



Auditor-General for the Northern Territory
Auditing for Parliament

March 2017

Report to the Legislative Assembly



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Auditor-General for the Northern Territory
Auditing for Parliament

The Honourable Speaker of the Legislative
Assembly of the Northern Territory
Parliament House
Darwin NT 0800

16 March 2017

Dear Madam Speaker,

Accompanying this letter is my report to the Legislative Assembly on matters arising from audits and reviews conducted during the six months to 31 December 2016 that have not been previously reported upon. I request that you table the report today in the Legislative Assembly.

The larger part of the report outlines the results of performance management system audits, information system audits and audits of financial statements prepared by statutory bodies. The requirements that cover the preparation and audit of those statements are set out in various Acts of Parliament.

The main focus of performance management system audits conducted during this period related to the performance management systems in place at agencies to manage significant contracts and projects.

The findings from data analysis conducted at selected agencies upon transactions generated using fuel cards have been included within this report.

This report is intended to assist the process of accountability by providing analysis of financial results and by drawing Parliament's attention to matters of interest.

Yours sincerely,

Julie Crisp
Auditor-General for the Northern Territory

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Auditor-General's Overview

Audits Included in this Report

This report outlines the results of audits and reviews conducted during the period 1 July 2016 to 7 March 2017 that I have not previously reported upon to the Legislative Assembly. The results of eleven separate audits and other tasks undertaken by my office are included. The larger part of the report deals with audits of performance management systems in place at agencies to manage significant contracts and projects as well as the audits of financial statements prepared by statutory bodies. The results of one information technology audit and analysis of fuel card transactions at three selected agencies are also included. A further six other tasks were also conducted however are not separately reported upon due to their nature.

This report summarises the results of the following types of audits and legislated tasks conducted during the period 1 July 2016 to 7 March 2017 that have not previously been reported upon:

- Statutory Audits of Financial Statements;
- Information Technology Audits;
- Controls and Compliance Audits;
- Performance Management System Audits; and
- Other Audit Tasks.

Agencies and entities are provided with the opportunity to comment on any of the matters reported. Where they choose to do so, their responses are detailed at the end of each respective section.

Auditor-General's Overview cont...

Key findings from performance management system audits

Performance management system audits were conducted at a number of agencies to assess the performance management systems in place within agencies that enable them to manage significant contracts and projects. These audits were conducted at three selected agencies and I have summarised below a number of findings that were consistent at more than one agency.

The audits found generally that each Agency had developed systems and processes to support the management of the selected contracts. Some improvements relating to the monitoring and management of contractual arrangements are required in order to demonstrate that a comprehensive performance management system exists and is working effectively.

Contract management frameworks need to be established – the establishment of formal contract management frameworks within agencies would assist in ensuring all significant contracts are consistently managed within agencies and across government presenting efficiencies for agencies, improved understanding of responsibilities by all parties to contracts and engendering improved performance by contractors.

Performance monitoring of contractors could be improved – there is opportunity to more effectively assess and record contractor performance information in order to address performance shortcomings and/or to apply lessons learned to the management of future contracts and projects.

Document management within agencies could be improved – Most agencies have a range of electronic and physical record keeping systems. Notwithstanding the increased use of electronic contract management systems within agencies, contract and project management documentation is not consistently retained in these systems presenting a risk that superseded versions of documentation will be used and/or documentation cannot be located if and when required.

Auditor-General's Overview cont...

Better Practice Observations

I provide below some observations in relation to the work undertaken by a number of agencies to increase transparency and accountability.

Public Private Partnership Arrangements

The Public Accounts Committee May 2013 Report "Public Private Partnership Arrangements for the Darwin Correctional Precinct" raised two recommendations. Recommendation 1 was to be actioned by the Department of Correctional Services and was examined as part of the Contract Management review reported upon in this Report to the Legislative Assembly.

Recommendation 2 stated *"The Committee recommends that the Treasurer, in consultation with the Auditor-General, develop guidelines for the disclosure of costs and the contractual terms associated with PPPs, similar to the guidelines currently in place in NSW and Victoria. At the very least, this should require a project summary to be tabled in the Assembly."*

In June 2015 I provided feedback to a representative from the Department of Treasury and Finance on a proposed "Public Private Partnerships Public Disclosure Policy". A subsequent draft was provided to me for consultation in February 2017. As the proposed draft is a policy, it is not required to be complied with by agencies with the same enforcement as a Treasurer's Direction. Once finalised, the implementation of, and adherence to, the policy should result in increased transparency and accountability in relation to public private partnership arrangements.

Contract Management Guidance

The Department of Trade, Business and Innovation recently released guidance entitled "A Guide to Contract Management" and is currently providing workshops designed to educate attendees in regard to improved contract management practices. This is a commendable effort by the Department of Trade, Business and Innovation and should contribute to improved and consistent contract management practices across government.

Valuation of Non-Current Assets

The Department of Treasury and Finance has recently collaborated with CPA Australia to provide an information session on asset valuation in the public sector. This session was designed to inform agency personnel coordinating asset valuations of matters to consider when undertaking revaluations of assets as required by Australian Accounting Standards. This training, combined with a significant body of work being performed by the Department of Corporate and Information Services to assist agencies with asset identification and recording, should contribute to addressing shortcomings in asset valuation practices as identified in the end of year reviews conducted at agencies and reported in my November 2016 report to the Legislative Assembly.

Treasurer's Directions

The Department of Treasury and Finance has continued to review and release amended Treasurer's Directions containing contemporary accounting and governance guidance.

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The Role and Responsibilities of the Auditor-General

The Auditor-General's powers and responsibilities are established in the *Audit Act* by the Northern Territory's Parliament, the Legislative Assembly. The Auditor General is required to report to the Legislative Assembly at least once each year on any matters arising from the exercise of the auditing powers established in that Act.

In doing so, the Auditor-General is providing information to the Parliament to assist its review of the performance of the Executive Government, particularly the Government's responsibility for the actions of the public sector entities which administer its financial management and performance management directives. The Parliament has a responsibility to conduct this review as the representative of the people of the Northern Territory.

The Auditor-General is also able to report to management of public sector entities on matters arising from the conduct of audits.

Reports provided to Parliament and public sector managers should be recognised as a useful source of independent analysis of Government information, and of the systems and controls underpinning the delivery of that information.

The Auditor-General is assisted by personnel of the Northern Territory Auditor General's Office who plan audits and tasks conducted by private sector Authorised Auditors.

The requirements of the *Audit Act* in relation to auditing the Public Account and other accounts are found in:

- Section 13, which requires the Auditor-General to audit the Public Account and other accounts, with regard to:
 - the character and effectiveness of internal control; and
 - professional standards and practices.
- Section 25, which requires the Auditor-General to issue a report to the Treasurer on the Treasurer's Annual Financial Statement.

The Public Account

The Public Account is defined in the *Financial Management Act* as:

- The Central Holding Authority; and
- Operating accounts of Agencies and Government Business Divisions.

The Role and Responsibilities of the Auditor-General cont...

Audit of the Treasurer's Annual Financial Statement

Using information about the effectiveness of internal controls identified in the overall control environment review, Agency Compliance Audits and financial statement audits, an audit approach is designed and implemented to determine whether balances disclosed in the Treasurer's Annual Financial Statement are in accordance with the disclosure requirements adopted by the Treasurer, and are within acceptable materiality standards.

The audit report on the Treasurer's Annual Financial Statement is issued to the Treasurer. The Treasurer then tables the audited Treasurer's Annual Financial Statement to the Parliament as a key component of the accountability of the Government to the Parliament.

Statutory bodies, Government Owned Corporations and Government Business Divisions are required by various Acts of Parliament to prepare annual financial statements and to submit those statements to the Auditor-General for audit. Those statements are audited and audit opinions issued accordingly. The opinions are included in the various entities' annual reports that are tabled in the Legislative Assembly. If matters of concern were noted during the course of an audit, specific comment is included in my report to the Legislative Assembly.

In addition, the Northern Territory Government controls, either directly or indirectly, a small number of companies that have been incorporated pursuant to the Commonwealth *Corporations Act 2001*. These audits are performed subject to the provisions of the Commonwealth legislation, with the Auditor-General being deemed by the *Corporations Act 2001* to be a Registered Company Auditor.

Audits by my Office are conducted in accordance with Australian Auditing Standards. Those standards are issued by the Australian Auditing and Assurance Standards Board, a Commonwealth statutory body established under the *Australian Securities and Investments Commission Act 2001*. Auditing standards issued by the Board have the force of law in respect of audits of corporations that fall within the ambit of the *Corporations Act 2001*, while the *Audit Act* also requires that I have regard to those standards.

The Role and Responsibilities of the Auditor-General cont...

Audit of Performance Management Systems

Legislative Framework

A Chief Executive Officer, as an Accountable Officer, is responsible to the appropriate Minister under section 23 of the *Public Sector Employment and Management Act* for the proper, efficient and economic administration of his or her agency. Under section 13 (2)(b) of the *Financial Management Act*, an Accountable Officer shall ensure that procedures “*in the agency are such as will at all times afford a proper internal control*”. Internal control is further defined in section 3 of the Act to include “*the methods and procedures adopted within an agency to promote operational efficiency, effectiveness and economy*”.

Section 15 of the *Audit Act* complements the legislative requirements imposed on Chief Executive Officers by providing the Auditor-General with the power to audit performance management systems of any agency or other organisation in respect of the accounts of which the Auditor-General is required or permitted by a law of the Territory to conduct an audit.

A performance management system is not defined in the legislation, but section 15 identifies that: “*the object of an audit conducted under this section includes determining whether the performance management systems of an agency or organisation in respect of which the audit is being conducted enable the Agency or organisation to assess whether its objectives are being achieved economically, efficiently and effectively.*”

Operational Framework

The Northern Territory Auditor-General's Office has developed a framework for its approach to the conduct of performance management system audits, which is based on the premise that an effective performance management system would contain the following elements:

- identification of the policy and corporate objectives of the entity;
- incorporation of those objectives in the entity's corporate or strategic planning process and allocation of these to programs of the entity;
- identification of what successful achievement of those corporate objectives would look like, and recording of these as performance targets;
- development of strategies for achievement of the desired performance outcomes;
- monitoring of the progress toward that achievement;

The Role and Responsibilities of the Auditor-General cont...

- evaluation of the effectiveness of the final outcome against the intended objectives; and
- reporting on the outcomes, together with recommendations for subsequent improvement.

Performance management system audits can be conducted at a corporate level, a program level, or at a category of cost level, such as capital expenditure. All that is necessary is that there is a need to define objectives for intended or desired performance.

Timing of Auditor-General's Reports to the Legislative Assembly

The *Audit Act* requires the Auditor-General to report to the Legislative Assembly at least once each year. Established practice has been for reports to be submitted twice each year.

Each report may contain findings from financial statement audits, agency compliance audits, information technology audits, controls and compliance audits, performance management system audits and findings from any special reviews conducted.

Where there are delays in Agencies or entities completing financial statements and resultant delays occur in the associated audit, it is sometimes necessary to comment on these activities in the next report.

Results of any reviews of referred information under the *Public Information Act* are included when the reviews are concluded.

The approximate timing and the contents of these reports are:

- First half of the calendar year – contains commentary on Agencies and entities with a 30 June financial year-end being 30 June of the previous calendar year. Material is included depending on when each audit is completed. The report also contains commentary on the Auditor-General's audit of the Treasurer's Annual Financial Statement.
- Second half of the calendar year – contains commentary on Agencies and entities with a 31 December year-end being 31 December of the previous calendar year together with the results of information technology audits, compliance audits and audits of performance management systems. Material is included depending on when each audit is completed.

Guide to Using this Report

Auditing

There are two general varieties of auditing undertaken in the Northern Territory Public Sector, independent auditing and internal auditing. Only independent audits are undertaken through the Office of the Auditor-General. I, and my Principal Auditors (as my representatives), do attend meetings of Agencies' audit and risk committees where invited, but only in the role of observer.

Independent Audit (also known as External Audit)

Independent audits are generally undertaken in order for an entity to achieve compliance with statutory or legal arrangements. Independent audits may be mandated by legislation or be required by a contractual arrangement. The audit work and resultant opinion is undertaken by an individual or entity independent of the agency or entity subjected to audit. These audits can take the form of financial statements audits, compliance audits or performance audits.

Internal Audit

Treasurer's Direction Part 3, Section 2 requires an Accountable Officer to ensure his/her Agency has an adequate internal audit capacity. Internal audit is a management tool designed to provide assurance to the Accountable Officer that systems and internal controls operating within Agencies are adequate and effective. It carries out its functions by undertaking audits, reviews and other related tasks for improving the performance of organisations. The selection of audit topics, risk management and audit framework and delivery of internal audit services are the responsibility of the Accountable Officer.

Types of Financial Reports

Financial reports submitted for independent audit are prepared under either a general purpose or special purpose framework.

General Purpose Financial Report

A general purpose financial report comprises a complete set of financial statements, including the related notes, and an assertion statement by those responsible for the financial report, prepared in accordance with a financial reporting framework designed to meet the common financial information needs of a wide range of users. The financial reporting framework may be a fair presentation framework or a compliance framework.

Special Purpose Financial Report

A special purpose financial report comprises a complete set of financial statements, including the related notes, and an assertion statement by those responsible for the financial report, prepared in accordance with a special purpose framework. The requirements of the applicable financial reporting framework determine the format and content of a financial report prepared in accordance with a special purpose framework.

Guide to Using this Report cont...

