Australian Government
Department of Home Affairs

Department of Home Affairs Submission: Inquiry into Offshore Processing and Resettlement Arrangements

Legal and Constitutional Affairs References Committee

13 February 2026

Table of Contents

1. Introduction

The Department of Home Affairs (the Department) welcomes the opportunity to make a submission to the Legal and Constitutional Affairs References Committee's inquiry into offshore processing and resettlement arrangements.

Australia has a long and proud tradition of migration. Migration has shaped the multicultural composition of today's Australian society and has driven prosperity and rich cultural underpinnings.

The Australian Government is committed to maintaining a migration system that is robust, effective and in the national interest. Maintaining an orderly migration program that continues to deliver economic and social outcomes for Australia requires a continued focus to counter irregular migration, working to prevent circumstances where individuals are subject to exploitative and dangerous attempts to enter Australia outside of regular migration pathways. It additionally requires the ability for Australia to have effective strategies to encourage or require the departure of non-citizens who are ineligible for a visa, have exhausted all migration pathways to remain in Australia, or who have no lawful basis to remain in Australia.

1.1 Regional Processing

It is a longstanding Australian Government policy that people who attempt to travel to Australia irregularly by sea will not settle in Australia. This approach has been instrumental in reducing dangerous irregular maritime ventures to Australia, deterring people smuggling operations and preventing loss of life at sea.

Regional processing arrangements implement Australian Government policy relating to unauthorised maritime arrivals (UMAs) as a key pillar of Operation Sovereign Borders (OSB). Under this approach, any non-citizen who attempts to travel to Australia by sea without a valid visa will be turned back, returned to their home country or a country to which they have a right of entry, or under section 198AD of the *Migration Act 1958*, be transferred to a regional processing country for assessment of any protection claim they may make. Section 5 of the *Migration Act 1958* provides that UMAs who are taken to a regional processing country under section 198AD of the Act also acquire the status of a 'transitory person'.

- In accordance with the Migration (Regional Processing Country—Republic of Nauru) Designation (LIN 23/017) 2023, Australia has designated the Republic of Nauru as a regional processing country.
- Australia entered into the current Memorandum of Understanding (MoU) with the Government of Nauru (*Memorandum of Understanding between the Republic of Nauru and Australia on the Enduring Regional Processing Capability in Republic of Nauru*) (Nauru Regional Processing MoU) for an enduring regional processing capability in Nauru on 20 October 2021. The current MoU follows on from the MoU established in 2012 (*Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru*). A core aspect of the enduring capability is the responsibility of the Government of Nauru to facilitate any protection claims that a transitory person might make.
- Australia's regional processing arrangement with Papua New Guinea ended on 31 December 2021. On 1 January 2022, the Government of Papua New Guinea assumed full and independent management of individuals remaining in Papua New Guinea. Papua New Guinea provides individuals with a permanent settlement pathway or allows ongoing residency while third country migration outcomes are pursued. Australia entered into a bilateral arrangement with Papua New Guinea in December 2021 to support the initial transition to Papua New Guinea's independent management and resolution of the residual caseload. Further support was agreed in July 2024 and a variation to the bilateral arrangement was executed in August 2024. This additional support is assisting Papua New Guinea to deliver a sustainable settlement framework and is focused on building independence, as well as supporting individuals to achieve permanent migration outcomes. Details of the funding arrangement remain confidential as agreed to between the Governments of Australia and Papua New Guinea.

1.2 Resettlement

Since July 2013, third country resettlement options have been provided to transitory persons under regional processing arrangements. This position reinforces Australia's policy that transitory persons do not have a settlement pathway in Australia.

Transitory persons may be transferred to Australia for a temporary purpose and continue to be supported to engage in third country migration options and depart. Third country resettlement provides a permanent migration pathway not available in Australia.

Third country resettlement processes vary, depending on the third country, but are voluntary with transitory persons having the option to engage in these arrangements. Resettlement approval sits exclusively with resettlement countries under their respective refugee program priorities and parameters. The Department provides various pre-departure assistance to transitory persons to assist them connect with and remain engaged in resettlement options and aid their departure.

Resettlement arrangements with the United States and New Zealand remain active, with the United Nations High Commissioner for Refugees (UNHCR) facilitating referrals for transitory persons who wish to engage in resettlement to New Zealand. Additionally, many transitory persons have sought resettlement outcomes independently, including to Canada. Furthermore, the Regional Resettlement Arrangement (RRA) with Papua New Guinea ceased in December 2021. This arrangement allowed for the permanent settlement in Papua New Guinea of individuals under regional processing arrangements.

1.3 Third Country Reception Arrangements

Third Country Reception Arrangements (TCRA) are separate to, and distinct from, regional processing arrangements. TCRAs are enabled by section 198AHB of the *Migration Act 1958*, which came into effect on 5 December 2024. This provision provides a lawful basis for Australia to enter into arrangements with a third country for the acceptance, receipt or ongoing presence of persons who are not citizens of that country. Australia currently has a TCRA arrangement with the Government of Nauru.

2. Regional processing since 2022

2.1 Legislative basis

Subdivision B of Division 8 of the *Migration Act 1958* provides the legislative underpinning for Australia's regional processing arrangements, including the designation of regional processing countries, and the taking of UMAs to a regional processing country. This legislation was introduced via the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012.* Since 2022, regional processing arrangements have exclusively been in place with the Republic of Nauru.

The Nauru Regional Processing MoU recognises the sovereign status of the Government of Nauru and its laws to regulate and implement regional processing arrangements. Upon arrival in Nauru, the Government of Nauru has responsibility for transitory persons and has effective control. This includes responsibility for the determination of the protection status of transitory persons.

