

Opening Statement

Neal Mason, Deputy Secretary Enabling and Business Services at the Department of Industry Science and Resources.

I begin today by acknowledging the Traditional Custodians of the land on which we meet today, the Ngunnawal people, and pay my respects to their Elders past, present and emerging.

I'd like to thank the Committee for your time today and make a few brief opening remarks on behalf of the department.

The department is taking the findings of the EP audit seriously and we are committed to meeting its recommendations.

We acknowledge there were significant deficiencies in the procurement process for EP delivery partners, which fell short of the appropriate transparency, consistency and fairness required under the Commonwealth Procurement Rules.

I can assure you that since the audit, the department has taken strong action to ensure current and future procurements do not have the same deficiencies.

My colleague Ms Bryant has been leading a dedicated team to action the recommendations and review existing departmental procurement and assurance processes.

The department has taken steps to address the recommendations, including the development of a new probity framework. We have strengthened policies and processes across both procurement and grants. And we have commenced immediate assurance processes to make sure no other procurements breach the CPRs.

This assurance process is well underway and there are no indications of any other procurements facing the same challenges. We will continue to undertake deeper reviews of significant procurements to ensure they are managed appropriately.

What the audit has also highlighted to us is that strengthened processes need to be backed by improved staff capability. We are working to improve staff capability, particularly in procurement practices.

The department has ensured that all SES have undertaken additional probity training and we have had a particular focus on supporting our delegates involved in complex procurements. In addition, we have been working with other agencies on best practice reforms in procurement and program management.

Further, the ANAO has presented lessons learned from procurement audits to all SES and a range of executive level staff.

I'd like to draw attention to actions we have taken in the management of the Entrepreneurs' Programme contracts. We have been working with the Department of Finance to strengthen oversight and staff capability in managing the existing delivery partner contracts until their end dates in June 2023.

As part of our commitment to act as a model litigant, we have provided all unsuccessful tenderers with the option of attending a debrief, alongside information on how to make a claim for compensation under the *Government Procurement (Judicial Review) Act 2018 (Cth)*.

We welcome your questions and will assist the Committee with its deliberations on this matter as best as we can.

Thank you

Actions against recommendations – updated 12 Dec 2022

Rec No.	Recommendation	Departmental actions to date
1	<p>When planning to employ a staged process to evaluating tenders, the Department of Industry, Science, Energy and Resources clearly identify this in its approach to market along with the criteria that will be used to shortlist potential suppliers, and if applicable, any expected limits on the number of potential suppliers that will be shortlisted at each stage.</p>	<p>Agreed.</p> <ul style="list-style-type: none"> • The department's Procurement Policy has been updated to strengthen requirements. The policy now includes identifying evaluation criteria in the procurement planning stage; and a requirement to include the documented criteria in the 'approach to market' documentation. Updated policies are available for all staff via the department's intranet (iCentral). • SES staff have attended training on probity and procurement decision-making and management of incumbency risk. • Further training will be developed as part of future work on capability development.
2	<p>When evaluating tender responses, the Department of Industry, Science, Energy and Resources fully evaluate responses received consistent with the approach set out in the approach to the market, with the results of this work relied upon to select the successful candidate(s).</p>	<p>Agreed.</p> <ul style="list-style-type: none"> • As noted in our response to Recommendation 1, the department's Procurement Policy has been updated to strengthen requirements. The policy outlines the need to identify evaluation criteria in the procurement planning stage, which must also be included in the 'approach to market' documentation. This evaluation criteria must be used to select the successful candidate(s). • SES staff have received: <ol style="list-style-type: none"> 1) a briefing from the ANAO about common procurement audit observation themes and 2) specifically designed delegate training delivered by Maddocks on Probity in Procurement and Grants. • Further training will be developed as part of future work on capability development
3	<p>The Department of Industry, Science, Energy and Resources improve its procurement framework to specifically address the engagement of probity advisers, including ensuring that advisers are independent and objective by not engaging the same probity advisers on an ongoing or serial basis.</p>	<p>Agreed.</p> <ul style="list-style-type: none"> • SES staff have received briefing from ANAO about common audit observation themes and specifically designed delegate training delivered by Maddocks on Probity in Procurement and Grants. The session specifically covers the use of a range of probity advisers to ensure objectivity. • The department is developing a new Probity Framework, which will align with the procurement framework and strengthen guidance and support about when probity advisers should be engaged. This will also include oversight of which probity advisers are being used to ensure the department is receiving independent and objective advice.

