



Australian Government

Defence

Joint Committee of Public Accounts and Audit

No. 15 (2021-22) Department of Defence's Procurement of Six Evolved Cape Class Patrol Boats

Department of Defence

Submission

November 2022

Terms of Reference relating to this submission:

The Joint Committee of Public Accounts and Audit is conducting an inquiry into Commonwealth procurement, with a view to improving the culture of how procurement rules and guidelines are implemented across the Australian Public Service.

The inquiry will have a particular regard to:

- Any matters contained in and associated with the following Auditor-General Reports:
 - No. 6 (2021-22) Management of the Civil Maritime Surveillance Services Contract
 - No. 15 (2021-22) Department of Defence's Procurement of six Evolved Cape class patrol boats
 - No. 30 (2021-22) Procurement of the National Capital Authority
 - No. 42 (2021-22) Procurement of Delivery Partners for the Entrepreneurs' Programme
 - No. 5 (2022-23) Digital Transformation Agency's Procurement of ICT Related Services
- The views of the Auditor-General, Department of Finance and other interested parties in relation to Commonwealth procurement and demonstrating value for money through competition, probity, and strong contract management.

Recommendations

It is recommended the Committee:

1. **note** the single recommendation from ANAO's 2021-22 Audit into the Department of Defence's Procurement of six evolved Cape class patrol boats (ECCPB) was in regards to probity arrangements and has been implemented in full by Defence.
2. **note** that Defence's procurement of ECCPB has been and continues to be effective, efficient and value for money, enabled through strong contract management and collaboration between Defence and industry partners to limit delivery delays attributable to ongoing challenges presented by the COVID-19 pandemic.
3. **note** that the first three ECCPB have been delivered and accepted.

Defence is grateful for the opportunity to provide this submission to the Joint Committee on Public Accounts and Audit as it considers improving the culture of how procurement rules and guidelines are implemented across the Australian Public Service. Defence also notes that the terms of reference include consideration of the importance of competition, probity and strong contract management in delivering value for money in Commonwealth procurement.

Defence acknowledges that competition is a core principle of the Commonwealth procurement framework. However, for a number of reasons, and given the unique capability environment in which Defence operates, competition in procurement is not always possible or beneficial. Whilst this is recognised within procurement rules and guidelines, it makes strong procurement and contract management practices vital in the delivery of value for money for the Commonwealth. Defence is committed to improving the culture of how procurement rules and guidelines are implemented, and has developed online and interactive procurement and contract management frameworks to quickly and flexibly implement procurement rules, guidance and lessons learned.

This submission is intended to provide the Committee with information to complement that provided by the ANAO within their audit into the Department of Defence's Procurement of six evolved Cape class patrol boats (ECCPB). While Defence acknowledges the scope of the inquiry involves a number of ANAO audit reports, covering the activities of other Departments and agencies, comment herein is limited to matters pertaining to Defence business. Defence also appreciates the extensive work of ANAO and Defence staff in preparing Audit report No. 15 (2021-22).

The ANAO confirmed through audit findings that Defence's procurement of the six ECCPB has been largely effective, utilised appropriate contracting, governance and reporting arrangements and was reflective of effective procurement activities and decision making in establishing value for money and meeting capability requirements.

The single recommendation from ANAO audit report No. 15 (2021-22) identified a need for Defence to develop and implement specific requirements for the management of probity when engaging with industry on unsolicited proposals. While Defence maintains that probity was managed effectively in this case, Defence has agreed to this ANAO recommendation and has responsibly implemented change through development and implementation of specific requirements for the management of probity in regard to unsolicited proposals. This has been reflected in strengthened arrangements within the Defence Commercial Framework and Defence Procurement Manual.

In the case of the ECCPB procurement, Defence applied extensive knowledge, rigour and experience in assessing the unsolicited proposal, and determining the capability benefits that could cost effectively be derived from expanding Navy's existing fleet of Cape class patrol boats (CCPB) rather than extending the life of aging Armidale class patrol boats (Navy operated two leased CCPB at the time).

As concluded by the audit report, Defence effectively assessed its capability requirements and options and established an acquisition contract that supported the achievement of value for money. While consideration was given by Defence to initiating broader industry engagement, given the capability requirement could only be met by additional CCPB (ie; extension of an

existing Defence patrol boat fleet), delivered under an aggressive schedule, it was evident that the designer and builder of CCPB – Austal – was the only industry partner able to deliver this specific capability option. Defence considers that in this particular case encouraging broader industry competition would have introduced unnecessary costs to Defence and industry, and would not have been in keeping with the principles of achieving value for money, transparency and reduced cost of tendering for industry.

Defence supports the consideration in this review of the importance of strong contract management practices in achieving value for money in Commonwealth procurement. Since the ANAO report was published, Defence has accepted the three ECCPB and Austal and Defence have worked collaboratively to ensure delays due to Covid-related border closures and issues with aluminium quality have been minimised.

As noted by the ANAO report, Defence established fit-for-purpose contracting arrangements for the ECCPB. This included contract payments being tied to the achievement of milestones and milestones being appropriately distributed with clear entry and exit requirements. The enforcement of these contract provisions by Defence, through strong contract management, has contributed to the achievement of outcomes and value for money for Defence. Defence notes that under the fixed-price contracting arrangements, Austal has had to absorb all the costs associated with removing and replacing the non-compliant marine grade aluminium used in the first two ECCPB.¹

Defence's contract management is underpinned by the Defence Contract Management Framework, developed to provide best practice guidance for the management of procurement contracts and to improve contract management outcomes for Defence. This incorporates a variety of contract management templates and checklists assisting contract managers when undertaking key contract activities.

¹ This imported non-compliant aluminium plate, which was certified as marine grade by the independent international certifying agency DNV-GL, was detected as the Commonwealth contract contained a requirement for separate compliance sample testing in Australia. Austal has reported that over 50,000 hours was required to remove and replace the non-compliant aluminium plate on the first two boats. Aluminium plate has not been rolled in Australia since 2002. Over 60 per cent of the world's aluminium plate is now sourced from China. The non-compliant aluminium in this case was sourced by an Australian broker from a Chinese mill in Wuhan.