2.2 Enduring Capability

The Nauru Regional Processing MoU, and its subsidiary arrangements, are non-binding, less than treaty status arrangements. Through the Nauru Regional Processing MoU, the Australian Government has committed to the ongoing viability of regional processing, supporting the uplift of the Government of Nauru's sovereign regional processing capabilities to administer scalable, transparent and accountable operations.

The Australian Government has reaffirmed its commitment to an enduring regional processing capability with the Government of Nauru through the recent execution of a multi-year Funding Arrangement under the Nauru Regional Processing MoU. The details of this arrangement are confidential between Australia and Nauru and are not publicly available.

A range of subsidiary arrangements have been established to guide aspects of the regional processing relationship, including operational and administrative arrangements. These agreements are bilaterally negotiated between the Department and the Government of Nauru, with regular reviews of the arrangements undertaken once implemented.

The Government of Nauru is responsible for the implementation of regional processing arrangements in Nauru, including the management of individuals under those arrangements. The Australian Government supports the Government of Nauru to implement these arrangements.

When transitory persons arrive in Nauru, they undergo a reception and quarantine period at the Regional Processing Centre (RPC) in accordance with Nauruan health requirements. As at 31 December 2025, the median duration of stay for a transitory person, who arrived from September 2023 onwards, undergoing the reception and quarantine process in the RPC was 91 days.

Upon receiving health clearance and satisfying Nauru's immigration requirements, transitory persons are transferred by the Government of Nauru to accommodation within the community, where they have full freedom of movement. During their time in Nauru, transitory persons may engage in the Refugee Status Determination process or request assisted voluntary return process.

During the rapid health induction upon arrival at the RPC, transitory persons are provided with a mobile phone, enabling them to independently make telephone calls, which may include contacting or seeking legal representation. Transitory persons also have access to broader telecommunication services on request. When a transitory person enters the community, they take all their personal belongings with them, including any mobile phones they originally owned. Any mobile phone issued while in the RPC is returned to the service provider when the transitory person moves to community accommodation or departs Nauru from the RPC.

The Enduring Capability operating model framework incorporates agreed levels of readiness for regional processing, with the regional processing capability managed via an agreed set of processes and procedures with the Government of Nauru and contracted service providers.

The Department undertakes ongoing bilateral engagement with the Government of Nauru at both the operational and senior officials level, typically meeting monthly to address operational matters. On the ground monitoring and support in Nauru is undertaken by deployed departmental officers.

2.2.1 Support to transitory persons

While in the RPC, the Government of Nauru provides transitory persons with single room accommodation, a pack containing essential clothing and hygiene items, culturally appropriate meals, access to common room facilities that include internet and telephones, and access to incidental items such writing materials, additional personal care products, non-essential clothing items, and hobby items.

In the community, the Government of Nauru provides transitory persons with accommodation and supports. To support the Government of Nauru's management, the Department additionally provides a fortnightly support payment to transitory persons living in the community in Nauru to assist with the purchasing of basic necessities. The payment is administered by Management and Training Corporation Australia (MTC Australia) on the Department's behalf. The level of payment is determined based on the local cost of living and is designed to promote self-sufficiency while the transitory persons are living in the community. The Department continues to monitor and review income support payments to ensure transitory persons have sufficient income to meet basic living needs in Nauru while they either make arrangements to voluntarily depart, undergo the Refugee Status Determination process, await third country resettlement, or are removed. Individuals who have received a positive Refugee Status Determination have the right to work and are provided with information on how to seek employment.

Australian law firm International Crossover Pty Ltd (International Crossover) is contracted by the Department to support the Government of Nauru by providing support to transitory persons to prepare protection claims and engagement with durable migration outcomes. Transitory persons receive information, support, legal advice and counselling when they seek to access assisted voluntary return, resettlement or both pathways.

Complaints management processes are in place and administered by the Government of Nauru. Regional processing transitory persons in the community can raise complaints through their case manager with Nauru's contracted service provider (currently Eigigu Solutions Corporation) for regional processing or directly to the Government of Nauru. When in the reception facility, transitory persons can lodge written complaints or verbally through their welfare case manager.

2.2.2 Health care

Transitory persons in Nauru have access to health and welfare services including support to engage with migration process. Clinical assessment and treatment are provided by a multi-disciplinary team of health practitioners, including general practitioners and nurses.

International Health and Medical Services (IHMS) is contracted by the Department on behalf of Nauru to deliver health services, including torture and trauma counselling, through a multi-disciplinary team at the RPC Medical Centre and in conjunction with the Republic of Nauru Hospital. Specialist health services include psychology, psychiatry, dentistry, obstetrics, pathology, radiology, and pharmaceutical.

Where there is a clinically indicated need for specialist medical treatment that is not available in Nauru, mechanisms are in place for treatment to be provided elsewhere. These services may be supplemented by visiting healthcare practitioners or clinically indicated medical treatment in another country.

Section 198B of the *Migration Act 1958* allows for the transfer of transitory persons to Australia on a case-by case basis for medical purposes. Case-by-case arrangements are also in place with Taiwan to provide non-urgent medical treatment to transitory persons in Nauru.

Transfer decisions are guided by medical professionals in consultation with Departmental delegates. The Government of Nauru also administers a complementary process to review and approve medical transfers.

The process for urgent medical transfers requires the Nauruan Public Health Department to be notified of these occurrences. The process for non-urgent transfers involves the Department's health services provider's medical professionals making a clinical recommendation for an overseas medical referral to the Government of Nauru, whereby an established Nauruan committee considers the recommendation.

Following completion of medical treatment in Australia, and certification of the transitory person's fitness to travel, return to Nauru is facilitated as soon as practicable, in accordance with airline requirements and in consultation with Nauru.

2.3 Pathways

A central element of regional processing is that it allows for the processing of asylum claims, with a range of possible outcomes for individuals who enter regional processing.