Types of Assurance Engagements

The amount of audit work performed, and the resultant independent opinion, varies between an audit and a review. The level of assurance provided by the opinion is either reasonable or limited.

Reasonable Assurance

A reasonable assurance engagement is commonly referred to as an audit. A reasonable assurance engagement is an assurance engagement where the auditor is required to perform sufficient work to reduce the risk of misstatement to an acceptably low level in order to provide a positive form of conclusion.

Limited Assurance

A limited assurance engagement is commonly referred to as a review. A limited assurance engagement is an assurance engagement where the assurance practitioner's objective is to perform sufficient audit procedures to reduce the risk of misstatement to a level that is acceptable in the circumstances but where the risk is not reduced to the level of a reasonable assurance engagement. A negative opinion is provided that states that nothing has come to the attention of the reviewer that indicates material misstatement or non-compliance with established criteria.

Audit Opinions

There are two overarching categories of audit opinion, an unmodified audit opinion (sometimes referred to as a "clean" opinion) and a modified audit opinion.

Unmodified Audit Opinion

Unmodified opinions provide a reasonable level of assurance from the auditor that the financial statements present a true and fair reflection of an entity's results for the period reported.

Notwithstanding an audit opinion may positively attest to the truth and fairness of the financial statements, additional paragraphs may be included in the audit opinion in relation to a matter the auditor believes requires emphasis.

An "Emphasis of Matter" paragraph means a paragraph included in the auditor's report that refers to a matter appropriately presented or disclosed in the financial report that, in the auditor's judgement, is of such importance that it is fundamental to users' understanding of the financial report. The inclusion of an emphasis of matter paragraph in the audit opinion is intended to draw the reader's attention to the relevant disclosure in the financial report.

An "Other Matter" paragraph means a paragraph included in the auditor's report that refers to a matter other than those presented or disclosed in the financial report that, in the auditor's judgement, is relevant to users' understanding of the audit, the auditor's responsibilities and/or the auditor's report.

Guide to Using this Report cont...

Modified Audit Opinion

Australian Auditing Standard ASA705 *Modifications to the Opinion in the Independent Auditor's Report*, paragraph 2, establishes three types of modified opinions, namely, a qualified opinion, an adverse opinion, and a disclaimer of opinion. The decision regarding which type of modified opinion is appropriate depends upon:

- a) The nature of the matter giving rise to the modification, that is, whether the financial report is materially misstated or, in the case of an inability to obtain sufficient appropriate audit evidence, may be materially misstated; and
- b) The auditor's judgement about the pervasiveness of the effects or possible effects of the matter on the financial report.

Qualified Opinion

An auditor shall express a qualified opinion when:

- a) The auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are material, but not pervasive, to the financial report; or
- b) The auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion, but the auditor concludes that the possible effects on the financial report of undetected misstatements, if any, could be material but not pervasive. [ASA705, paragraph 7]

Adverse Opinion

An adverse opinion is expressed when the auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial report. [ASA705, paragraph 8]

Disclaimer of Opinion

An auditor shall disclaim an opinion when the auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion, and the auditor concludes that the possible effects on the financial report of undetected misstatements, if any, could be both material and pervasive. [ASA705, paragraph 9]

The auditor shall disclaim an opinion when, in extremely rare circumstances involving multiple uncertainties, the auditor concludes that, notwithstanding having obtained sufficient appropriate audit evidence regarding each of the individual uncertainties, it is not possible to form an opinion on the financial report due to the potential interaction of the uncertainties and their possible cumulative effect on the financial report. [ASA705, paragraph 10]

Guide to Using this Report cont...

Assurance Engagements Conducted by the Auditor-General

The types of audits conducted through the Auditor-General's Office include:

- Statutory Audits of Financial Statements;
- End of Year Reviews;
- Information Technology Audits;
- Controls and Compliance Audits; and
- Performance Management System Audits.

Statutory Financial Statements Audits

Statutory audits of financial statements are conducted on the full financial reports of government business divisions, government owned corporations and other government controlled entities that prepare statutory financial statements. The Treasurer's Annual Financial Statement is subjected to audit.

Agencies are required, by Treasurer's Directions issued pursuant to the *Financial Management Act*, to prepare financial statements that comply with Australian Accounting Standards. However, Agencies are not required to submit those statements to the Auditor-General unless directed to do so by the Treasurer pursuant to section 11(3) of the *Financial Management Act*. As no such direction has been given, Agencies' financial statements are not audited separately, but are reviewed as part of the audit of the Public Account and of the Treasurer's Annual Financial Statement.

In the case of a financial statement audit, an 'unqualified audit opinion' means that I am satisfied that the Agency or entity has prepared its financial statements in accordance with Australian Accounting Standards and other mandatory financial reporting requirements or, in the case of acquittal audits, the relevant legislation or the agreement under which funding was provided. It also means that I believe that the report is free of material error and that there was nothing that limited the scope of my audit. If any of these conditions should not be met, I issue a 'modified audit opinion' and explain why.

The audit opinion and summaries of key findings represent the more important findings. By targeting these sections, readers can quickly understand the major issues faced by a particular agency or entity or by the public sector more broadly.

Guide to Using this Report cont...

Information Technology Audits

Information technology audits are undertaken as stand-alone audits of key agency or across government systems. Each of the systems selected for audit during the six months ending 31 December 2016 plays an important role in processing data and providing information for the purposes of financial management and, more particularly, for the purposes of financial reporting and the preparation of the Treasurer's Annual Financial Statement.

End of Year Reviews

The end of year review provides an audit focus on year end balances particularly within agencies. The nature of the review is determined annually whilst planning the audit of the Treasurer's Annual Financial Statement, but includes testing of transactions occurring around year end to provide a degree of confidence about the data provided to Treasury and which will form part of the overall reporting on the Public Account.

Controls and Compliance Audits

Controls and compliance audits are conducted of selected systems or accounting processes to determine whether the systems and processes achieve compliance with legislated or otherwise mandated requirements. These audits are intended to assist me in my audit of the Public Account.

Performance Management System Audits

The audit process determines whether existing systems or practices, or management controls over systems, are adequate to provide relevant and reliable performance information that will assist intended users of the information make decisions relating to accountability and achieving results. These audits are also intended to assist me in my audit of the Public Account.

Public Information Act Referrals

The *Public Information Act* requires the Auditor-General, upon receipt of a written request of an Assembly member, or on the Auditor-General's initiative, to conduct a review of particular public information to determine whether the Act is contravened in relation to the information. If review of the information suggests a contravention, I issue a preliminary opinion to the public authority that gave the relevant public information. When preparing my report about the review, I take into consideration any comments provided by the public authority following my preliminary opinion. The reports on referrals are included in my reports to the Legislative Assembly.

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Reports on the Results of Audit, Reviews and Assessments

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Cobourg Peninsula Sanctuary and Marine Park Board

Audit Findings and Analysis of the Financial Statements for the Year Ended 30 June 2016

Background

The Cobourg Peninsula Sanctuary and Marine Park Board (the Board) was formed in 1981 under the *Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act* to acknowledge and secure the right of Aboriginals to occupy and use certain land on the Cobourg Peninsula, to vest that land in trust for Aboriginals, to declare that land to be a national park, to make provisions relating to the management of adjacent marine areas and related purposes.

Audit Opinion

The audit of the Cobourg Peninsula Sanctuary and Marine Park Board for the year ended 30 June 2016 resulted in an unmodified independent audit opinion, which was issued on 14 November 2016.

Key Findings

The audit did not identify any material weaknesses in controls.

Performance Overview

Total park income of \$233,000 in 2016 increased slightly from \$229,000 in the previous year. Total other income from ordinary activities remained consistent at \$123,000 as the activities in the current year have not changed from the previous year.

The most significant operating expenses relate to the payments to traditional owners which increased by \$5,000 from the prior year of \$192,000. The services incurred free of charge from other government agencies remained consistent with the prior year.

Other expenses decreased to \$63,000 in 2016 from \$94,000 in the previous year due mainly to a reduction in board and committee expenses.

Overall, the entity incurred a net deficit of \$17,000 in 2016 compared to a net deficit of \$46,000 in 2015.

Cobourg Peninsula Sanctuary and Marine Park Board cont...

Financial Performance for the year

	2016	2015
	\$'000	\$'000
Income		
Park income	233	229
Payments to traditional owners	(192)	(187)
Other revenue	123	123
Total income	164	165
Less expenditure		
Operational costs	(181)	(211)
Total expenditure	(181)	(211)
Deficit	(17)	(46)

Cobourg Peninsula Sanctuary and Marine Park Board cont...

Financial Position at year end

	2016	2015
	\$'000	\$'000
Cash and cash equivalents	239	251
Receivables and other current assets	84	34
Less current liabilities	(91)	(41)
Working Capital	232	244
Add non-current assets	3	8
Less non-current liabilities	-	-
Net Assets	235	252
Represented by:		
Accumulated funds	235	252
Equity	235	252

Department of Education

Student Administration and Management System

Background

The objective was to perform an assessment of the effectiveness of general computer controls associated with the Student Administration and Management System (SAMS), which is currently in use by the Department of Education (the Agency).

SAMS is the system used by the Agency to record enrolment, attendance and behaviour. No financial information is recorded within the system however enrolment numbers are used to ascertain funding allocations to the Northern Territory's Government schools.

Conclusion

The Agency's general computer controls associated with SAMS were found to be generally satisfactory however there are areas where the Agency's information technology procedures and processes as they pertain to SAMS could be improved.

Key Findings

There is no structured approach or guidance provided to schools for assigning appropriate roles and responsibilities to key users.

The user base of SAMS includes staff at each of the Agency's schools throughout the Northern Territory. In considering the configuration and processes to create and manage staff user accounts, it was noted that there is no structured approach or guidance provided to schools in relation to assigning appropriate roles and responsibilities to key users. There also exists the ability to create user accounts within SAMS which are effectively generic accounts and thus are able to be used by multiple members of staff.

Key elements identified in relation to the access management process included:

- User accounts in SAMS are initially established in the Agency's Identity Management System by the onsite information technology support person.
- Single Sign On is used to authenticate SAMS users. Accounts are created at a domain level and are assigned permission to access SAMS. Specific functionality within SAMS is managed within the application.
- A request may be made to create a functional account at a domain level. This account could then be granted access to SAMS and established and used as a generic account, notwithstanding that Agency policy prohibits the use of generic accounts.
- A school principal ultimately authorises each users' level of access to data related to their school. As a result there is no standardisation in the assignment of roles and responsibilities between schools.

Department of Education cont...

While noting that the staffing levels at each school vary and are dependent on the school population, where there is a wide variation in the permissions provided to SAMS users across schools, monitoring and ensuring appropriate levels of access are being granted becomes more difficult.

Additionally, where it is possible to create generic staff accounts which can be given access to SAMS, it increases the risk that any unauthorised activity using these accounts would not be able to be traced to the individual user performing the activity.

I recommended that the Agency:

- develops a standard/recommended set of user profiles which can be allocated by schools based upon characteristics such as type, size and location; and
- implements a regular review of user access with a focus on generic accounts or accounts considered to have excessive levels of permissions for a user's role.

Testing of the Disaster Recovery Plan (DRP) relating to SAMS is not regularly performed.

The SAMS application is covered by the Agency wide Disaster Recovery Plan (DRP). This plan covers all infrastructure and systems in use by the Agency and how recovery will occur in the event of an incident.

A copy of the current DRP was obtained and reviewed. During review of the DRP, and the associated procedures around the testing and operation of the plan, it was noted that testing of the plan, in relation to SAMS, had not been performed since 2015.

It was also noted that there is no procedure in place to regularly test the ability to recover SAMS. When such a test is performed, it is limited to the recovery of the entire application in a controlled fashion.

Where there is no regular process in place to test the recovery of key applications such as SAMS, it increases the risk that, should an incident occur, infrastructure and systems may not be able to be recovered in a timely manner.

Where only a full recovery scenario is tested, which may not be reflective of real life incidents that may occur, any non-standard recovery issues may not be able to be handled in a timely and efficient manner. Non-standard recovery issues may include partial recovery of systems, corrupted or lost data or a hard disconnect of redundant links between data centres.

Department of Education cont...

I recommended that the Agency:

- implements a regular schedule of disaster recovery testing to be performed at least annually which could also incorporate a regular review of the DRP; and
- considers testing different recovery scenarios, such as partial loss of systems or a hard disconnect from a data centre, to ensure that robust recovery procedures are in place. Consideration could also be given to incorporating this scenario testing into broader Agency wide business continuity testing.

Applying password complexity requirements was not enforced on any user accounts.

The current password configuration was obtained and it was noted that it is currently set to not require users to incorporate complexity requirements into their passwords.

In considering the password requirements of the SAMS application, it is noted that SAMS authenticates users using the users' domain level credentials. The Agency wide network password policy also applies to the SAMS application.

The current Agency policy requires passwords for staff accounts to have complexity requirements, forcing the use of uppercase, numeric or special characters in a password. These complexity requirements are not required to be enforced for student accounts as younger students may have difficulty in applying them.

Software constraints affecting the previous domain controller prevented different sets of password requirements being applied to staff and student accounts contained in the one domain. As a result, complexity requirements were not enforced on any accounts. This domain controller has now been updated allowing password requirements to be implemented that differ between the two user groups to be implemented.

While the rationale for not imposing complexity requirements on the passwords for students is understood, it is noted that where the approved policy has not been applied to staff passwords it increases their vulnerability to unauthorised access attempts.

I noted that subsequent to the onsite visit, the Agency was in the process of applying updated password requirements to staff. In addition, new password requirements were expected to be applied for students during the first term of 2017.