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4	<p>The Department of Industry, Science, Energy and Resources improve its procurement framework to specifically address how it will manage the risk of any incumbency advantages when conducting procurement processes.</p>	<p>Agreed.</p> <ul style="list-style-type: none"> • SES staff have received briefing from the ANAO about common audit observation themes and specifically designed delegate training delivered by Maddocks on Probity in Procurement and Grants. The session specifically covered risks of incumbency bias and what delegates should consider when approving a procurement outcome. • The department is developing a new Probity Framework, which will align with the procurement framework and strengthen guidance and support about when probity advisers should be engaged. This will also include additional advice on managing incumbency. • Incumbency risk is also standard in procurement advice provided to significant and complex procurement projects.
5	<p>The Department of Industry, Science, Energy and Resources improve its procurement record keeping so that accurate and concise information exists on:</p> <ul style="list-style-type: none"> • the process that was followed; • how value for money was considered and achieved; • relevant approvals; and • relevant decisions and basis of those decisions. 	<p>Agreed.</p> <ul style="list-style-type: none"> • The department's Procurement Policy has been updated to strengthen requirements. The policy now better highlights record keeping requirements. In addition, Delegates now have access to checklist to assist with document identification and required justifications.
6	<p>The Department of Industry, Science, Energy and Resources:</p> <ul style="list-style-type: none"> • not exercise the extension options in the awarded contracts; • commences work to conduct a new procurement process that will be completed before the existing contracts expire on 30 June 2023; and • conducts the next procurement process in a manner that fully complies with the Commonwealth Procurement Rules. 	<p>Agreed in principle.</p> <ul style="list-style-type: none"> • The department agreed-in-principle to this recommendation, noting the Entrepreneurs Programme (EP) is being reviewed and decisions about its future, including programme design, will be subject to government approval.

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7	<p>The Department of Industry, Science, Energy and Resources develop contract management plans for each of the delivery partner contracts.</p>	<p>Agreed.</p> <ul style="list-style-type: none"> • Seven contract management plans have been developed (one for each contract); Ai Group, Business Australia, Business SA, Deloitte, Darwin Innovation Hub, CSIRO and i4Connect. These were implemented in March 2022. • The 2022-23 delivery partner Contract Compliance Schedule has been implemented to support contract management.
8	<p>The Department of Industry, Science, Energy and Resources adopt a proactive approach to managing delivery partner conflicts of interest by:</p> <ul style="list-style-type: none"> • ensuring conflict of interest declarations are completed, updated regularly or their ongoing currency otherwise confirmed; and • regular review of delivery partner reporting of conflict of interest in order to monitor compliance with contractual obligations. 	<p>Agreed.</p> <ul style="list-style-type: none"> • Probity & Conflict of Interest Training has been completed by all EP branch staff. • Delivery partner conflict of interest management has commenced and is required prior to the payment of all remaining invoices in the contracts. • Management of actual or perceived conflicts of interest within EP and across delivery partners has been reviewed.
9	<p>The Department of Industry, Science, Energy and Resources strengthen its management of the Entrepreneur’s Programme delivery contracts, including by taking prompt action in circumstances where delivery deadlines are not met and verifying that services have been provided before payments are made.</p>	<p>Agreed.</p> <ul style="list-style-type: none"> • All staff working on the contracts have undergone contract management training. • A Service Verification process has been implemented for the payment of all remaining invoices in the contracts. • The delivery partner Performance Capability Framework was developed and implemented in June 2022. • The implementation of the framework has included annual and quarterly performance discussions, the deployment of client satisfaction surveys, delivery partner and section manager performance assessment reviewed and feedback provided. • Continued monitoring of compliance with contractual obligations is in place.

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10	When contracting for the delivery of services, the Department of Industry, Science, Energy and Resources apply competitive pressure when establishing performance expectations, and how these will relate to contractual payments. This can be achieved by the department setting out its expected performance management system and standards in the approach to the market documentation, or by asking respondents to set out their proposals to inform a comparative evaluation.	Agreed. <ul style="list-style-type: none">• The department's Procurement Policy has been updated to strengthen requirements. The policy emphasises the requirement for active contract management to ensure value for money is achieved.