- Voluntarily return to a home country or to a third country where a transitory person has a right to reside,
- Resettlement in a third country subject to a positive Refugee Status Determination outcome, conducted by a regional processing country.
    - Since September 2023 and as at 31 December 2025, approximately 43% of transitory persons located in Nauru had not sought to engage in the Refugee Status Determination process.
- Involuntary removal to home country or to a third country where a transitory person has a right to reside, where that is consistent with *non-refoulement* obligations.
    - Nauru is a signatory to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* and acts in accordance with its international obligations under those documents, including in relation to *non-refoulement*.

2.3.1 Assisted voluntary returns

Australia supports the Government of Nauru to make return services available to any transitory person who decides to return home voluntarily. Voluntary return is a legitimate migration option, including for refugees, as acknowledged in the UNHCR Voluntary Repatriation Handbook, and is an international practice.

A transitory person in Nauru who seeks voluntary return to their country of origin is supported to do so. This service provides information, support, legal advice, counselling, and assisted voluntary return. The Australian Government supports the Government of Nauru with assisted voluntary returns through offering financial assistance to support reintegration in a person's home country. Financial assistance is scalable, determined on a case-by-case basis, and available only where consistent with international legal obligations including *non-refoulement* obligations.

2.3.2 The Refugee Status Determination process

Assessment of protection claims made by transitory persons is the responsibility of the Government of Nauru under Nauruan domestic legislation. Where a transitory person seeks asylum, that application is assessed by the Government of Nauru. Australia, through contracted claims assistance providers, assists the Government of Nauru.

2.3.3 Resettlement arrangements

Third country resettlement provides opportunity for transitory persons to achieve permanent migration and start the next phase of their lives. Third country resettlement has been the primary driver of population outflow from the transitory person caseload and as at 31 December 2025, 1,559 transitory persons had successfully departed and resettled in third countries.

The Australian Government continues to actively seek viable third country resettlement options for transitory persons, both those temporarily in Australia and those in Nauru.

- In March 2022, Australia and New Zealand announced a resettlement arrangement providing resettlement opportunities in New Zealand for up to 450 refugees under regional processing arrangements over three years. As of 31 December 2025, 336 individuals had resettled in New Zealand.
- In 2016, Australia and the United States agreed a resettlement arrangement that provided resettlement opportunities in the United States for up to 1,250 refugees under regional processing arrangements.

The United States' Executive Order *Realigning the United States Refugee Admissions Program* (USRAP), issued by President Trump on 20 January 2025, paused the USRAP. As of 31 December 2025, 1,115 individuals have resettled in the United States.

- Many transitory persons have sought resettlement outcomes independently, including to Canada. Australia does not have a bilateral resettlement arrangement with the Canadian Government; however, through private sponsorship, refugees under regional processing arrangements have been resettled in Canada through the Private Sponsorship of Refugees (PSR) program. This pathway is no longer open to new applicants.

3. Regional processing contracts

Australia supports the Government of Nauru to implement regional processing arrangements through contracting specialist services, including health, welfare and garrison services, and meeting all regional processing costs. This occurs within the context of Nauruan legislation enacted in 2017, the *Nauru (RPC) Corporation Act 2017*, which authorises the Nauru (RPC) Corporation to administer, manage and facilitate all commercial operations to the RPC and settlements in Nauru. Under this Act, services delivered relating to regional processing must be authorised by Nauruan Cabinet and endorsed by the Nauruan Secretary for Multicultural Affairs. Additionally, the service provider is required to engage 'local subcontractors where such services can be provided within the Republic'. The *Nauru (RPC) Corporation Act* does not apply to the provision of health services.

There are three contracted services that support the Government of Nauru to implement regional processing arrangements and to manage transitory persons in Nauru under the MoU.

MTC Australia delivers facilities, garrison, transferee arrivals and reception services at the RPC, while health services are provided by IHMS. These service providers, contracted by the Department to support the Government of Nauru, work closely with the Government of Nauru's appointed Operation Manager, who holds overall oversight of the centre's operations. International Crossover provides protection claims assistance to transitory persons.

The following arrangements have been in place since 2022:

Provision of Facilities, Garrison, Transferee Arrivals and Reception Services	Provision of Health Services	Provision of Claims Assistance Services
Contract held by Management and Training Corporation Pty Ltd (MTC) (held 29/09/2022 to present) From January 2022 to September 2022, Canstruct International Pty Ltd held a garrison and welfare contract with the Department (held 28 September 2017 to 30 September 2022)	Contract held by International Health and Medical Services Pty Ltd (IHMS) (held 11 September 2012 to 12 August 2022, and then 13 August 2022 to present)	Contract held by International Crossover Pty Ltd (International Crossover) (held 17 October 2025 to present) From January 2022 to September 2025, the contract was held by Craddock Murray Neumann (held 12 March 2013 to 30 September 2025)

3.1 Contractual arrangements and contracts timeline

The following table details key contracts the Department has held with service providers since 2022 to deliver regional processing arrangements. Prior to 2022, the Department has held further contracts with various service providers to deliver services in relation to regional processing.

Contractor	Services provided	AusTender contract value (GST inclusive)	AusTender Contract Notice number/s	Contract dates
MTC Australia Ltd	Provision of Nauru Facilities, Garrison, Transferee Arrivals and Reception Services	$786,545,654.20	CN3914125 CN3918654	29/09/2022 to 30/09/2027

Contractor	Services provided	AusTender contract value (GST inclusive)	AusTender Contract Notice number/s	Contract dates
Canstruct International Pty Ltd	Provision of garrison and welfare services	$1,816,700,588.93	CN3460561	28/09/2017 to 30/09/2022
International Health and Medical Services (IHMS)	Provision of Health Services to Transferees in Nauru	$94,353,530.77	CN3913553	13/08/2022 to 12/08/2027
International Health and Medical Services (IHMS)	Provision of Health Services in Nauru and Papua New Guinea *Note that the Manus Island component of the contract ceased on 30 April 2018*	$507,425,831.91	CN1601581	11/09/2012 to 12/08/2022
International Crossover	Protection Claims Assistance Services	$14,877,224.11	CN4201651	17/10/2025 to 17/10/2028
Craddock Murray Newman	Protection Claims Assistance Service	$31,163,038.58	CN2219601	12/03/2013 to 30/09/2025

3.2 Provision of Facilities, Garrison, Transferee Arrivals and Reception Services Contract

3.2.1 Overview

Since 2022, MTC Australia has been responsible for providing services at required levels of delivery based on the transferee population, and in a manner that is consistent with Nauruan legislative and regulatory requirements while preserving individual human rights, dignity and the well-being of transitory persons, Service Provider Personnel, Department Personnel, Other Service Provider Personnel, and Visitors.