Department of Education cont...

The Department of Education has commented:

The reported findings and recommendations are noted and actions to address the recommendations are underway. The department values the audit observations which will assist in ensuring we have strong security configuration for the SAMS application and there are clear processes and procedures to ensure business continuity should a disaster situation arises.

Department of Health

Contract Management – St John Ambulance and CareFlight

Scope and Objectives

The primary objective of the Contract Management – St John Ambulance Australia (NT) Incorporated and CareFlight NT Limited audit was to assess the performance management system in place at the Department of Health (the Agency) that enables the Agency to manage its contracts/agreements with:

- CareFlight NT Limited (hereafter referred to as CareFlight); and
- St John Ambulance Australia (NT) Incorporated (hereafter referred to as St John Ambulance).

Background

The Agency outsources a large number of services to third parties who act as service providers. The outsourcing is undertaken either through contracts for services or the provision of grant funding to established service providers. This audit looked at two specific outsourced arrangements:

- CareFlight – for the period 1 July 2015 to 30 September 2016; and
- St John Ambulance – for the period 1 December 2015 to 30 September 2016.

1. Aero Medical Retrieval Services – CareFlight

CareFlight provides aeromedical retrieval services for the “Top End” of the Northern Territory. It is referred to as the Top End Medical Retrieval Service (TEMRS) and includes contracts for both fixed wing (aeroplane) and rotary (helicopter) retrieval services.

There is a separate contract arrangement with a different service provider for medical retrieval services in Central Australia. This audit did not consider the Central Australian contract.

2. Ambulance Services – St John Ambulance

In several jurisdictions across Australia, ambulance services are provided by a government department. In the Northern Territory, ambulance services are provided by St John Ambulance. St John Ambulance is a self-funded, charitable organisation.

A new agreement was signed in December 2015, which became effective 1 February 2016. The Agency has advised that the new agreement has changed significantly from the previous agreement with St John Ambulance.

Department of Health cont...

The audit of the CareFlight contractual arrangements was undertaken as a follow up audit to the previous Performance Management System audit undertaken by the former Auditor-General in 2013. That audit identified a number of deficiencies in relation to contract management and lack of adequate data to support contractual payments.

The funding agreement with St John Ambulance was also selected for testing in this audit in order to enable me to assess if contract management improvements and recommendations highlighted during the 2013 audit of the CareFlight contract had been applied to other service delivery contracts within the Agency.

The fieldwork supporting this audit was conducted between 17 October 2016 and 31 October 2016.

I have assessed the systems and processes that the Agency had in place at the time of the audit to manage the two contracts with particular emphasis on the following four key areas:

- contract/agreement management;
- performance reporting;
- governance oversight; and
- document management and record keeping.

Conclusion

Based upon the evidence provided during the audit, the Agency has developed systems and processes to support the management of the contracts for CareFlight and St John Ambulance through development of the Contract Management Framework, Contract Management Plans and various governance committees.

Whilst this demonstrates that a number of previously identified shortcomings have been addressed, the Contract Management Framework and Contract Management Plans have not yet been fully implemented and there remain opportunities to improve the monitoring and management of these contractual agreements.

The Agency needs to continue to improve the management of these contracts and fully implement the elements and requirements of the Contract Management Framework across all of the Agency's significant contracts in order to fully realise the benefits and process improvements intended. The findings and recommendations detailed below are designed to enhance the effectiveness of contract management within the Agency.

Department of Health cont...

Recommendations

A number of observations and recommendations have resulted from this audit to:

- improve the analysis and comparison of monthly actual expenditure to budgeted/projected expenditure and document explanations as to the cause of identified variances;
- ensure the objectives of the Terms of Reference for governance committees are met and that administrative requirements are adhered to, enabling the expectations and interests of stakeholders to be achieved and significant matters to be communicated and addressed in a timely manner;
- ensure that Terms of Reference for all governance groups are reviewed, endorsed and signed by an appropriately delegated Agency staff member;
- improve document management to ensure that the Agency can readily access current contractual information and demonstrate contractual obligations have been met by all parties to the contract;
- ensure that the Contract Management Plan for St John Ambulance is finalised, endorsed by relevant personnel and circulated to all relevant users;
- ensure that the Agency obtains reports from service providers that contain information that is fit-for-purpose, understandable and beneficial to all stakeholders. Furthermore, I recommended that the Agency undertake verification processes to confirm the accuracy, completion and correctness of data provided by St John Ambulance; and
- ensure that documentary evidence exists to demonstrate that the bi-annual contractual obligation checklist for St John Ambulance has been prepared and reviewed by appropriate parties.

Department of Health cont...

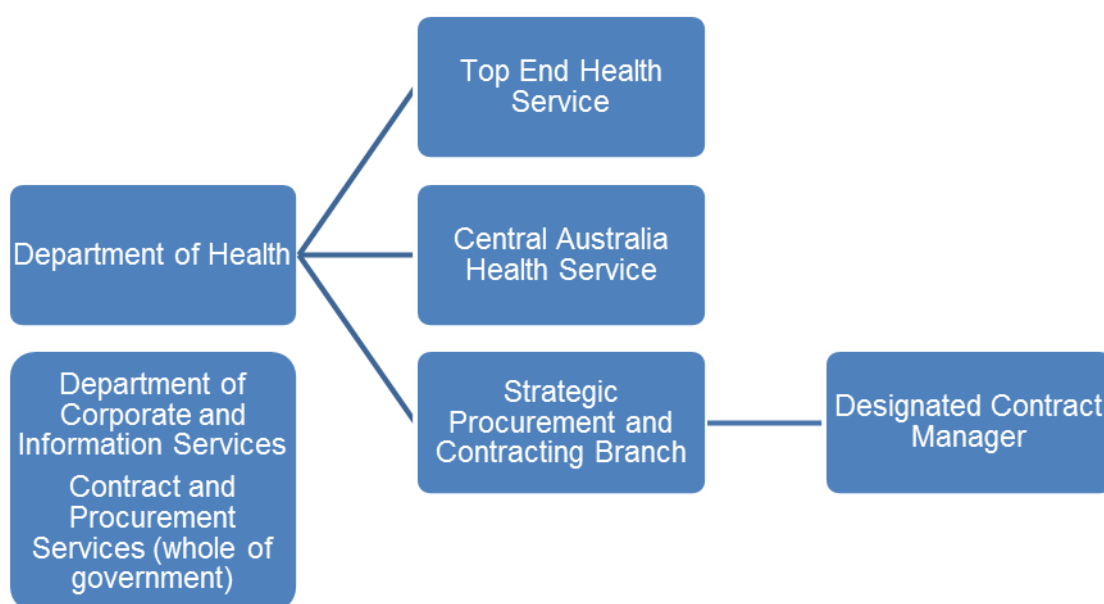
Overview

The Agency's Strategic Procurement and Contracting division developed and implemented a Contract Management Framework to detail the requirements for better practice and ensure consistent contract management across the Agency. The Contract Management Framework has been structured at a level that provides clear expectations and general guidance in relation to contract management. Further detail in relation to the management of individual contracts is required to be captured in the separate Contract Management Plan created in accordance with the requirements of the Contract Management Framework. The Agency has established separate Contract Management Plans for CareFlight and St John Ambulance. The main features of the plans include the objectives of the arrangement, stakeholders roles and responsibilities, the Agency's and the service provider's obligations, contract and financial conditions, contract governance, performance measurement and reporting, risk assessment, price review processes and records management.

To ensure that all parties to the contracts meet their obligations, a designated Contract Manager is assigned to each contract to manage the day-to-day administration of the contract and ensure that all contract management requirements are met.

The following is a representation of the above structure:

Figure 1: Overview of Contract Management



Department of Health cont...

CareFlight

Contract management

Two contracts for the Top End Medical Retrieval Services are in place between the Northern Territory of Australia and CareFlight (NSW) Ltd. These two contracts are for:

- Rotary Wing services; and
- Fixed Wing services.

Both of these contracts extend from 16 September 2011 to 31 December 2022. These contracts were awarded after a tender process facilitated by the Department of Corporate and Information Services' Contract and Procurement Services division and an assessment by the Department of Health.

The two contracts are managed via the Contract Management Plan specifically established for CareFlight. This Contract Management Plan details a number of reforms and requirements to be undertaken by both parties to ensure that the contract is managed efficiently and effectively. These include:

- ensuring internal communications are maintained with and between all stakeholders;
- ensuring access to relevant reporting; and
- establishing regular governance structures and an oversight function.

The Agency has undertaken significant work to ensure that the Contract Management Plan is thorough and covers the obligations of each of the parties to the contract. The Agency is fully aware of its obligations as well as that of CareFlight and has drafted a 'contractual obligation checklist' which is a bi-annual self-check by the Agency to ensure it is meeting these obligations. The Contract Manager uses this checklist when undertaking a review of the contract. My Authorised Auditors sighted evidence of this occurring during the October 2016 audit.

Performance reporting

CareFlight is required to submit flight statistics and a Contract Management Report to the Agency Contract Manager on a monthly basis. The flight statistics are used by the Agency to clarify information contained in the invoices received from CareFlight. The contract management report outlines the performance of CareFlight and demonstrates how CareFlight has met Key Performance Indicators required by the contract.

Department of Health cont...

The Contract Manager undertakes audits on the information provided by CareFlight.

The contract management report is reviewed by the Contract Manager to identify any key performance indicators and performance measures not met or justified appropriately prior to this report being tabled and reviewed at the monthly Contract Management Meeting. All issues discussed at the monthly Contract Management Meetings are escalated to the Contract Governance Group meetings.

The Contract Manager also performs an analysis of actual and projected expenditure on a monthly basis. The data presented in this report is extracted from the monthly reports provided by CareFlight. The Contract Manager performs an assessment of expenditure and prepares graphs and tables to illustrate trends in the expenditure. This information is provided to the Budget Working Group.

Governance/oversight groups

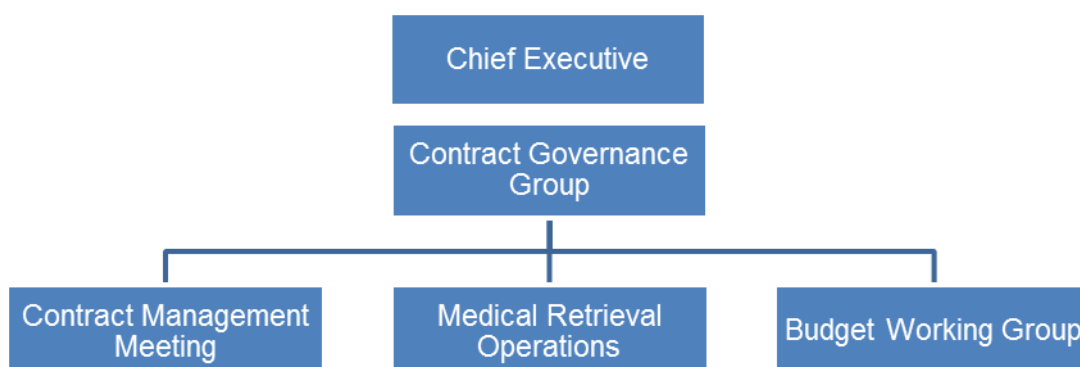
The Agency has established a governance structure to ensure oversight and clear communication between stakeholders of the contract, as set out in the contract and the Contract Management Plan.

Terms of Reference were prepared at the establishment of these groups with the exception of the Budget Working Group.

The Terms of Reference establish the authority, membership and functions of the committees. I recommended the Terms of Reference be signed by the appropriate delegates to evidence they have been appropriately endorsed.

A summary of the governance structure, as outlined in the Contract Management Plan, is presented in Figure 2.

Figure 2: Contract Governance Diagram - CareFlight



Department of Health cont...

Contract Governance Group

This group provides strategic leadership to the Contract Manager. This group is responsible for resolving issues requiring high level decisions in member organisations and overall monitoring of the performance of the service and future planning. The group comprises representatives from CareFlight and Agency representatives.

Contract Management Meeting

This group ensures the effective management and monitoring of the CareFlight contracts. It is responsible for maintaining a constructive relationship between the parties; dispute and problem resolution; recommending to the Contract Governance Group any major variations to reporting or other contractual requirements; and consideration of significant issues referred to it by other groups. The group comprises CareFlight and Agency representatives.

Medical Retrieval Operations Committee

This group was established to share information and resolve operational issues. Any issues that are unable to be resolved by the Medical Retrieval Operations Committee are referred to the Contract Management Meeting or the Corporate Governance Group. The committee aims to assess the operational integration between CareFlight; non-government emergency services organisations; and the Northern Territory Government to improve the performance of medical retrieval services across the Northern Territory. It comprises representatives from the Agency, CareFlight, St John Ambulance, Top End Health Service and the Northern Critical Care Trauma Response Centre.

Budget Working Group

This group consists of representatives from finance, corporate support and contract management representatives for the Agency, Top End Health Service and Central Australia Health Service. The group discusses expenditure trends; reviews actual expenditure versus budget; and considers future budget projections and implications.

Document management and record keeping

The Agency uses both electronic and hard copy records and has established a number of internal processes to support its documentation and record keeping. A designated contract management software system is not used.

Department of Health cont...

St John Ambulance

Agreement management

A five year funding agreement exists between the Northern Territory of Australia and St John Ambulance extending from 1 February 2016 to 31 January 2021. This funding agreement has been established based on a long standing relationship between the two parties (in contrast to the CareFlight contract, which was awarded based on a tender process).

