.
- An implementation plan for the whole of Department procurement reforms has been developed for agreement with the Department Executive in mid- November 2016. This reform focusses on

- Developing a portfolio-wide strategic procurement and contract management framework that set out consistent standards for contract management and procurement;
- Streamlining of procurement processes using technology to automate transactions (and record-keeping) wherever practicable;
- Upskilling and professionalising staff to expertly support high-value and complex procurement.
- The bulk of these actions will be completed by July 2017.

A table outlining the current status of actions against the action plan is at [Attachment A](#).

## Portfolio Submission: Auditor-General Report No. 13 (2016-17) *Delivery of Health Services in Onshore Immigration Detention*

Based on the insights provided in the report, the Department is finalising a risk based remediation plan over the next 6, 12 and 18 months. This plan focusses on introducing an annual risk-based program to provide quality assurance over the contract service delivery, improving the performance reporting framework and reviewing triaging and medication management policies and procedures.

The Department has also utilised the ANAO Report to benchmark the management of offshore contracts and assist in the development of a contract management framework for all detention related contracts onshore and in the regional processing centres.

| Action   | Initial Estimated Timeframe in ANAO Response | Lead Officer(s)   | Current Status  |
|--|--|---|---|
| <b><i>Immediate actions (until end October 2016)</i></b>   |  |   |   |
| <p><b>Immediately enhance processes for approving complex, high-risk procurements</b> through a system of assurance steps, including specific thresholds for high-risk procurements (to be developed in consultation with the CRO) and assistance for delegates making complex procurement decisions. The CFO and Chief Audit Executive will oversee and sign-off that each high-risk procurement has been undertaken appropriately prior to delegate approval. These enhancements will be embedded in the Procurement Reform Programme.</p> | <p>End September 2016</p>                    | <p>Chief Finance Officer<br/><br/>Chief Audit Executive</p> | <p>The Chief Audit Executive is conducting an assessment of all procurement underway and contracts in place to identify risk and complexity level. This will be completed by end October to enable compliance checks against Commonwealth Procurement Rules and Department Policy to commence from early November 2016.</p> <p>Procurement and Contracts branch is also developing a tool to guide the classification of procurement activities and to provide guidance of requirements. A draft tool is currently with stakeholders for comment.</p> |
| <p><b>Complete health check by internal audit</b> of the process and planning for current, planned procurement around garrison and welfare, health and settlement services.</p>  | <p>End September 2016</p>                    | <p>Chief Audit Executive<br/><br/>Chief Finance Officer</p> | <p>Internal Audit is finalising this health check which will be presented to the Chief Audit Executive by early November</p>  |
| <p><b>Review conflict of interest processes and declarations</b> for all procurements above a defined risk and value threshold (to be based on contract diagnostics undertaken by the Chief Audit Executive)</p>   | <p>End September 2016</p>                    | <p>Chief Audit Executive</p>                                | <p>All medium and high risk rated procurements will have a compliance check from Internal Audit on the conflict of interest files to ensure completeness, commencing mid-November.</p>  |
| <p><b>Enhance governance arrangements</b> for high risk procurements including mandating the use of steering committees with membership to include the Department's</p>  | <p>End October 2016</p>                      | <p>Chief Audit Executive</p>                                | <p>Membership and Terms of Reference for Steering Committees overseeing high risk procurements will be</p>  |