Earlier in 2022, Canstruct International Pty Ltd was responsible for the delivery of garrison and welfare services in Nauru (from 28 September 2017 to 30 September 2022).

In accordance with the *Nauru (RPC) Corporation Act 2017,* regional processing contracts include provisions requiring contractors to maximise engagement of local services and suppliers where possible, which is achieved through both subcontracting and supplier arrangements for the provision of non-complex goods and services. This approach aligns with capacity building efforts in regional processing countries, returning revenue to the local economy and reducing the overall regional processing service delivery costs. MTC Australia remains ultimately responsible for the delivery of all services under the contract, including subcontracted goods and services, and retains all liability and obligations under the contracts.

Contract management processes have improved over time. Contracts are governed by a robust, evidence-based performance management framework, including defined key performance indicators and reporting requirements, monthly assessment, regular engagement with service providers, performance audits and site monitoring, and documentation scrutiny, as well as an abatement regime, to assure compliance with contract conditions and deliverables.

Following a review of integrity concerns and governance arrangements for the management of regional processing administration by the Department (the Richardson Review), the Department has implemented key measures to strengthen integrity, risk management and collaboration in regional processing arrangements. The Department performs regular, ongoing due diligence activities as part of contract and performance

management processes over the head contract that verify MTC Australia's ongoing financial viability, that appropriate insurances and mandatory certifications are held, as well as monitoring contract compliance to detect any potential fraud and corruption risks.

3.2.2 Contract management and performance

MTC Australia's performance is driven through ongoing contract compliance and monitoring activities, and specifically through the Performance Management Framework (PMF) that describes the performance goals, the Key Performance Measures (KPMs) expected of MTC Australia, and the performance assessment process.

The PMF assists each party to track their performance against the key elements of the Statement of Work, provides visibility over risks, and identifies opportunities to support continuous improvement in the delivery of the Contract.

To support the operation of the PMF, the service provider prepares a Monthly Performance Report. The report is based on an assessment of performance from the previous month of specific performance measures derived from 17 KPMs. The Department quality assures and supplements MTC Australia's reports and supporting evidence through the governance arrangements detailed in the Contract and notifies MTC Australia whether it accepts or disputes the content of the Monthly Performance Reports. As part of this process, detailed assessments are undertaken against each of the KPMs and, where applicable, quality failures are identified.

A failure by MTC Australia to meet the agreed KPMs will result in the application of abatements and may result in a reduction of the service fee payable by the Department for the services delivered under the contract.

Any failures that are identified during each reporting month require an Action Plan submitted by MTC Australia 10 business days after being notified of the final monthly outcome. For relevant performance measures, key performance indicators are outlined in the contract and detailed assessments are undertaken, and any identified performance or quality failures are recorded. The contract includes provisions to manage under-performance, including risk mitigation requirements (such as critical incident management), escalation pathways, and formal Performance Improvement or Action Plans.

In addition to contract-level performance monitoring, the Department aggregates and reports service delivery outcomes against its broader corporate and portfolio performance targets. This provides an additional layer of assurance and oversight of MTC Australia's performance. Where systemic or recurring issues are identified, these are addressed through governance forums and continuous improvement activities to ensure sustained compliance and service quality.

The payment of invoices for services delivered under the contract is also subject to a comprehensive substantiation and verification process. This process includes reviewing and verifying the invoice and supporting documentation provided by the contractor aligns with and satisfies all contractual requirements, seeking endorsement and confirmation of service delivery ensuring that appropriate delegate has approved the invoice prior to payment. It also includes keeping the invoice, substantiation, and verification documents on appropriate Commonwealth record systems.

In the case of local subcontractors and local suppliers with whom the Department does not have a direct contractual relationship, MTC Australia must submit all supporting evidence of pass-through costs associated with the subcontractor or relevant supplier of the goods and services. All supporting evidence is verified against the invoice for accuracy and alignment. Once verified and the invoice has been approved by the appropriate departmental delegate, payment is made to the MTC Australia only. MTC Australia is responsible for paying its subcontractors and suppliers. The Department does not make any payments to subcontractors or other suppliers.

In performing its obligations under the contract, MTC Australia must comply with all applicable Nauruan and Australian laws. Where requirements differ, the highest standard must be applied. Additionally, MTC Australia is required to adopt relevant best practices, including applicable Departmental, Commonwealth, and industry standards and guidelines.

3.3 Health Services Contract

3.3.1 Overview

From 11 September 2012 to 12 August 2022, the Department contracted IHMS to provide health services to transitory persons in Nauru. Under the Regional Processing Countries Health Services Contract, transitory persons have accessed primary healthcare and mental health services, delivered through the RPC medical centre and the Republic of Nauru Hospital.

Following an open tender procurement process (*HOMEAFFAIRS/2049/NTC)*, a new contract with IHMS for enduring capability health services commenced on 13 August 2022, providing ongoing health services for transitory persons in Nauru, including any new arrivals.