Similar to CareFlight, the funding agreement is managed through its own established Contract Management Plan. The Contract Management Plan in use was updated in May 2016, however, it had not been finalised or formally approved.

The Agency has undertaken significant work to ensure that the Contract Management Plan is thorough and reflects the obligations of each of the parties to the arrangement. The Agency is aware of its obligations and those of St John Ambulance and has drafted a 'contractual obligation checklist' which enables a bi-annual self-check by the Agency to ensure it is meeting its obligations.

Performance and key performance indicator (KPI) reporting

St John Ambulance is required on a quarterly basis to submit reports on service levels and KPIs stipulated within the funding agreement. The KPIs, as specified in the agreement, include:

- detail on the achievement of Outputs with reference to Service levels; and
- detail on the achievement of Service Improvement Targets.

The quarterly reports are tabled and reviewed at the Contract Management Meetings and Clinical Governance Group meetings.

The Agency places full reliance on the reports prepared by St John Ambulance when reporting to the governance groups. Historically these reports have been difficult for the Agency to evaluate as the information received has not clearly addressed the specific reporting requirements of the agreement. This has, in the past, required the Agency to spend excessive time reviewing the information received in order to extract the relevant data required.

Department of Health cont...

No internal reviews are conducted on the information provided to assess the correctness, accuracy, or validity of the reported performance of St John Ambulance. With limited understanding of the reports prepared by St John Ambulance, the Agency may fail to identify when obligations to the agreement have not been met and therefore may fail to take action to address non-performance.

To address this risk, during the period under audit, the designated Contract Manager designed and implemented a service delivery reporting tool for use by St John Ambulance. This service delivery reporting tool has been specifically structured to align the reported information to the exact requirements of the contract. At time of the audit fieldwork, the service delivery reporting tool was in draft and had been shared with St John Ambulance for use in their next reporting cycle. This is a commendable effort by the Agency to ensure that there are appropriate systems and processes in place to meet the requirements of the agreement.

Governance/oversight groups

The Agency has established governance arrangements pursuant to the requirements of the agreement to ensure oversight and clear communication between stakeholders. The establishment of the governance arrangements involved setting up a number of governance groups and the implementation of regular monitoring meetings.

Terms of Reference were prepared at the establishment of these committees with the exception of the Contract Management Meeting.

The Terms of Reference establish the authority, membership and functions of the committees however the Terms of Reference have not been signed by the appropriate delegates. Some recommendations were made to enhance the Terms of Reference prior to them being formally endorsed and circulated.

A summary of the governance arrangements is presented in Figure 3.

Figure 3: Governance arrangements – St John Ambulance



Department of Health cont...

Contract Governance Group

This group is to provide strategic level oversight to all aspects of the operation of the Top End and Central Australia delivery of the Funding Agreement. The Committee is required to continuously review the effectiveness of the agreed service and make decisions on behalf of the represented organisations to implement necessary improvements and agreed actions. The group consists of representatives from St John Ambulance, representatives from the Northern Territory Government (including Top End Health Service, Central Australia Health Service and Department of Health).

Contract Management Meeting

This group was established to monitor and review the effectiveness of overall service delivery of ambulance services and compliance with KPI reporting in accordance with the terms and conditions of the agreement. Establishment of the group was expected to cultivate constructive relationships between the parties through sharing of information and communication of strategic requirements across all areas of the contract including service delivery responsibilities. The group consists of representatives from St John Ambulance and representatives from the Agency, Top End Health Service and Central Australia Health Service. The group reports on contractual variations; addresses issues; and identifies and escalates significant issues to the Contract Governance Group.

Clinical Governance Group

This group, comprising representatives from St John Ambulance, Top End Health Service and Central Australia Health Service reviews and approves policies and addresses any clinical issues across the Agency as a whole and is not singularly focused on service delivery by St John Ambulance.

Service Improvements Steering Committee

This group oversees and monitors KPIs relating to service improvements and determines whether or not thresholds have been met.

Document management and record keeping

The Agency uses both electronic and hard copy records and has established a number of internal processes to support its documentation and record keeping. A designated contract management software system is not used.

At time of the audit fieldwork, my Authorised Auditors noted that there were various copies and iterations of the Contract Management Plan and funding agreement filed within the folders. This presents a risk that the personnel responsible for managing the contract will access and make use of outdated documents.

Department of Health cont...

The Department of Health has commented:

The Department of Health acknowledges the findings and has addressed the recommendations relating to the governance group's Terms of Reference and improved document management for both Careflight and St John Ambulance Australia (NT). The Department has also resolved the recommendation to budgeted expenditure for the Careflight contract.

The Department has established a working group to implement the recommendations relating to Contract Management and reporting improvements for St John Ambulance Australia (NT).

Department of Infrastructure, Planning and Logistics

Procurement Review

Review Scope and Objective

The objective of this review was to examine a sample of tenders at the former Department of Infrastructure (DoI) to assess whether the tendering, assessment and approval was without bias and that final selection and approval was based on value for money principles.

This review did not:

- examine compliance with the Agency's policies or checklists;
- examine compliance with Agency delegations;
- undertake a comparison of procurement guidance within the Agency to the Northern Territory Government framework requirements;
- examine the process for estimating contract values;
- examine the Agency's systems and processes for exception and variance reporting, such as comparison of estimate to contract awarded value or monitoring of contract variations; or
- examine the Agency's systems and processes for managing and awarding contract variations.

Whilst the review found some indicators of opportunities to enhance these processes, they were not examined further as they were outside the scope of the review. These elements may be examined in future audits or reviews.

The machinery of government changes following the Northern Territory Election in August 2016 saw the Department of Infrastructure (DoI) being incorporated into the newly created Department of Infrastructure, Planning and Logistics (DIPL).

Background

The Northern Territory Government's Procurement Framework comprises the:

- *Procurement Act*
- Procurement Regulations
- Procurement Directions
- Northern Territory Procurement Code; and
- Procurement Circulars.

Department of Infrastructure, Planning and Logistics cont...

Agencies are required to adhere to these and this review examined a sample of tenders to test compliance with the procurement framework.

The sample was selected from the Northern Territory Government Agencies Purchase Requisitions Online (APRO) system, which is “an online procurement tool that allows creation, processing and recording of procurement action and includes electronic workflow for endorsement and approval. It is a Lotus Notes database with a web interface and uses ePASS for security.” (source: <http://ntgcentral.nt.gov.au/online-systems/apro>) APRO is mandated to be used by agencies to record all procurement activity from Tier 2 and above.

Data for the period 1 January to 31 December 2014 was extracted from APRO to conduct this review.

Given the sample period selected, there were changes in the Procurement Directions during that time. Table 1 set out the periods and how they are referred to in this report.

Table 1: Procurement Direction Effective Date

Procurement Direction Effective Date	Term used in this report	Period of the Procurement Direction
Effective 20 March 2013	“Old” guidelines	20 March 2013 to 30 June 2014 inclusive
Effective 1 July 2014	“New” guidelines	1 July 2014 to 15 November 2015 inclusive

Note: The Procurement Directions were again revised effective 16 November 2015. This review did not test the Agency’s compliance with the changes that were effective from 16 November 2015.

A high level comparison of the changes to the ‘rules’ applied to the financial levels of procurement is presented in Table 2. A key change was the removal of Tier 6, along with the cessation of the Procurement Review Board’s approval process resulting in delegation resting with the Chief Executives of agencies to approve high value procurement expenditure.

Department of Infrastructure, Planning and Logistics cont...

Table 2: Comparison of Procurement Tiers – “old” versus “new”

Tier	Pre 1/7/14	Post 1/7/14
Tier 1	\$0 to \$14,999	\$0 to \$14,999
Tier 2	\$15,000 to \$49,999	\$15,000 to \$99,999
Tier 3	\$50,000 to \$199,999	\$100,000 to \$499,999
Tier 4	\$200,000 to \$999,999	\$500,000 to \$1,999,999
Tier 5	\$1,000,000 to \$4,999,999	\$2,000,000 upwards
Tier 6	\$5,000,000 upwards	removed

Source: NTG Procurement Framework

Fieldwork for this review was conducted in February and March 2015 and completed in November 2016.

Summary of Findings

Opportunities for improvement were identified for each of the 16 awarded tenders selected for review. Opportunities for improvement were identified for one of the three cancelled tenders selected for review. Table 3 summarises the findings from this review.

Table 3: Summary of Issues identified

Issue	Number of instances identified
Non-compliance with Procurement Directions	42
Documentary evidence to support the procurement, evaluation, assessment and awarding of procurement decisions requires improvement	58
Documentary evidence surrounding procurement under existing panel contracts requires improvement	1
Improve scoping and planning of works, including those issued under “urgency”, to minimise perception of splitting and contract variations	6
Improve documentation of the Procurement Outcome Approval, particularly when admissibility, appeals and complaints are involved	4
Tender recorded incorrectly as cancelled in APRO	1

Department of Infrastructure, Planning and Logistics cont...

Conclusion

The considerable number of observations in the Summary of Findings demonstrates that the Agency needs to implement improvements in order to demonstrate compliance with the Northern Territory Government Procurement Framework.

Given the number of exceptions resulting from the review, I was unable to conclude that the tendering, assessment and approval was without bias and that the final selection and approval was based on value for money principles.

I recognise the changes to Northern Territory Government procurement framework during the period subject to review, and acknowledge that the Agency has in place some generally sound systems and processes to support procurement, however, the absence of sufficiently and appropriately detailed documentary evidence to support procurement exposes the Agency to:

- negative perceptions regarding the probity surrounding its procurement processes;
- allegations of improper awarding of contracts requiring resources to be redirected to verifying the approach and/or justifying the outcome; and
- the risk of inappropriately awarded tenders.

A sample of 16 awarded tenders was chosen to be examined in detail, eight under the “old” Procurement Directions and eight under the “new” Procurement Directions.

The sample selected for testing can be broadly classified into three groups:

- Tenders issued using existing panel contract arrangements;
- Tier 2; and
- Tier 3 and above.

There were common deficiencies identified within the three groupings.

- There were three tenders tested under the existing panel contract arrangements. Documentation about how tenderers were invited to quote based on the existing panel contract could be improved.

Department of Infrastructure, Planning and Logistics cont...

- Tier 2 testing identified areas for improvement related to documentation and scoping of original works. Given the Agency's ability to make their own decisions and maintain oversight of these arrangements, there are opportunities to improve the systems and processes in place to manage these. The Agency may be subjected to scrutiny as to whether procurement has been "split" into smaller packages of works to fit within Tier 2 and whether the scope of works was initially correct, given some of the contract variations sighted mentioned additional works at the request of the client.
- Tier 3 and above appeared to be much more robust processes as evidenced by the documentation provided by the Agency, which is to be expected given the dollar value, however, the documentation around items impacting on the tender assessment and evaluation process could be improved. The business paper provides details for why the select tenderer/s was recommended but it does not address when the Procurement Review Board was involved or how actions of the Agency demonstrate compliance with the Procurement Directions when admissibility or compliance with tender documentation has been questioned. This is a critical step now that the Procurement Review Board no longer provides a layer of external oversight and because under the "new" guidelines the Chief Executive is responsible for the decision. Procurement outcome decisions must comply with the procurement framework and be able to withstand external scrutiny.

A sample of three cancelled tenders was selected for detailed examination using the "old" procurement framework as that was the applicable framework at the time of the tenders.

Two of the three cancelled tenders appear to have been cancelled appropriately, with the Approval to Decline all Quotations/Tenders completed and approved by a Delegated Officer; subsequent approval received from the Procurement Review Board; and letters sent to the tenderer/s notifying them of the outcome.

The remaining tender appears to have been cancelled in error as works were subsequently completed under a variation of this Tender number. Whilst not part of the specific cancelled tender testing, I asked to see a copy of the original tender that was subsequently completed under the varied tender number. The original Request for Tender was not able to be provided by the Agency as it was not captured in the Agency's records management system.

Improvements are required to ensure that the Agency complies with the whole of government Procurement Framework and enhanced documentary evidence needs to be produced and retained by the Agency in order to demonstrate compliance if a subsequent inspection occurs.

Department of Infrastructure, Planning and Logistics cont...

Recommendations

The following recommendations were provided to the Agency as a result of my review. The Agency could improve its compliance with procurement requirements and reduce financial, reputational and operational risk by:

- reintroducing compliance self-checks;
- developing guidance for the use of panel contracts;
- enhancing, formally endorsing and implementing procurement training for all staff;
- improving and enforcing compliance with Procurement Directions and improving the retention of documentary evidence to support decisions relating to procurement, evaluation, assessment and awarding of procurement;
- improving retention of documentary evidence surrounding procurement under existing Panel Contracts;
- improving planning for works and retention of documentation evidencing the reasons for Contract Variations;
- enhancing documentation supporting procurement decisions when admissibility, appeals and complaints are involved to demonstrate what transpired and to demonstrate compliance with the Procurement Framework; and
- improving systems and processes for cancelling tenders.

Review Observations

The observations from this review are provided below under the headings of:

- Systems and Processes
- Training
- Awarded Contracts
- Cancelled Tenders

Systems and Processes

The Agency has a dedicated Procurement Unit within the Agency. Its role is to support the Agency when undertaking procurement. At the time of the initial fieldwork for this review, the Procurement Unit was mostly involved with procurement activities applicable to Tier 3 and above. Divisions, or work units, within the Agency generally managed Tier 1 and Tier 2 procurement, and consulted with the Procurement Unit if assistance was needed.

Department of Infrastructure, Planning and Logistics cont...