| Action  | Initial Estimated Timeframe in ANAO Response | Lead Officer(s)                              | Current Status   |
|---|--|--|--|
| <p>principal assurance areas; CFO, CAE and General Counsel.</p> <p>Under enhanced governance arrangements, steering committees will be tasked with considering issues including risk, probity, contestability, achievement of value for money, compliance and outcome delivery.</p>   |  | Chief Finance Officer                        | evaluated and amended, where needed, by end November.  |
| <p><b>Develop a simplified and enhanced risk assessment framework for procurements</b> to ensure that high risk procurements are appropriately managed and have the early involvement from risk, probity, contracting and legal experts.</p>  | End October 2016                             | Chief Risk Officer                           | As per action 1 above.   |
| <p><b>Strengthen the policy and guidance on the engagement of independent commercial, probity and contract management advisors in procurement.</b></p>  | End September 2016                           | Chief Finance Officer                        | A framework for engagement of advisors is currently being designed and will be finalised by mid-November.  |
| <b><i>Medium Term Reforms (October 2016 to December 2017)</i></b>   |  |  |  |
| <p><b>Implement the information management strategy</b> to ensure the right people can access the right information at the right time, to support informed, effective decision making. This strategy has a range of initiatives, which include:</p> <ul style="list-style-type: none"> <li>• implementing robust leadership and governance of information, underpinned by clear policies and standards.</li> <li>• Building information management capability, including tools and procedures that facilitate timely and reliable access to information across multiple systems</li> <li>• Building the capacity for sustainable information management by instilling appropriate disciplines in our people, processes and systems. This includes ensuring</li> </ul> | Progressively to June 2017                   | First Assistant Secretary Corporate Services | A status review/health check on the Information Management strategy will be undertaken by the Chief Audit Executive in January 2017 to ensure that it is on-track to meet its intended outcomes. |

| Action  | Initial Estimated Timeframe in ANAO Response | Lead Officer(s)              | Current Status  |
|---|--|------------------------------|---|
| <p>that information is created, stored and used in accordance with legislation.</p>   |  |                              |   |
| <p><b>Whole-of-Department Procurement and Contract Management Reform.</b> Fast track the inflight reform program to encompass all procurement and contract management functions across the Department.</p> <p>This work will include improved guidance, education and training as well as longer term system improvements. Capability uplift will be ensured across the Department generally, with particular focus on areas undertaking high risk procurement and contract management through implementation of an enhanced Skills and Competency framework that addresses the prerequisite requirements needed to effectively conduct procurement and manage contracts.</p> <p>Improved contract management will build upon the contract management framework that is being developed in the Detention Services Division. The framework has been developed using the <i>ANAO Better Practice Guide</i>, guidance from the Chartered Institute of Procurement and Supply and other leading best practice guidance.</p> | <p>June 2017</p>                             | <p>Chief Finance Officer</p> | <p>The Department is currently designing procurement reform work which will focus on three main areas:</p> <ul style="list-style-type: none"> <li>• a portfolio-wide strategic procurement and contract management framework;</li> <li>• streamlining of procurement processes using technology to automate transactions wherever practicable; and</li> <li>• upskilling and professionalising staff.</li> </ul> <p>The majority of tasks to be completed by July 2017 with automation to take place in 2017-18 subject to funding.</p> |
| <p><b>Increase coverage within the Department’s Strategic Assurance Programme for 2016/17.</b></p> <p>The Department’s assurance programme for 2016/17 will have a specific focus on procurement and contract</p>   | <p>Throughout 2016/17</p>                    | <p>Chief Audit Executive</p> | <p>The Secretary has approved the Department’s 2016-17 Strategic Assurance Program.</p> <p>The Contract Diagnostic is being finalised and will be considered by both the Chief Finance Officer and Chief Audit</p>  |



| Action   | Initial Estimated Timeframe in ANAO Response | Lead Officer(s)                   | Current Status   |
|--|--|-----------------------------------|--|
| <p>management. This will include a contract diagnostic internal audit which will assess the appropriateness of the Department's management of its contracts for completeness and validation.</p>   |  |                                   | <p>Executive by mid-November.</p>  |
| <p><b>Enhance accountability of the Department's procurement and contract management risk through the enterprise risk process.</b><br/>Procurement and contracting has been identified as one of the Department's 11 enterprise risks.</p> <p>Under the risk management framework, Deputy Secretary Corporate (Band 3) will oversee the management of this risk. The level of risk and the need for any further improvements will be discussed at the Department's risk committee.</p> | <p>Ongoing</p>                               | <p>Deputy Secretary Corporate</p> | <p>The enterprise risk profile/assessment has been finalised and Chief Operating Officer will receive regular updates on risk assessments being completed.</p> |