Under the contract, clinical assessment and treatment is provided by a multi-disciplinary team of health practitioners, including general practitioners, nurses and counselling specialists. Specialist health services provided for under the contract include psychology, psychiatry, dentistry, obstetrics, radiography and pharmaceutical services. Where clinically indicated specialist medical treatment is not available in Nauru, mechanisms are in place for temporary transfer to a third country, including Australia, for assessment and treatment.

The contract specifies the scope of services, performance expectations, and compliance requirements. It includes provisions for clinical governance, reporting, and escalation processes to safeguard health outcomes. Key milestones include the commencement of services, periodic reviews, and amendments to reflect evolving operational needs.

The contract is a critical component of the regional processing framework, ensuring that individuals subject to these arrangements have access to appropriate and timely health care. The contract establishes obligations for the delivery of health services. These include primary care, mental health support, emergency response, and specialist referrals.

3.3.2 Contract management and performance

IHMS's performance is monitored through ongoing contract compliance and assurance activities, supported by a structured Performance Management Framework (framework) established under the contract. This framework defines performance objectives, KPMs and reporting requirements, and supports the assessment of service delivery against the Statement of Work.

Performance monitoring focuses on indicators relevant to the delivery of safe, effective and timely health care, including (but not limited to) timeliness of care, clinical quality and outcomes. The framework provides visibility over clinical and contractual risks and supports continuous improvement in health service delivery.

To support this framework, IHMS is required to submit Monthly Performance Reports detailing service delivery metrics, clinical activity and outcomes, incident reports, and performance management activities. The Department reviews, quality assures and, where necessary, seeks clarification or further evidence in relation to the reports, and formally notifies the provider of acceptance or dispute of reported outcomes through established governance mechanisms.

Any failures that are identified during each reporting month require an Action Plan submitted by IHMS 10 business days after being notified of the final monthly outcome. For relevant performance measures, key performance indicators are outlined in the contract and detailed assessments are undertaken, and any identified performance or quality failures are recorded. The contract includes provisions to manage under-performance, including risk mitigation requirements (such as critical incident management), escalation pathways, and formal Performance Improvement or Action Plans.

Where a failure to meet agreed performance requirements is identified, IHMS is required to submit an Action Plan within the specified contractual timeframe. Action Plans must outline the relevant KPI or obligation, the cause of the performance issue, corrective and preventive actions, and implementation timeframes. The Department reviews and approves Action Plans and monitors implementation until it is satisfied that the actions have been implemented and performance has been remediated.

In addition to contract-level performance monitoring, the Department aggregates and reports health service delivery outcomes against its broader corporate and portfolio performance targets. This provides an additional layer of assurance and oversight of IHMS's performance. Where systemic or recurring issues are identified, these are addressed through governance forums and continuous improvement activities to ensure sustained compliance and service quality.

In practice, IHMS applies clinical policies and procedures adapted to the Nauruan setting, considering resource availability, infrastructure in place, and local legislation. These policies and procedures aim to align, where feasible, with standards comparable to those applied in Australia. The contract also includes a safeguard requiring compliance with whichever is the higher standard where Australian laws, Nauruan laws, or policies impose different requirements.

Health services delivered in Nauru therefore operate within a framework that prioritises legal compliance and best practice. The Department monitors compliance through contractual reporting and performance oversight, including on site observation assurance activities and focusing on safety, quality, and risk management. The Department's Clinical Assurance Team conducts regular reviews of IHMS medical records maintained for transferee's health care.

3.4 Claims Assistance Provider Scheme Arrangements Contract

3.4.1 Overview

Following an open tender procurement process, an agreement with International Crossover for legal services was signed on 21 August 2025. The Deed of Agreement in relation to a protection claims assistance service to persons transferred to a regional processing country (the Agreement) requires International Crossover to provide claims assistance to transitory persons in regional processing countries.

From 12 March 2013 to 30 September 2025, Australian law firm Craddock Murray Neumann Lawyers was engaged to deliver legal services to assist transitory persons to prepare and lodge protection claims.

Governance and oversight of the Agreement is maintained through the implementation, review and management of performance monitoring mechanisms and processes, as detailed in the Agreement.

3.4.2 Contract management and performance

The Agreement with International Crossover requires compliance with Nauruan laws and regulations, including those governing the lawful provision of legal services and advice.

For relevant performance measures, key performance indicators are outlined in the contract and detailed assessments are undertaken, any identified performance or quality failures are recorded. The contract includes provisions to manage under-performance, including risk mitigation requirements, escalation pathways, and formal Performance Improvement Plan.

Where a failure to meet agreed performance requirements is identified, the Claims Assistance Service Provider is required to submit a Performance Improvement Plan within agreed timeframes. Performance Improvement Plans must outline the relevant KPM or obligation, the cause of the performance issue, corrective and preventive actions, and implementation timeframes. The Department reviews and approves Action Plans and monitors implementation until it is satisfied that the actions have been implemented and performance has been remediated.

Claims Assistance services delivered in Nauru operate within a framework that prioritises legal compliance and best practice working collaboratively with the Nauruan Courts. The Department monitors compliance through contractual reporting and performance oversight.

3.5 Reporting against corporate plan targets

The Department reports on MTC Australia and IHMS compliance against its corporate plan target published in the Department's Annual Report. This target requires that:

- 100% of Quality Failures identified through monthly performance management reporting for Nauru facility and health contracts are subject to an abatement within two months and have Action Plans implemented by the service provider within agreed timeframes.

This is measured through the service provider's performance of its contractual requirements against each KPM. Each KPM includes the definition of the KPM, when and how it will be measured, how Quality Failure Points will be calculated, and the Reporting Period for each measure.

3.6 Procurement timelines

3.6.1 HOMEAFFAIRS/2049 - Nauru Enduring Capability Procurement

The below table details a timeline of events and decisions relating to HOMEAFFAIRS/2049 – Nauru Enduring Capability procurement.