At the time of the review fieldwork, the Agency had a substantial amount of procurement guidance available on the Agency's Intranet. I was provided with copies of guidance that encompassed both the "old" guidelines (called "pre reforms" by the Agency) and "new" guidelines (called "post reforms" by the Agency). The guidance consisted of procurement checklists, flowcharts and procurement delegations.

In addition to the above, the Agency had some policies that complemented the procurement processes and were required to be adhered to when undertaking procurement. These included:

- Conflict of Interest Policy;
- Gifts and Benefits Policy and Procedure; and
- Improper Conduct Policy and Reporting Procedures (*Whistleblowing Protection and the Public Interest Disclosure Act*).

The Agency makes a distinction between a quote – Tiers 1 and 2 – and a tender – Tiers 3 and above. The procurement processes for quotes and tenders are distinct.

Tier 2 procurement was evaluated and then approved by a Delegate. Tier 2 procurement was managed within the work unit. The Procurement Unit provided assistance to ensure all documentation was captured in TRIM, the Agency's electronic document management system.

Tier 3 and above required a Procurement Activity Plan to be completed. This Procurement Activity Plan included the Tender Evaluation Plan and the Contract Management Plan. The Procurement Activity Plan was to be approved by an appropriately delegated officer and then endorsed by the Agency Procurement Committee. The Procurement Unit was required to perform an initial check on the tender package. Once satisfied, the Procurement Unit sent the documents to Contract and Procurement Services (CAPS) at the Department of Corporate and Information Services (DCIS). CAPS undertook additional checks of the documentation and, once satisfied, the tender was advertised by CAPS. Tenders were received by CAPS who undertook checks on the tenderers and provided advice on the list of admissible tenders. CAPS sent all tenders received, admissible or inadmissible, by email to the Agency Procurement Unit. The Agency Procurement Unit then recorded this information in TRIM and forwarded the email to the Project Manager or Project Administrator. The Project Administrator convened the tender assessment panel and was responsible for ensuring that confidentiality forms were completed. Once the tender assessment panel had carried out their evaluation, panel members completed and signed the Value for Money Assessment Form. The Value for Money Assessment Form was incorporated in the Procurement Outcome Approval form (also referred to as the "business paper") together with a narrative explanation supporting the basis for recommending a preferred tenderer. This documentation was then sent to the Procurement Unit for checking for completeness and counter-signing.

Department of Infrastructure, Planning and Logistics cont...

For Tier 3, the business paper was signed as endorsed by the Director Procurement Services once approval was given by the Delegate.

For Tier 4 and above, the business paper was approved by the Delegate, then the Director Procurement Services, then the Executive Director Corporate Services, then the Director Procurement, then the Agency Chief Executive. Under the “old” guidelines, the business paper then went to the Procurement Review Board to approve the tender awarding. Under the “new” guidelines, the Procurement Review Board no longer had that role and the Agency Chief Executive became the ultimate approver of procurement at Tier 4 and above.

Once the requisite approvals were obtained, they were also recorded in TRIM and emailed to CAPS. CAPS undertook their own compliance checks in accordance with their systems and processes requirements and then processed the tender notifications to the successful and unsuccessful tenderer/s.

The Agency Procurement Unit uses a series of generic email addresses to ensure that information can be centrally managed and distributed to project staff quickly. This includes a generic debrief email if a tenderer wishes to receive a debrief relating to a tender outcome. The Agency conducts debriefs to unsuccessful tenderers, CAPS is not involved.

CAPS strictly enforced the changeover period from the “old” to “new” Procurement Directions and monitored whole of government compliance with the new Procurement Directions. Representatives of the Agency advised that the Agency had two weeks to be fully compliant with the new procurement directions. If a tender closed before 30 June 2014, the “old” guidelines were to be used.

Agency self-check of compliance with the Procurement Framework

Under the “old” procurement arrangements, the Agency Procurement Unit had undertaken checks approximately every three months to test the Agency’s compliance with the Procurement Directions. At the time this review commenced, this process had not been undertaken for some time. My Authorised Auditor was advised that this process had stopped because of changes to and loss of staff and because the procurement reforms that came into effect on 1 July 2014 required the work group to focus on updating Agency guidance to reflect the procurement reforms.

Panel contracts

APRO is mandated to be used to record procurement activity for Tier 2 and above. The Agency is also using APRO to capture contracts awarded under existing panel contracts.

Department of Infrastructure, Planning and Logistics cont...

The Agency undertakes tender processes to have pre-approved contractors or tenderers appointed to what is referred to as a 'panel contract'. A panel may include several contractors. The panel enables the Agency to appoint contractors to deliver a project without going through an entire tender process. The contractor is not required to complete full tender documents for the specific project if they are selected under the panel contract. For the Agency to use a contractor, the delegated officer selects a number of contractors and obtains a quote from them. The quotes are assessed based on the criteria specified in the original request for tender. I was advised that the selection of a panel contractor is generally based upon price and capacity to undertake the required works within the required timeframe.

To facilitate the panel process, and to ensure that documentation is prepared and retained, the Agency selects 'Tier 2' within APRO. The Agency uses the Tier 2 process as often the only variables are price, availability and ability of the panel contractor to do the job in the timeframe that the Agency requires. The specific requirements for assessment under an existing panel contract are contained in the request for tender at the time the panel was put in place. The procurement is processed as a 'request for quote or tender'. The Agency undertakes an assessment of each response and must receive approval from an appropriately delegated officer before using the contractor.

Contracts awarded under existing panel contracts are being captured as Tier 2, even though the value often far exceeds the Tier 2 limit. As a consequence, exception reporting will always show significant variances between the original estimate and the contract awarded amounts.

Discussions with CAPS staff at DCIS who manage the APRO system advised that the practice of using Tier 2 to record contracts issued under an existing panel contract is consistent with other Agencies who do not have a separate system to capture and record panel contracts. Using APRO ensures that documentation is retained in a central location.

The Procurement Directions were silent at the time of the review fieldwork regarding awarding of work under an existing panel contract. The Agency did not have any guidance for staff on how to use an existing panel contract.

Training

My Authorised Auditor was advised at the time of the review that Procurement Training was provided on an ad hoc basis, when a particular need arose or when there were major changes in procurement processes. Targeted training was not provided to new employees in the Agency, or those identified by the Procurement Unit as requiring further guidance in relation to procurement processes.

The training that was provided on an ad hoc basis was not competency-based training. Attendance at training was not mandatory.

Department of Infrastructure, Planning and Logistics cont...

The Procurement Unit has been involved in “roadshows” where representatives from various divisions / units within the Agency explain their role in the context of the wider Agency. These roadshows had raised awareness of both the requirements of the Northern Territory Government’s Procurement Framework and the role of the Agency’s Procurement Unit.

The Manager Procurement Services presented sessions on the changes to the Procurement Directions effective 1 July 2014. One series of sessions was conducted before 30 June 2014 and one series was conducted when a newly appointed Director Procurement Services commenced in August 2014.

As previously reported, the changes to the Procurement Directions saw the removal of the Procurement Review Board’s role and the final decision for awarding tenders became the responsibility of each Agency’s Chief Executive. The Manager Procurement Services and the Director Procurement Services advised that they were not aware of any training specifically targeted at Chief Executives to support the revised responsibility. My Authorised Auditor confirmed with a senior government officer within DCIS that there was not any targeted training made available for Chief Executives. This officer was involved in assisting agencies to adjust to the revised procurement framework reforms effective 1 July 2014.

Awarded Contracts

APRO recorded 939 awarded contracts issued on behalf of the Agency for Tiers 2 to 6 during the period 1 January to 31 December 2014, with a total contracted value of \$392,743,331.12. Tier 1 is not required to be recorded using APRO so has been excluded from testing in this review.

Table 4 details the number of tenders where the contracted value of the tender varied from the estimated value.

Department of Infrastructure, Planning and Logistics cont...

Table 4: Number of Tenders where contracted price differed from estimated value

Contracted Price differs from Estimated Value (Variance %)	Number of Tenders
> 4000	3
> 1000 < 2000	2
> 100 < 1000	19
> 50 < 100	51
> 10 < 50	168
> 0 < 10	95
Nil	45
> 0 < -10	134
> -10 < -50	350
> -50 < -90	72
Total	939

Source: APRO extract

The single largest deviation below the original estimate had the original estimate recorded as \$200,000 in APRO. The contract was awarded for \$32,250, a variance of negative 84%.

The single largest deviation above the original estimate had the original estimate recorded as \$49,999 in APRO. The contract was awarded for \$2,492,371, a variance of 4,885%. This tender related to works allocated under an existing panel contract.

Of the awarded contracts recorded for the Agency for Tiers 2 to 6 during the period 1 January to 31 December 2014, 338 (36%) had a higher contracted price than the estimated value. The estimated value matched the contracted value for 45 (4.8%) awarded contracts.

Three tenders with a variance greater than 4000% were tenders awarded under an existing panel contract for delivery of a specific infrastructure program which had been recorded in APRO as Tier 2 to ensure that the procurement activity was recorded. All three were examined as part of the "Awarded Tender" sample.

Department of Infrastructure, Planning and Logistics cont...

Cancelled Tenders

The Agency had 69 tenders recorded in APRO as “Cancelled” during the period 1 January to 31 December 2014. The total estimated value captured in APRO of these cancelled tenders was \$38.4 million. The reasons for cancellation recorded in APRO, and the number of tenders cancelled for each reason, are presented in Table 5 below.

Table 5: Tender cancellation reasons

Cancel Reason	Quantity
All tenders ruled inadmissible	4
Expiration of tender validity	3
Insufficient Funds	2
Nil responses received	8
Nil tenders received	24
No suitable responses received	1
No suitable tenders received	2
Other (see comments)	20
Scope of work deemed deficient	2
Works no longer required	3
TOTAL	69

Source: APRO extract

Findings from testing Awarded Contracts and Cancelled Tenders are summarised in the “Conclusion” and “Recommendations” sections reported above.

Department of Infrastructure, Planning and Logistics cont...

The Department of Infrastructure, Planning and Logistics has commented:

The Machinery of Government changes in September 2016 resulted in the amalgamation of the Departments of Transport, Infrastructure and Lands, Planning and the Environment to form the new Department of Infrastructure Planning and Logistics (DIPL). The amalgamation of three departments into one resulted in changes in structure that included the transfer of the procurement function from the Corporate Services area of the department to the Programming and Procurement Unit. This was formalised and became effective 10 October 2016 and brought together all procurement responsibilities into one area of the department. As the largest procuring agency in the public sector, this change reflects the importance of the role and was the first step in bringing consistency to the delivery of procurement services within DIPL.

In late 2016, a new Procurement Operations and Capability team was established and developed a list of priority projects that included:

- i) assess current systems and processes to identify efficiency opportunities and develop a Compliance Management Strategy that includes breach management, evidence-based reporting and a continuous improvement plan*
- ii) develop a Capability Development Strategy (CDS) to align with the whole of government CDS approved by the Department of Trade, Business and Innovation (DTBI) in March 2016*
- iii) update and realign education material for all stages of procurement life cycle to improve currency, user-friendliness and incorporate construction specific requirements*

The agency acknowledges the Review's Recommendations which are based on data sourced from 2014, and also notes that in the intervening period there have been significant changes to the Northern Territory Government Procurement Framework from which the Agency's own internal systems and processes have changed. Even so, the department has continued to identify and implement opportunities for operational improvement.

Department of Infrastructure, Planning and Logistics cont...

The Department of Infrastructure, Planning and Logistics has commented (cont...):

At March 2017, the Department has:

- *Drafted a Compliance Management Strategy, including a Breach Management Plan and complaints management procedures for staff*
- *Developed a Capability Management Strategy which includes training requirements for all types of procurers and a review of the intranet content and resources incorporating staff feedback*
- *Commenced delivery of training to staff, with over 600 nominations received from staff wanting to attend Procurement Training which is being delivered by the Procurement Operations and Capability team*
- *Registered Procurement staff in accredited training to ensure compliance with minimum qualification requirements*
- *Educational material for all stages of procurement life cycle review has commenced*

Department of Infrastructure, Planning and Logistics

Tiger Brennan Drive

Scope and Objectives

The primary objective of the Tiger Brennan Drive audit was to assess the performance management system/s in place at the formerly known Department of Infrastructure that enabled it to manage the Tiger Brennan Drive project.

The scope of the audit focused on the duplication of Tiger Brennan Drive between Woolner Road and Berrimah Road. From a timing perspective the audit covers the period from the award date of the Managing Contractor (MC) in October 2014 to 30 September 2016.

The machinery of government changes following the Northern Territory Election in August 2016 saw the Department of Infrastructure (DoI) being incorporated into the newly created Department of Infrastructure, Planning and Logistics (DIPL).

Tiger Brennan Drive between the Darwin Central Business District (CBD) and Berrimah Road is an important traffic corridor between Darwin and Palmerston. It serves as one of only two main routes into the Darwin CBD. The weekday traffic volume is in the order of 22,000 vehicles per day. This is expected to double by 2036 due to the ongoing urban growth which is occurring in Palmerston, the rural areas beyond Palmerston and the Darwin CBD¹. Tiger Brennan Drive also connects to the Stuart Highway at Palmerston which plays a significant role in Darwin's seaboard freight network and is critically important to regional economic growth, development and connectivity.

The duplication of Tiger Brennan Drive is a project that has been and will continue to be completed in stages.

The Tiger Brennan Drive Duplication from Woolner Road to Berrimah Road, referred to hereafter as "the TBD Project" or "the Project", is jointly funded by the Australian and Northern Territory Governments and valued at \$88 million².

