



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

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*Joint Committee of Public Accounts and Audit inquiry into  
Commonwealth Procurement—Inquiry based on Auditor-General's  
reports 1, 13 and 16 (2016-17).*

**Public Hearing**

**Opening Statement**

**25<sup>th</sup> November 2016**

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Sound and effective procurement is a necessity for the public service, and essential for delivering the border protection outcomes that Government requires of this portfolio.

It is easy to reflect on the strengths and weaknesses of any contract with the benefit of hindsight, and the luxury of time. The reality for the Department of Immigration and Border Protection at that time was the

contracts in question were established during a period of incredible pressure.

During the seven week period that the Report of the Expert Panel on Asylum Seekers was prepared, more than 2700 people arrived illegally by boat. Australia's immigration detention network had been rapidly expanding and was under considerable strain: almost 7000 people were in immigration detention in Australia, of whom about 95 per cent were boat arrivals.

The then Prime Minister Gillard announced the government would be in a position to commence arrangements within days after the passage of legislation to begin regional processing in Nauru and Manus (Papua New Guinea). The first asylum seekers arrived in Nauru three weeks later.

As you can appreciate, the pressure placed on the Department to simultaneously manage thousands of asylum seekers, negotiate with host governments, engage service providers and operationalise the logistics for the RPCs, whilst continuing to manage the immigration detention network in Australia, was immense in anyone's judgement. Staff were redirected from almost every business line to stabilise the immigration detention network and implement regional processing arrangements. This period of intense

and sustained pressure has had a long-term impact across all of the Department's operations.

At a Senate Inquiry earlier this month, I described this period colloquially as a 'scramble' – in the case of the garrison and welfare contracts for the regional processing centres of Nauru and Manus Island - which was compounded by logistics and uncertainties involved in establishing contracts in foreign countries.

Over the past four years we have worked very hard to establish sustainable contractual arrangements and service offerings through a series of significant procurements and major revisions to our original contractual arrangements. The evidence of that hard work is demonstrated by the open tender process for garrison and welfare services on Nauru and Manus. It is also demonstrated by the improvements that the Department has made to the health services contract.

Consistent with the Commonwealth Procurement Rules (CPRs), the Department put in place strong governance and oversight mechanisms for the open tender process, including a multi-agency steering committee, and involvement by external probity and commercial advisors. These operated

effectively to identify and alert the procurement delegate to probity and value-for-money risks prior to sign-off. As Secretary at the time, I was pleased to see that these critical controls worked to prevent a procurement that could have compromised value-for-money objectives - particularly given the procurement's risk profile and financial value.

The Department significantly improved the current contract for health services: mechanisms were applied to control the risk of cost escalation and over-servicing, deliverables were more clearly defined and a system of penalties and incentives was applied to improve performance.

Our efforts have not stopped there. Reflecting on both ANAO reports and our own due diligence processes as part of portfolio integration, we have critically assessed our contracting and procurement practices and identified further opportunities for improvement. In the interest of transparency and accountability, we published a detailed plan outlining the actions we would take to improve our capabilities as part of our formal public response to the garrison and welfare audit.

As part of that work, the Department has developed a skills and competency framework that addresses the prerequisite requirements

needed to effectively manage contracts. A new contract management framework has been developed using the ANAO Better Practice Guide, guidance from the Chartered Institute of Procurement and Supply and other leading best practice guidance. The strong governance arrangements established during the open tender process are being further strengthened as a model for all high risk procurements to ensure ongoing compliance with the Commonwealth Procurement Rules, with active oversight by the Department's Chief Audit Executive and Chief Financial Officer.

Collectively, these measures will enable the Department to develop a professional procurement and contract management workforce, ensuring future procurement and contract management processes are conducted in a fully compliant manner.

I think it is important to correct the public record on some aspects of the procurement process for the garrison and welfare services on Nauru and Manus. In their assessment, the ANAO concluded that the Department entered into contracts that substantially increased the costs of regional processing and that the Department acted outside its policy and budgetary authority in executing these contracts.

The Department firmly disagrees with these findings.

Since enabling legislation was passed by the Gillard Government in August 2012, regional processing has been continuously supported by successive Governments. The Department's policy authority to establish and maintain the necessary operational support requirements (including garrison and welfare) has clearly been present throughout the operation of the regional processing centres (RPCs). The Department is funded to support the operation of these centres. Adjustments to the funding and appropriation levels for the implementation and ongoing delivery of the Government's policy have always been adjusted in accordance with Cabinet-agreed processes.

The Department has never been able to reconcile the figures used by the ANAO and has repeatedly advised the ANAO of its concerns. Far from increasing per capita costs, the Department's own budget figures demonstrate that total average expenditure declined over the four-year period, from a peak in early 2012-13 of \$698,000 average per person down to \$529,000 per person in 2015-16.

The use of a per capita cost as a measure of savings is inappropriate. These contracts are based upon both fixed and variable costs. As the fixed costs are a large proportion of the total cost, a reduction in the population being cared for (a desired outcome) can actually increase the per capita cost. Ultimately, however, the Department is not funded on either a per capita or a per contract basis but on a program basis – in this case funding provided for IMA offshore management. Over the period in question, the Department has consistently delivered services at the regional processing centres within the program funding that Government has provided.

Let me be clear, I do not shy away from the work that still needs to be done to further strengthen procurement and contract management across the Department and to improve our record-keeping. I acknowledge the important role the Auditor-General plays in providing insights into where those improvements should be targeted. I will be closely monitoring the action plan that is set out in our response to the ANAO report, and have asked the Chief Audit Executive to review its implementation and its impact. I hold every SES officer accountable for managing risk and using public resources efficiently, effectively and ethically.

I also think it is important that we reflect on the outcomes that were achieved through these procurements and contracts:

- Garrison and Welfare contracts were in place within three weeks to support the arrival of asylum seekers on Nauru.
- In an environment where health and welfare costs internationally continue to rise every year, the Department stabilised the costs of these services and lived within the budget appropriation provided by Government.
- The Department restructured and significantly strengthened the contract for the delivery of health services in Australian immigration detention to ensure that they are delivered to a standard comparable to those available to the Australian community, under the Australian public health system.
- The security and safety risks and vulnerabilities identified during the operation of the regional processing centres were addressed with months of a joint agency task force security risk assessment by consolidating the



Garrison and Welfare contracts under a single service provider who had a proven track record in providing these services.

- The Department quickly adapted levels of service, within the available budget, to keep pace with the emerging needs of welfare individuals at the regional processing centres.
- Finally, we acted to cease a procurement that we could not be confident would deliver value for money.

These results reinforce the professionalism of the staff within my Department, and their current capability to procure services in a complex, ever changing and high risk service environment.

Thank you.

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