14 August 2020	Following advice from external legal and probity advisors and the High Risk High Value Steering Committee established for this procurement activity, the Delegate approved the formal commencement of an initial Market Sounding process.
24 August 2020	Market feedback was sought from a selection of potential service providers via a formal Market Sounding process. This process gauged the market appetite for providing the required services in Nauru to inform a range of matters in respect of the scope of services, bundling of services, commercial arrangements and procurement approach.
26 October 2020	Following the approval of the Delegate, the Department released an open approach to market (HOMEAFFARIS/2049) via a two-stage process, for services to support the implementation of an Enduring Capability in Nauru. The two-stage process comprised an initial open market Request for Expression of Interest stage followed by a Request for Tender (RFT) issued only to shortlisted tenderers. • For *Facilities, Garrison, Transferee Arrivals and Reception Services*, the only shortlisted Tenderer was not successful on the basis that an overall value for money outcome was unable to be determined and it was unlikely that further negotiations with the Tenderer would alter the outcome; and • For Health Services – the Tender response submitted by IHMS was found to represent an overall value for money outcome and was selected as the preferred Tenderer. The Department proceeded to negotiations with IHMS.
20 August 2021	The Department notified the Tenderers of the outcome of the RFT process.
13 August 2022	The Department executed a contract with IHMS for Health Services in Nauru.

3.6.2 HOMEAFFAIRS/2084/RFT - Facilities, Garrison, Transferee Arrivals and Reception Services in the Republic of Nauru Procurement (Limited Tender)

The below table details a timeline of events and decisions relating to HOMEAFFAIRS/2084/RFT – Facilities, Garrison, Transferee Arrivals and Reception Services in the Republic of Nauru procurement (limited tender).

01 October 2021	Following the outcome in HOMEAFFAIRS/2049 (that the only shortlisted Tenderer was not successful), the Secretary of the Department, as the Accountable Authority, approved a Limited Tender in accordance with Paragraph 2.6 of the Commonwealth Procurement Rules (CPRs). Due to time constraints with ensuring service continuity, a traditional market sounding exercise was not conducted. Rather, the Department conduct a 'pre-release engagement' exercise directly with those entities who:

	• previously participated in the Market Sounding process for Facilities Management and New Arrivals Capability Services in Nauru in August 2020, • indicated an interest in participating in future procurement processes during the August 2020 market sounding process, and • did not submit a response in relation to the initial open market Request for Expression of Interest (REOI). Four entities participated in the Limited Tender process.
10 December 2021	Following the Secretary's approval to use Paragraph 2.6 of the CPRs, the designated delegate approved the procurement documentation and a short 'market engagement' process, and the Department issued a Limited Tender for the *Provision of Facilities, Garrison, Transferee Arrivals and Reception Services*.
21 July 2022	Following the evaluation of four Tenders, the Department identified that the Tender submitted by MTC Australia provided the best overall value for money outcome for the Commonwealth in accordance with the CPRs.
27 July 2022	The Department commenced formal contract negotiations with MTC Australia.
09 August 2022	The Department entered into a Letter of Intent with MTC Australia to enable the commencement of transition activities while negotiations remained ongoing.
29 September 2022	A further Letter of Intent was entered into to commence the delivery of services from 1 October 2022 on expiry of the predecessor contract.
11 January 2023	The Department executed a contract with MTC Australia for the Provision of Facilities, Garrison, Transferee Arrivals and Reception Services. The initial contract period was from 29 September 2022 to 30 September 2025 (three years).
10 July 2025	The Department extended the contract for a further two years to 30 September 2027.

4. Procurement due diligence

4.1 High Risk High Value (HRHV) procurements

In March 2017, the HRHV Procedure was implemented to meet the Department's undertakings in response to the Auditor General's Report Number 16 of 2016-17, published 13 September 2016, *Offshore Processing Centres in Nauru and Papua New Guinea: Procurement of Garrison Support and Welfare services*. The HRHV Procedure established additional governance oversight for HRHV procurements.

In April 2025, the Department established a HRHV Oversight Committee. This Committee is chaired by the Chief Operating Officer and reports to the Executive Board. The Committee is responsible for:

- Determining HRHV status of a procurement or contract management process considering Steering Committee advice in line with the HRHV procedural instructions.
- Establishing and assigning responsibility for a procurement that is classified HRHV, with consideration of resourcing, time, complexity and available capacity and capability.
- Identifying and assessing aggregated procurement themes and associated risks for potential escalation to the Enterprise Management Committee and the Executive Board.
- Monitoring the progress of inflight HRHV procurement processes.
- Monitoring the status of HRHV contract management processes.
- Reviewing and considering the forward work plan to monitor upcoming strategic procurement processes.

4.2 Due Diligence Framework and Better Practice Guide

All procurement processes apply a level of due diligence commensurate with the method of procurement, value, scale, risk and complexity.

In November 2023, the Department of Finance released *Due Diligence in Procurement* guidance. The Department made this information available immediately and subsequently updated its internal guidance, templates and Procurement Intranet Hub to reflect these changes.

In October 2025, the Department released the *Procurement and Contract Management Due Diligence Framework* and *Procurement and Contract Management Due Diligence Better Practice Guide*, which assists staff conducing procurement to identify and reduce risks and promotes transparency, assurance and accountability throughout procurement and contract management processes.

The *Procurement and Contract Management Framework* outlines due diligence criteria including the management of risk, and fraud and corruption control. The *Procurement and Contract Management Due Diligence Better Practice Guide* contains due diligence checks and guidance on what to look for and where to find sources of information when considering whether a supplier is genuine, capable and reliable, financially and commercially viable, and of good repute and integrity.