The TBD Project is bordered by a mixture of industrial and residential land and includes Charles Darwin National Park and Hidden Valley Motor Sports Complex. The terrain is undulating and passes through a number of deep rock cuttings and soft marine mud. There is a high voltage overhead power line running along the southern side of the corridor. A number of at-grade (at the same level) intersections (signalised and un-signalised) existed along the alignment before this project commenced. These had either reached capacity, didn't meet current design standards, and/or were considered unsafe.

¹ Project Proposal

² <https://infrastructure.nt.gov.au/projects/current-projects/roads/tiger-brennan-drive-duplication-woolner-to-berrimah-road> (accessed 24 October 2016)

Department of Infrastructure, Planning and Logistics cont...

The TBD Project has been designed to improve safety, connectivity and cater for long term growth and increased capacity on Tiger Brennan Drive as development in Palmerston and surrounding areas accelerates.

A project proposal was submitted to the Commonwealth Government Department of Infrastructure and Regional Development in October 2014 by the former Northern Territory Government (NTG) Department of Transport (DoT) to jointly fund the Tiger Brennan Drive Duplication between Darwin CBD and Berrimah Road. The main objective was to increase capacity, improve road safety and reduce the travel time along this section of Tiger Brennan Drive.

Construction of the TBD Project began in December 2014. All traffic was moved across to the newly duplicated alignment between Woolner Road and Berrimah Road in late July 2016. Minor works were expected to continue along the alignment until the end of September 2016 to finalise the project³. At the time of fieldwork in November and December 2016, completion works were in progress. This was the close out phase of the project which included minor works and defects in the defect liability period. The works were expected to be completed by the end of December 2016.

The distance of the duplication of the TBD Project is approximately nine kilometres and was segmented into three road packages during the planning phase of construction, referred to by all parties involved in the TBD Project as:

- Road Package 1 - from Woolner Road to Bowen Street.
- Road Package 2 - from Bowen Street to Amy Johnson Drive.
- Road Package 3 - from Amy Johnson Drive to Berrimah Road.

The TBD Project was to contribute to:

- improving traffic flow and easing congestion during peak hours between Darwin, Palmerston and the rural area;
- improving functionality and efficiency of existing intersections and accesses;
- relieving pressure on arterial roads including the Stuart Highway;
- improving safety for traffic entering Tiger Brennan Drive and pedestrian movements at intersections;
- improving the ability of motorists to overtake;

³ https://infrastructure.nt.gov.au/data/assets/pdf_file/0003/238557/Tiger-Brennan_FA_UPDATED_V2.pdf (accessed on 24 October 2016)

Department of Infrastructure, Planning and Logistics cont...

- increasing capacity to cater for future growth;
- creating jobs during construction; and
- improving productivity and investment opportunities for local businesses⁴.

Appendix A of this section of report shows a map of key stakeholder involvement in the construction of the TBD Project.

This performance management system audit focused on the duplication of Tiger Brennan Drive between Woolner Road and Berrimah Road. From a timing perspective, the audit covers the period from the award date of the Managing Contractor Contract (MCC) in October 2014 to 30 September 2016.

The fieldwork supporting this audit was conducted between 26 October 2016 and 16 December 2016.

Conclusion

Dol had various components of a performance management system in place, detailed in the MCC as well as the Service Level Agreement with DoT, to enable it to manage the TBD Project. From my review, there are some opportunities to enhance the processes to ensure all the components work together to form an efficient and reliable performance management system. Recommendations to enhance the effectiveness of management and monitoring of future MCC arrangements have been reported below.

Recommendations

Recommendations from the performance management system audit are set out below:

- Dol's holistic Contract Management Framework requires additional policies and procedures to support MCC arrangements.
- Dol could enhance the performance measures defined in future MCC arrangements to enable effective monitoring of the MC's performance against the project objectives.
- Dol could improve and adequately document the performance of the MC during the life of the Project especially where there are instances of underperformance.
- Dol could improve the document management system/s in place throughout the life of the Project.

⁴ https://infrastructure.nt.gov.au/data/assets/pdf_file/0003/238557/Tiger-Brennan_FA_UPDATED_V2.pdf (accessed on 24 October 2016)

Department of Infrastructure, Planning and Logistics cont...

Overall Assessment

The table below provides a summary of my assessment of what went well during the TBD Project and what improvements could be implemented to the performance management systems in place at DoI to enable it to manage future projects of a similar nature.

Table 1: Summary of assessment results

Activity / Phases	What went well	What could be improved
Planning	Effective governance arrangements were planned.	Risk to the delivery and ongoing management of the contract were identified.
	Roles and responsibility were clearly defined.	Development of a Contract Management Framework.
Administration	Compiling activity or performance reports of the MC.	Collation and retention of key decisions and documents.
	Monitoring the timeliness and quality of deliverables.	Segregation of duties of Contract Administrator/Project Leadership Team/Project Management Team.
	Record of contracts / agreements.	
	Comparison of invoices to contract terms and conditions.	Consideration of independence and enforcing the general project structure to facilitate the performance of the contract.
Assessment and Evaluation	Tracking and performance against budget.	Planning for and assessment of contractor performance.
	Variations were assessed on how they contribute to the overall Project.	Development of policy and procedures for managing underperformance and documentation of contractor performance on a regular basis.
		Assessment of MC performance against the contract objectives.

Department of Infrastructure, Planning and Logistics cont...

Activity / Phases	What went well	What could be improved
Reporting	<p>Regular and consistent reporting to all stakeholders.</p> <p>Timely identification and appropriate escalation of issues.</p> <p>Ad hoc reporting to resolve identified issues.</p> <p>Recommendations on suggested variations.</p>	<p>Collation and retention of key decisions and documents.</p> <p>Consistent reporting of required information.</p>
Active Management	<p>Active engagement and ongoing management of issues.</p> <p>Management of contract disputes and variations.</p>	<p>Managing and addressing underperformance.</p>
Ending the contract	<p>Not applicable at the time of the audit. It was noted that an overall evaluation of the contractor's performance is to be undertaken as well as workshops on the lessons learnt from the TBD Project. The transfer of all records into the Agency's records management system (TRIM) was also to commence following the conclusion of the project.</p>	

Notwithstanding Dol's involvement in the day-to-day activities of the TBD Project to manage the underperformance of the MC, the assessment in the above table demonstrates the contract management protocols were not adequately established by the Project Management Team (PMT) as required by the MCC so as to be effective. It is recommended that Dol considers establishing a Contract Management Framework and complementary policy and procedures to support contract management during future projects.

Report Outline

The results and observations from the work performed in this performance management system audit are set out in the following reporting sections:

- Contract management;
- Performance reporting;
- Project governance; and
- Document management and record keeping.

Department of Infrastructure, Planning and Logistics cont...

Contract Management

Due to the project delivery structure of the TBD Project, the contract management protocols are defined and established within the MCC.

Roles and responsibility

Jointly funded by the Commonwealth Government and NTG, the TBD Project was delivered and coordinated by the NTG. Table 2 below lists the roles and responsibility of the Agencies involved.

Table 2: Project responsibilities

Agency	Responsibility in relation to the project
Commonwealth Government – Department of Infrastructure and Regional Development	Monitor and assess achievement against payment milestones for the construction project. Provide financial contribution to the NTG.
NTG – Department of Infrastructure (now part of the Department of Infrastructure, Planning and Logistics)	Project manager for the construction of the project and contract administrator of the Managing Contractor Contract.
Department of Transport (now part of the Department of Infrastructure, Planning and Logistics)	Design input and the project owner ultimately responsible for the project. Milestone reporting to the Commonwealth Government.

Project Delivery

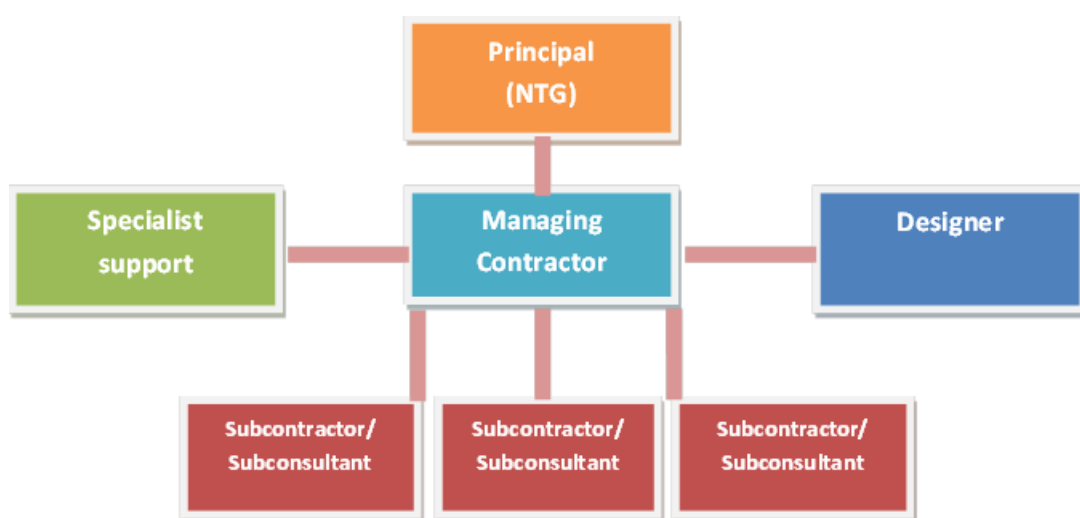
A managing contractor arrangement has been used for the delivery of the TBD Project. A managing contractor arrangement is a relationship-style delivery model based on collaborative principles, involving a head contractor being engaged as a managing contractor. The managing contractor is involved in managing the development of the design, coordinating the production of construction documentation, entering into contracts and managing the delivery of works on behalf of the project owner. The managing contractor is responsible for awarding Reimbursable Work contracts (a contract in which the contractor is reimbursed for the actual costs incurred in carrying out the works, plus an additional fee) to the subcontractors used in the delivery of works.

The MCC was awarded to the MC in October 2014 and the contract was signed on 5 November 2014.

Department of Infrastructure, Planning and Logistics cont...

The relationship between the parties in a typical MCC arrangement is presented in Figure 1 below.

Figure 1: Structure of a typical Managing Contractor arrangement



Source: Building and Construction Procurement Guide Principles and Options page 26 from <http://www.apcc.gov.au/ALLAPCC/Building%20and%20Construction%20Procurement%20Guide.pdf>

Contracts / Agreements in place

In an ideal practice environment, DoI, as an appropriately delegated party of the TBD Project, would have a record of all contracts relating to the TBD Project and would capture key information to support contract management activities and reporting. DoI advised that all MC contracts and accompanying registers are kept in Aconex (a secured cloud based platform document management system) by the MC.

A centralised document register that listed all the contracts and the key information relating to the Project was not easily identified within the Aconex system at the time of the audit however my Authorised Auditors were able to locate individual contracts.

The “Procurement Register” and “Contract Register” were provided by DoI to my Authorised Auditors upon request.

Department of Infrastructure, Planning and Logistics cont...

Contract Administrator

The MCC defines the Contract Administrator's role as to *"give directions and carry out all of the other functions of the Contract Administrator under the Contract as agent of the Territory"*. The signed MCC identified the Contract Administrator (CA) as the Executive Director, Major Projects and Assurance Services of DoI. With the machinery of government changes following the August 2016 Northern Territory election, the Executive Director, Major Projects and Assurance Services of DoI was no longer the CA from early November 2016. At the time of the audit fieldwork, the acting CA was a Project Director of DIPL and was responsible for the TBD Project. It should be noted that the Project Director was involved from the early stages of the TBD Project and had been delegated the role of CA from the former CA since the commencement of the MCC. Another Project Director of DoI also jointly assisted with the CA role.

Contract Management Plan

A contract management plan is a useful tool to assist managing and administering contracts. Since the contract management protocols of the TBD Project are contained within the MCC, a comparison of the MCC against the key elements / information of a contract management plan was conducted. This was done to assess the usefulness of the MCC in assisting DoI to manage the TBD Project.

The *"example of a contract management plan for large or more complex procurements"* from the Australian National Audit Office Best Practice Guide *"Developing and Managing Contracts: Getting the right outcome, achieving value for money"* was used to compare to the TBD Project. Considering the nature and arrangements of the TBD Project, the MCC largely contains the key elements / information of a contract management plan to assist DoI in managing and administering the contract relating to the TBD Project. Table 3 presents elements extracted from the Guide where DoI could improve the performance measures used to enable effective monitoring of future contract management arrangements of major / sizeable projects of a similar nature.

Department of Infrastructure, Planning and Logistics cont...

Table 3: Example extract of a contract management plan

Key element	Details
Performance Measurement: Key performance measures	List key performance measures/indicators to be used for measuring the performance of the contract. These should be consistent with the performance measures identified in the tender documentation and the contract.
Performance Measurement: Performance incentives/disincentives	List any non-financial performance incentives or disincentives that are applicable to the contract and the key performance indicators that trigger them.
Performance Measurement: Performance monitoring	Describe the data collection and analysis methods to be used for monitoring and assessing performance (e.g. user surveys, third party accreditation, benchmarking etc). Also detail who will undertake performance monitoring including: responsibility for collecting and analysing data; frequency of monitoring, the reporting arrangements; and any processes to review the arrangements.
Risk Assessment and Management Strategy: Contract risk plan	Insert details of contract risk planning, risks and mitigation strategies.
Risk Assessment and Management Strategy: Issue register	Record any issues (realised risks) that may arise and how they are to be managed, including by whom.

Source: "Example contract management plans for large or more complex procurement", page 126; *Developing and Managing Contracts: Getting the right outcome, achieving value for money*; Published: Wednesday, February 29, 2012; https://www.anao.gov.au/sites/g/files/net2251/f/2012_Developing_And_Managing_Contracts_BPGa.pdf (accessed on 7 December 2016).

Monitoring Contract Obligations

DoI monitored and performed its contractual obligations as stipulated in the MCC and performed the obligations stated within the Service Level Agreement with DoT. Responsibility for managing the contractual obligations between the MC and the subcontractors rested with the MC. DoI oversaw the process.

Department of Infrastructure, Planning and Logistics cont...

For a sample of documentation requested for testing, it was noted that DoI held records from the MC (such as the public liability insurance, design plans, signed deed of novation, signed trust deed, variation approvals and safety and environmental management plans) as stated in the MCC. Copies of the signed expert determination agreement and deed of guarantee, undertaking and substitution were not provided at the time of the audit. DoI should ensure that key documents relating to the managing contractor arrangements are clearly identified and consistently recorded within a single document management system.

The contract obligation in respect of project governance is detailed in the section "Project Governance" of this report.

The MCC requires the MC to *"provide the Contract Administrator with a monthly report in such form and on such matters as the Contract Administrator requires from time to time."* It also specifies elements that must be included in the monthly report.

From the audit work performed, the process to monitor compliance with the MCC was:

1. via Aconex where the MC provides the Monthly Report to the CA; and
2. the Monthly Report discussed at the Project Leadership Team meetings.

At the time of fieldwork, my Authorised Auditors sighted evidence of Monthly Reports from the MC commencing December 2014 up to and including the month of September 2016 with the exception of July 2015, February 2016, March 2016, July 2016 and August 2016 which were not available at the time of audit.

A review of the February 2015, September 2015, May 2016 and September 2016 Monthly Reports from the MC was performed. My Authorised Auditors noted that the Monthly Reports provided in accordance with the MCC were not consistently in the required form that addressed all the clauses. My Authorised Auditors also noted that a specific clause was not reported upon in any of the Monthly Reports reviewed however I was advised that the MC underwent a Building Code Compliance Audit by the Fair Work Building and Construction and DoI was provided with a copy of the audit report.

My Authorised Auditors were advised that, where information was incomplete in the Monthly Report, the information would be available on Aconex or be made available upon request by DoI. My Authorised Auditors evidenced a separate Variation Register, Financial Reports/Analysis and email correspondence in Aconex which were related to the Monthly Reports.

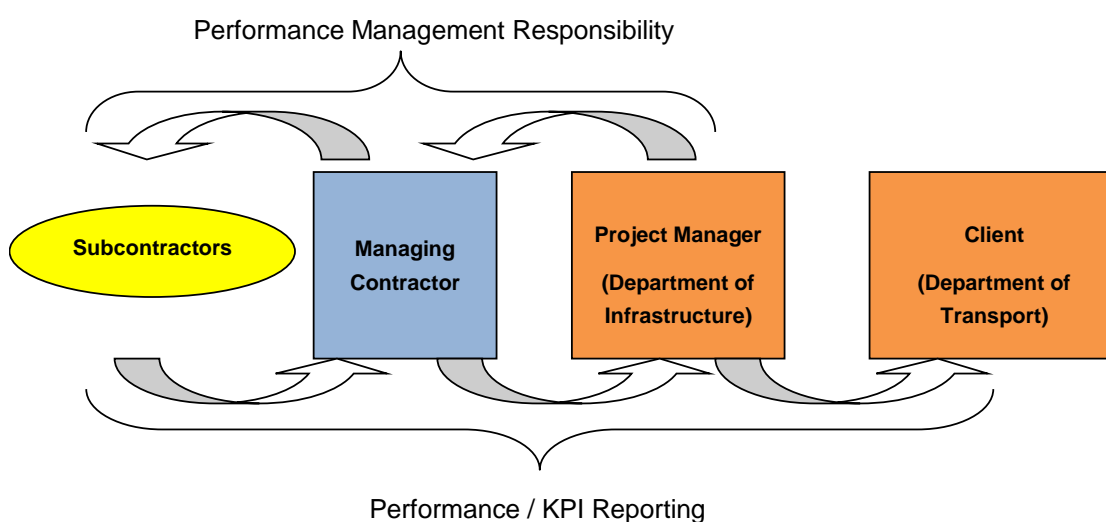
Department of Infrastructure, Planning and Logistics cont...

Performance Reporting

Performance management and performance reporting (against Key Performance Indicators (KPIs)) related to the TBD Project were segregated across the parties involved in the TBD Project. In this managing contractor arrangement, the subcontractors reported to the MC, who had performance management responsibility for the subcontractors. The MC reported to DoI on a regular basis and DoI had responsibility for the performance management of the MC. DoI reported to DoT on the progress of the TBD Project, as DoT is the owner of the TBD Project. In the scope of this audit, the focus of the performance reporting was at DoI's responsibility level.

Figure 2 illustrates the relationship mentioned above.

Figure 2: Key systems used during the delivery of the Project and the movement of information.



Performance /KPI Reporting from DoI to DoT

A Service Level Agreement was in place between DoI and DoT, although signed copies of the Service Level Agreement and the reporting requirements as they applied to reporting from DoI to DoT were not provided to my Authorised Auditors.

Department of Infrastructure, Planning and Logistics cont...

Monthly Project Reports from DoI to DoT were produced from November 2014 to February 2016. These reports included information on:

- key highlights;
- the current progress of the TBD Project;
- financial information on the expenditure;
- reporting on delivery milestones; and
- photographs of progress.

My Authorised Auditors sighted evidence of Monthly Project Reports from DoI to DoT and were advised by the acting CA that DoT no longer required the monthly Project Reports from February 2016 as DoT advised the information provided in the Monthly Reports from the MC to DoI (which DoT had access to) was sufficient for their purposes. DoT could and would request additional information from DoI if required. This was confirmed by DoT.

Performance / KPI Reporting between the MC and DoI

The MC reported on the progress of the TBD Project through the Monthly Reports to the CA at DoI. Information in the Monthly Reports included the status of a number of elements.

Performance reporting measures were not clearly defined to enable effective reporting and assessment of the MC's performance. From the review of the MCC, the performance and/or KPI reporting measures are those listed in the MCC.

DoI had several ways to monitor and manage the MC's performance. These included:

1. the provision of a Contractor Performance Report to the MC in accordance with the MCC;
2. the requirement to attend formal meetings to discuss matters related to the Project;
3. audits being performed on aspects of the contractual obligations;
4. informal meetings and DoI's involvement in the supervision and day to day activities on-site during construction;
5. the review of the Monthly Report provided by the MC which includes the review of the risk register; and
6. the ability to perform financial analysis on the spend to date and monitor the trust bank account maintained by the MC to ensure payments were made to subcontractors in a timely manner.

Audit findings and observations related to these six elements are reported below.

Department of Infrastructure, Planning and Logistics cont...

1. Contractor Performance Report (CPR)

Dol's intention was for a CPR to be completed monthly in order to track the performance and health of the Project.

Only one CPR dated February 2015 was provided to the MC. The acting CA confirmed only one CPR was performed during the period subject to audit and advised that an overall evaluation of the MC will be provided to the MC as part of the completion phase of the MCC which would fulfil the requirements of the MCC. The CPR process was amended during the TBD Project and it was decided by Dol to undertake the CPR at end of the TBD Project on the basis that the CPR was unlikely to raise or assist in raising the MC's performance on the TBD Project. Daily diaries were maintained by representatives of Dol that were onsite at the TBD project. These daily diaries were used to record the MC's performance, any instances of non-performance or issues arising, the actions taken to resolve the identified issues and the results. The overall evaluation of the MC's performance was yet to commence at the time of the audit fieldwork as minor defects were still being corrected.

To minimise the risk of potential dispute and the MC not fulfilling their responsibilities under the MCC, it is recommended that for future engagements of a similar nature, Dol should provide regular CPRs throughout the life of a project and retain sufficient documentation for managing underperformance (if any). It is also suggested, where possible, that KPIs are developed that are Specific, Measurable, Achievable, Relevant and Time phased (SMART).

2. Minutes of meetings related to contractor performance

The review of the Monthly Report from the MC is a standing agenda item on the Project Leadership Team (PLT) meetings. Minutes of PLT meetings evidenced the review of the Monthly Report, matters noted and actions points to be addressed.

3. Audits on aspects of the contract obligations

Dol voluntarily selected to engage external consultants to undertake an agreed-upon procedures engagement resulting in a report entitled "*Review into Local Industry Participation*".

4. Informal meetings and Dol's involvement in the supervision and day-to-day activities on-site during construction

The minutes of the Project Management Team meetings and email correspondence saved in Aconex evidenced Dol's involvement in the supervision and day to day activities on-site of construction. Dol's CPR constituted a "Contractor Performance Periodic Scorecard" (the Scorecard). Table 4 presents the categories and the elements in the Scorecard used to assess the MC's performance.

Department of Infrastructure, Planning and Logistics cont...

Table 4: Scorecard elements to assess Contractor Performance

Category	Elements
Project and Contract Management	Management of Subcontractors Management of Resources (Plant and Personnel) Indigenous Employees, Apprentices and Trainees Contract Administration
Time Management and Progress	Construction Program Progress of Work
Quality of Work	Design Construction Maintenance Defects
Utilisation of Systems	Work Health and Safety / OH&S Management Quality Management Environmental Management Traffic Management
Stakeholder Engagement and Relationships	Engagement and Relationships with the Principal Other Stakeholders Engagement and Relationships Community Engagement and Relationships

Department of Infrastructure, Planning and Logistics cont...

Dol individually scored each element to enable an average score to be produced for each category. The average score in each category was totalled to provide a total average score. Scores for each element in the range from zero (*“Does not meet the required standard of performance and is not recommended to carry out this type of work”*) to ten (*“Always above the required standard of performance. Demonstrated strengths and use of innovation where appropriate. No errors, risks, weaknesses or omissions”*).

5. Review of the Monthly Report provided by the MC

Refer to point 2 above.

6. Monitoring of financial costs

The financial costs of the TBD Project were included in the Monthly Report produced by the MC and provided to Dol. My Authorised Auditors noted that variations in works and costs were brought to the attention of the CA for approval during the construction of the TBD Project.

DoT is the client of the TBD Project hence key matters or variations to the TBD Project required DoT's approval. Contract Change Orders were required to be signed by DoT and provided to Dol.

My Authorised Auditors sighted evidence and examples of payment approval for progress claims by the MC, variation approvals and approved Contract Change Orders.

July and August 2016 Monthly Reports from the MC were not provided at the time of the audit and the September 2016 Monthly Report did not contain the key financial information of the TBD Project. At the time of issuing the management letter resulting from my audit, the latest financial information available was included in the June 2016 Monthly Report. Table 5 presents key financial information extracted from the June 2016 Monthly Report from the MC and reflects the financial position of the TBD Project as at June 2016.

Department of Infrastructure, Planning and Logistics cont...

Table 5: Key financial information of the TBD Project as at June 2016

Description	Original Budget (\$)	Current Budget (\$)	Forecast Final Cost (\$)	Gain / (Loss) (\$)
Reimbursable Cost Total	71,878,461	79,431,212	82,246,908	(2,815,696)
Managing Contractor Fee	9,914,808	9,914,808	9,914,808	-
Variation MC Fee	-	299,022	299,022	-
Planning Phase Fee	494,624	494,625	494,625	-
Project Cost Total	82,287,893	90,139,667	92,955,363	(2,815,696)

Source: Information extracted from the June 2016 Monthly Report

Consistent with the cost recording applied to other major NTG projects, the cost of NTG employees involved in the TBD Project was not captured in the overall project cost.

It was noted that the MCC arrangement of the TBD Project required a trust bank account to be opened by the MC under the Trust Deed. Payments out of the Trust Account were based upon the terms agreed between the MC and the subcontracting parties. Money paid out of the Trust Account required an authorised officer of the MC to provide the CA with a statement detailing the relevant information and particulars giving rise to the Subcontractors' claims and the CA had to certify that on the basis of the statement provided by the MC, that he or she believed that such money was due and owing to the relevant subcontractors to the MC. The MC would then be entitled to make payments to the subcontractors from the Trust Account.

The Trust Account and its financial transactions were outside the scope of this performance management system audit and were not subject to audit.

Project Governance

The governance structure of the TBD Project is stipulated in the MCC. The two groups that managed the project were the PLT and the PMT.

Project Leadership Team (PLT)

The MCC required both DoI and the MC referred to hereafter as "the parties", to establish a PLT to provide guidance and leadership to the parties with respect to the Project.

Department of Infrastructure, Planning and Logistics cont...

The MCC states that *"The PLT is specifically empowered and required to make decisions in relation to the Project on key matters such as:*

- a) setting the strategic, policy and philosophical directions;*
- b) monitoring the performance of the Project against the Project Objectives; and*
- c) resolving disputes that are referred to it by the Project Management Team."*

Table 6 presents the PLT members as included in the contract:

Table 6: PLT members

	Appointed members
i) 2 members appointed by the Territory	<ul style="list-style-type: none"> ▪ Executive Director, Major Projects and Assurance Services Department of Infrastructure ▪ Executive Director, Transport Infrastructure Planning Division Department of Transport
ii) 2 members appointed by the Contractor	<ul style="list-style-type: none"> ▪ Construction Manager, Northern Territory The Managing Contractor ▪ Senior Project Manager, Northern Region The Managing Contractor
iii) Any further members appointed by resolution of the PLT	None

A separate charter or terms of reference for the PLT has not been established, however the MCC specified the terms for this group.