The due diligence checks include elements related to financial viability, corporate viability, conflict of interest, sanction laws, shadow economy and modern slavery:

- Financial viability: Requirement for suppliers to provide audited financial statements, and/or the authority for the Department to seek independent financial reports from third party providers.
- Corporate viability: Requiring suppliers' organisational information, corporate structure (management structure, parent company, legal status, details of senior executives) and seeking independent verification from third party providers.
- Conflict of Interest: Requiring suppliers and any subcontractors to provide a declaration of conflict of interest.

- Sanction laws: The Department checks whether a potential supplier is subject to any sanction laws as per the Department of Foreign Affairs consolidated list of all persons and entities listed under Australian sanctions laws.

Tenderers must provide information detailing how they comply with relevant Procurement-Connected Policies, such as:

- Shadow Economy: requiring suppliers and any subcontractors to submit Satisfactory Tax Records.
- Modern Slavery: requiring suppliers to provide information and assurance on how they manage modern slavery risks in the supply chain.

In the approach to market, suppliers must consent and authorise the Department to undertake, what it deems, are necessary independent security, probity and/or financial investigations. These investigations relate to the Tenderer (supplier), its partners, associates, subcontractors or related entities, and their officers or staff. Independent commercial advisors generally assist the Department with these checks.

4.3 2023 Richardson Review

On 31 July 2023, the Minister for Home Affairs announced that the Government had appointed Mr Dennis Richardson AC to conduct a review of integrity concerns and governance arrangements for the management of regional processing administration by the Department of Home Affairs (the Richardson Review).

The Richardson Review focused on Home Affairs' current procurement and contract management processes, with a particular focus on the facilities, garrison, transferee arrivals and reception services contract with MTC Australia; along with a selective review of the media claims relating to previous regional processing contracts.

On 12 February 2024, following consideration, the Government publicly released its response to the Richardson Review alongside the unclassified report.

4.3.1 Findings

The Richardson review found that the Government could have confidence in the Commonwealth's existing contract with MTC Australia in its administration of regional processing arrangements.

The review did not identify any deliberate wrong-doing or criminality, nor did it refer anyone to either the Australian Federal Police or the National Anti-Corruption Commission.

4.3.2 Recommendations

The report of the Richardson Review made 4 recommendations, the first two of which relate directly to the Department:

Recommendation 1 principally related to the Department; the review recommended that the Department should enhance its integrity risk process and culture to better inform procurement and contract decision-making for regional processing arrangements by:

- more carefully considering the environment in which a procurement is conducted, or a contract is delivered, and the ethical conduct and integrity of tenderers, suppliers and supply chains; and
- undertaking risk-informed due diligence activities throughout the procurement and contract management lifecycle.

Recommendation 2 principally related to the Department; the review recommended that the Department should foster and promote an 'ask and tell' operating environment that encourages collaboration, cooperation, proactive enquiry and information sharing.

Recommendation 3 related to developing a Commonwealth protocol to lawfully share law enforcement and intelligence information to inform procurement and contracting activities and is relevant to all Commonwealth entities. The Department of Finance and the Attorney-General's Department have carriage of this recommendation.

Recommendation 4 is classified and is redacted from the public report. As such, it is not appropriate to include information in relation to this recommendation.

4.3.3 Actions and implementation

The Department accepted the Richardson Review recommendations and implemented key measures to strengthen integrity**,** risk management, and collaboration in regional processing arrangements.

4.3.3.1 Recommendation 1: Enhancing Integrity Risk Processes and Culture

The Department has taken significant steps to improve procurement and contract decision-making since accepting the recommendations of the Richardson Review. These improvements provide additional assurance and include:

- Implementation of a Standard Operating Procedure (SOP) for the approval of defined Major Subcontracts within the Nauru Facilities, Garrison, Transferee Arrivals and Reception Services Contract with MTC Australia. The SOP includes:
    - Assessment of conflicts of interest (real, perceived, or actual).
    - Compliance checks with applicable laws.
    - Financial viability and Value for Money assessments.
    - Escalation processes for complex or high-value applications (over $500,000 annually and/or high risk contracts).
    - Risk Communication: Explicit risk information is embedded in advice to Government on regional processing matters.
    - Conflict of Interest Management: Conflict of Interest declarations are requested before major subcontract assessments, and obligations have been reinforced to MTC Australia and its subcontractors.
    - Risk Assessment Enhancements: Improved processes for identifying, assessing, and treating risks consistently across regional processing operations.
    - Intelligence Engagement: Established stakeholder engagement capability to support active participation in intelligence agency forums and intra-agency partnerships.

4.3.3.2 Recommendation 2: Promoting an ‘Ask and Tell’ Operating Environment

The Department has implemented actions focused on collaboration and proactive information sharing both internally and externally through an:

- Enduring Strategy and Planning Function: Created to coordinate engagement with the Government of Nauru and ensure readiness for potential new arrivals.
- Enhanced Pre-deployment Briefings: Developed training packages to improve briefings staff deploying to high-risk environments, covering operational and environmental context.

These initiatives collectively reinforce integrity, transparency, and risk-informed decision-making while fostering collaboration and preparedness across regional processing operations They also support early and proactive engagement and communication going beyond an ‘ask and tell’ culture to one of ‘ask, tell and act’, reflecting that everyone has a role to play in identifying, managing and communicating risk.

4.3.4 Post-Richardson Review enhancements

Following the Richardson Review, the Department has:

- Updated the Contract Management Manual guidance to include reference to major subcontractors (i.e. subcontractor whose contract exceeds AUD $50,000 per financial year) and a procedure which may be implemented whereby the supplier must first obtain written approval from the Department.

- Developed the Procurement and Contract Management Due Diligence Framework and Procurement and Contract Management Due Diligence Better Practice Guide, to ensure due diligence activities are incorporated when undertaking complex and strategic procurement and contract management.
- Developed mandatory corporate and financial viability due diligence activities that must be conducted in order to identify and reduce risks and promote transparency, assurance and accountability throughout procurement planning, evaluation, contract execution and delivery. Guidance was strengthened in the templates for the: Procurement Plan; Tender Evaluation Plan; Request For Tender – Attachment D - Evaluation Process; Request For Tender – Attachment B - Tender Responses; and Tender Evaluation Report.
- Reviewed the HRHV process to ensure there is adequate oversight for procurements undertaken in high risk environments, such as regional processing, including:
    - High risk high value contract management plans identifying the process for handling Significant Events.
        - A Significant Event is any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Supplier or its officers, employees, agents or subcontractors that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation; or, any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Supplier or its officers, employees, agents or subcontractors, that may adversely impact on compliance with Commonwealth policy and legislation or the Commonwealth's reputation.
    - Ensuring the potential supplier's relevant experience, performance history, financial and corporate viability and cyber integrity, are checked and evaluated.

5. Third Country Reception Arrangements

5.1 Legislative basis

Third Country Reception Arrangements (TCRAs) are separate to regional processing arrangements, providing a pathway for the removal of non-citizens who have no right to remain in Australia and who cannot be removed to their country of origin. TCRAs were introduced into legislation by the *Migration Amendment Act 2024*, amending the *Migration Act 1958*, receiving Royal Assent on 4 December 2024. The legislation provides for arrangements with foreign countries (i.e. third countries) for the removal of certain non-citizens to those countries, where it is not possible for the non-citizens to be removed to their country of nationality or citizenship or country of former habitual residence. The Australian Government also has lawful authority to provide funding to a third country for the purpose of a reception arrangement in that country.

5.2 Arrangement with Nauru

On 12 February 2025, the Australian Government and the Government of Nauru entered into an interim TCRA through an Exchange of Letters for the transfer of three individuals. Subsequently, on 29 August 2025, the Australian Government established a TCRA with the Government of Nauru through the signing of a MoU. The TCRA with Nauru provides for the issuance of a 30-year Long Term Stay Visa, with the Government of Nauru being responsible for all elements relating to such a visa holder who has settled in Nauru. Australia does not have an ongoing role in relation to managing or overseeing settled persons in Nauru under the TCRA with the Republic of Nauru.

5.2.1 Governance and oversight

The *Memorandum of Understanding in relation to the acceptance, receipt and ongoing presence of persons in Nauru, and related issues* between the Government of Australia and the Republic of Nauru (TCRA MoU) was signed on 29 August 2025. The TCRA MoU enables the Department to undertake the removal to Nauru of individuals who have no legal right to remain in Australia and cannot be returned to a country to which they have a right of entry. The TCRA MoU also ensures access to appropriate support to settle in and integrate with the Nauruan community.

Individuals removed under this arrangement are granted a Long Term Stay Visa by the Government of Nauru. The terms and conditions of the Long Term Stay Visa are publicly gazetted and include that the holder of the visa:

- shall be entitled to freedom and movement permitted under the Nauru Constitution
- is permitted to seek employment or work in the Republic of Nauru
- shall be permitted to depart and re-enter the Republic of Nauru
- shall be provided with a reasonable living allowance
- shall be provided with appropriate and gender sensitive accommodation
- shall have access to local transport, health services, welfare, and education services; and
- is to be treated consistently with *non-refoulement* obligations (including Australia's *non-refoulement* obligations).

The Department undertakes ongoing bilateral engagement with the Government of Nauru at both the operational and Senior Officials level to address implementation and operational matters through collaborative discussions.

5.2.2 Trust Fund

Under the TCRA MoU, both participants agreed to arrangements to support the effective implementation of the TCRA MoU. The *Memorandum of Understanding regarding Intergenerational Trust Fund No.2 for the*

people of the Republic of Nauru between the Government of Australia and the Government of the Republic of Nauru (Trust Fund No.2) and the *Funding Arrangement in relation to the acceptance, receipt and ongoing presence of persons in Nauru, and related issues* (TCRA Funding Arrangement) between the Government of Australia and Republic of Nauru were signed on 21 October 2025.

Through the TCRA MoU and subsidiary arrangements, the Australian Government has committed to support Nauru through an investment of $408 million. The majority of these funds ($388 million) will be placed in the Trust Fund No.2 to support Nauru's long-term economic resilience and to meet its commitments under the TCRA. From the second year of the arrangement, Australia will also provide up to $73 million annually to cover ongoing costs.

Robust arrangements are in place for the Australian Government to be able to withdraw from the arrangement, and recover appropriate funds from the Trust, for example, if its primary purpose cannot be achieved.

Trust Fund No. 2 is overseen by a Trust Fund Committee comprising representatives from the Australian Nauruan Governments. The Trust Fund Committee oversees and approves all decisions related to the Trust Fund and the selection of relevant advisors.

5.2.3 Obligations under the TCRA

Australia's commitment to its international obligations has not changed; Australia does not forcibly or involuntarily return an individual to a country in relation to which they have been found to engage *non-refoulment* obligations.

The TCRA is compliant with Australia's international obligations. Both Nauru and Australia are signatories to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* and will act in accordance with their international obligations under those documents, including in relation to *non-refoulement*.

Individuals transferred to Nauru under this arrangement are managed and supported by Nauru to fully settle and integrate as part of the Nauruan community.

The Government of Nauru provides appropriate accommodation, welfare and health services, in line with Nauruan community standards. Settled persons have freedom of movement, work rights and can access a range of other services and supports that are available to all Nauruan residents.

The Government of Nauru, through the Nauru Police Force, is responsible for law and order in Nauru. Settled persons are subject to Nauruan laws and are expected to adhere to such laws, like any other resident of Nauru.

Decisions about service provision in Nauru is a matter for the Government of Nauru. The Department does not have any form of engagement or partnership, including through direct or subcontracted arrangements, with entities managed by the Government of Nauru to provide services to their residents.