My Authorised Auditors were provided with minutes of PLT meetings held in November 2014 (PLT Meeting # 1) to July 2016 (PLT Meeting # 16). These minutes evidenced PLT meetings being held every 2 months as required by the MCC, however no further PLT meeting minutes were noted from July 2016 to 30 September 2016. My Authorised Auditors were advised that PLT meetings are conducted as required and not at particular frequencies. Minutes of the PLT meetings included action items that were assigned to personnel with target dates for completion.

Project Management Team (PMT)

The MCC also required the parties to *"establish a PMT with an overall charter to manage and guide the project"* in which *"the parties will implement all decisions and directions of the PMT."* The MCC defined the duties of the PMT.

Department of Infrastructure, Planning and Logistics cont...

Table 7 presents the PMT members as included in the contract:

Table 7: PMT members

i)	a member appointed by the Territory	<ul style="list-style-type: none"> Project Director (1), Major Projects Department of Infrastructure Project Director (2), Major Projects Department of Infrastructure
ii)	the Contractor's Representative	<ul style="list-style-type: none"> Project Manager The Managing Contractor Design Manager The Managing Contractor Engineering Manager The Managing Contractor Systems Coordinator The Managing Contractor Commercial Manager The Managing Contractor Health, Safety and Environmental Manager The Managing Contractor Planning Manager The Managing Contractor Construction Superintendent The Managing Contractor
iii)	such other representatives of the Territory or the Contractor as are nominated by the Territory or the Contractor respectively; and	None
iv)	representatives of stakeholders or other third parties as are proposed by any PMT member, the Territory or proposed by the Contractor and resolved by the PMT.	None

Department of Infrastructure, Planning and Logistics cont...

There is no a separate charter or terms of reference for the PMT, however the MCC specified the terms for this group.

My Authorised Auditors could not ascertain whether PMT meetings were held at specified times due to complete documentation not being provided to my Authorised Auditors. It was also noted that the minutes of the PMT meetings included action items that were assigned to personnel with target dates for completion, however my Authorised Auditors were unable to determine whether the action points were completed due to the limited number of meeting minutes provided.

Document management and record keeping

Different document management systems were used at different phases of the TBD Project.

During the planning phase (prior to November 2014), documents such as procurement planning and the Service Level Agreement were retained in DoI's Local Network Drive and/or TRIM. Employees within DoI have access to the local drive and both DoI and DoT personnel have access to TRIM.

During the construction phase, DoI's preferred document management system for the TBD Project was Aconex. Aconex is a secured cloud-platform document management system that is generally preferred by industry for construction and engineering projects. Aconex enables parties who are permitted access to communicate (similar to email) and allows the correspondence, attachments and documents to be saved within the Aconex system.

All key correspondence and documentation on the TBD Project between DoI, DoT, the MC and some subcontractors is maintained in Aconex. This documentation includes but is not limited to:

- monthly reports on the progress of the Project;
- contracts;
- agendas and minutes of PLT and PMT meetings;
- the variation register;
- variation approval correspondence;
- design information; and
- soil testing documentation.

Department of Infrastructure, Planning and Logistics cont...

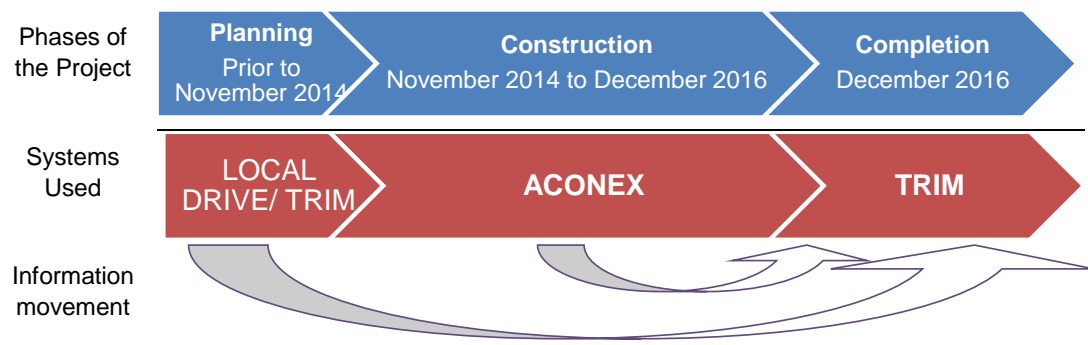
Information and documentation for the Project that is stored in Aconex is accessible to those who have been provided secure access rights. These include delegated personnel from DoI, DoT, the MC and subcontractors. Depending on the level of access assigned by the Administrators (at the MC and DoI), the access rights vary from read-only to full control (edit, write and modify).

Information and documentation that is not relevant to the MC and the subcontractors is communicated outside of Aconex and saved in DoI's Local Network Drive and/or TRIM. Examples of this include the Contract Change Orders between DoI and DoT for variations to the Project and the Monthly Project Reports from DoI to DoT.

Moving into the completion phase, DoI advised that all documentation in respect to the TBD Project saved in the Local Network Drive and Aconex will be transferred to TRIM by DoI. At the time of the audit fieldwork, my Authorised Auditors were advised that this process was about to commence.

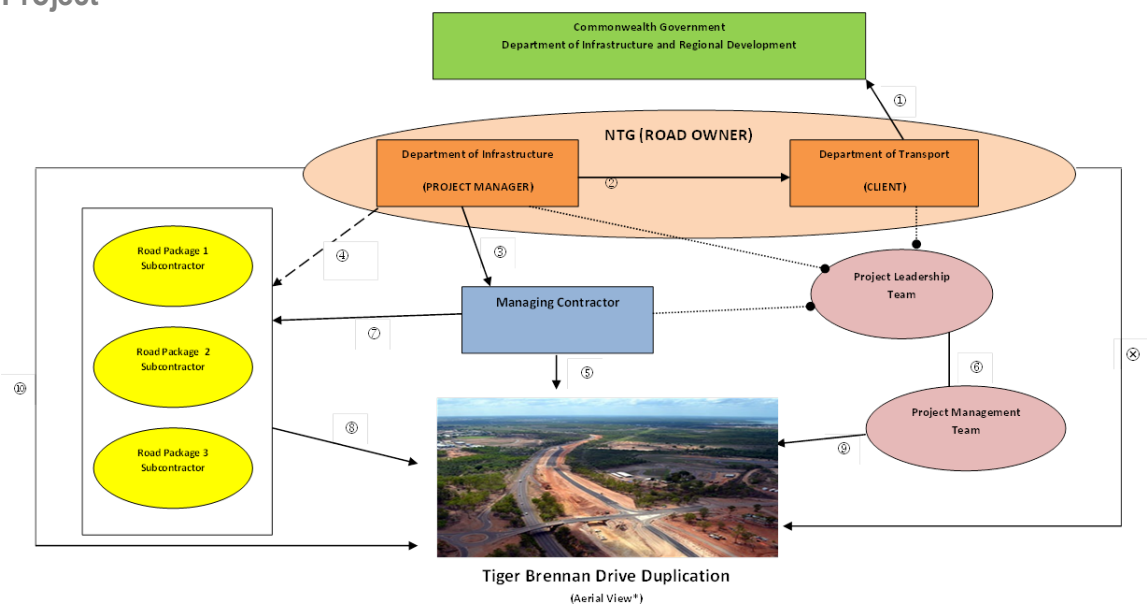
Figure 3 shows the interaction between these document and record keeping processes.

Figure 3: Key systems used during the delivery of the Project and the movement of information.



Department of Infrastructure, Planning and Logistics cont...

Appendix A Map of key stakeholder involvement in the construction of the TBD Project



Legend:	Description
.....●	Agency representative participation
①	Responsible for the reporting to the Commonwealth Government
②	Project Manager of the project. Also responsible for the reporting to DoT on the project progress.
③	Contract Administrator and Project manager of the Managing Contractor
④	High level oversight of the subcontractors. No direct contact, always via the MC.
⑤	Managing Contractor for the delivery of the design and construction of the Tiger Brennan Duplication
⑥	Governs and oversees the Project Management Team
⑦	Subcontracts packages and manages the subcontractors
⑧	Subcontractors deliver the package allocated to construct the project
⑨	Oversees and manages the project.
⑩	Responsible for the delivery of the project
⊗	Ultimate asset owner when completed.

* Image Source: <https://infrastructure.nt.gov.au/data/assets/image/0003/240483/TBD-aerial.jpg>

Department of Infrastructure, Planning and Logistics cont...

The Department of Infrastructure, Planning and Logistics has commented:

Throughout the project, departmental staff have identified opportunities to improve the Managing Contractor Contract (MCC). It is the Department's intention that at the conclusion of the project (from mid-2017) a workshop will be facilitated to identify lessons learned from using the MCC. This will feed into broader discussions about contract models including consideration of the different needs for MCC arrangements in civil and building works.

Findings from this specific audit relating to performance management and centralised document management will also form part of the lessons learned process as well as consideration of using MCC to upskill local contractors and exceeding local industry participation and Indigenous employment.

Department of the Attorney-General and Justice

Contract Management – Darwin Correctional Centre

Audit Scope and Objectives

The primary objective of the Contract Management – Darwin Correctional Centre audit was to assess the performance management system/s in place at the former Department of Correctional Services ('Corrections') that enable it to manage the Public Private Partnership (PPP) Agreement ('the Agreement') for the management and maintenance of the Darwin Correctional Centre.

Background

The previous Auditor-General reported in his October 2012 Report (commencing on page 20) to the Legislative Assembly on the Darwin Correctional Precinct, including a high level review of the Agreement for the development of a new correctional facility.

That report presented the following facts:

- The Government gave approval in August 2010 for the development of a new prison facility to be located on the Howard Peninsula.
- The procurement process undertaken resulted in the execution of the Northern Territory Secure Facilities PPP Project Deed in September 2011 between the Northern Territory of Australia and the joint venturers of CIPL Sentinel Pty Ltd and BBPI Sentinel Pty Ltd (Sentinel).
- The Agreement that had been established for the Darwin Correctional Precinct had elements consistent with that of a build, own, maintain and transfer. Sentinel was to construct, own and maintain the facility for a period of 30 years following which ownership would be transferred to the Northern Territory.
- Sentinel, as the owner of the precinct, was to be responsible for the management and maintenance of the facility. Staffing of the precinct was to be the responsibility of the Northern Territory.

The Auditor-General noted:

"The risk that surrounds any project such as the correctional precinct, when taken together with the importance of the project, suggests that the Northern Territory cannot view itself simply as a "customer", but must play an active oversight role in order to ensure that its interests are protected and that the implied guarantee will not be triggered. This role must extend over the life of the contract which expires in 2044.

Department of the Attorney-General and Justice cont...

...

To reduce the risk of contract failure, the accompanying need for Territory intervention, and the accompanying risk of higher costs it is recommended that one agency has responsibility for the management of the contract over its life. ... The most appropriate Agency in the period following commissioning of the precinct is the Department of Correctional Services. Responsibility should be allocated to one unit within that Department with that unit being responsible for ensuring that the Territory's interests are protected. Given the life of the contract, it will be important to ensure that the transfer of knowledge, experience and skills occurs over the years to ensure that the Territory's interests are not compromised."

The Department of Correctional Services' 2014-15 Annual Report notes *"The date for completion under the NT Secure Facilities Private Public Partnership Project Deed was 30 June 2014, however construction was behind schedule and consequently the opening of the new prison was delayed for three months."* (page 22).

That same report later notes *"The Northern Territory Secure Facilities (NTSF) Public Private Partnership (PPP) Project Amendment Deed was signed between the parties to the Project Deed on 18 November 2014, heralding the start of the Services Phase for the new Darwin Correctional Precinct."* (page 24).

This audit covered the period from completion of construction (when the services phase was invoked commencing from 18 November 2014) to 30 September 2016.

Conclusion

The Agency has various components of a performance management system in place to manage the Services Phase of the Northern Territory Secure Facilities Public Private Partnership. Good examples supporting effective contract management identified during the audit included:

- development and documentation of an Explanatory Memorandum outlining key aspects of the Project Deed;
- development of an obligation guide listing the obligations of all parties;
- development of a contract management plan;
- development of a contract management manual; and
- periodic review to ensure the contract management report is fit for purpose and meets the needs of stakeholders.

Department of the Attorney-General and Justice cont...

The contract management function appears to be undertaken with significant economy, there being only two personnel tasked with managing the contract on a day-to-day basis. Whilst these personnel have access to specialist advisers, the Agency does need to assess the risks associated with having a limited number of dedicated resources and ensure controls are in place to mitigate identified risks. Furthermore, the Agency is yet to formalise its Contract Management Framework and is yet to develop policies and procedures with respect to managing the Services Phase of the Agreement.

The contract provides for the Territory to request the Project Company to undergo an independent audit and review into the systems and processes of the Facility Manager including the QFM system. I understand that such an audit was being undertaken at the time of my audit fieldwork.

Recommendations

As a result of the findings of my audit, I have recommended that the Agency:

- develop a formal process for periodically managing and monitoring counterparty PPP performance bonds. This process would necessitate the Agency obtaining a copy of all current bonds.
- expand the contract management plan to encompass key obligations arising from the Project Deed and summarised in the obligation guide. This would require determining and documenting relevant processes and systems to be used in managing and monitoring compliance with those obligations.
- develop processes that would allow for the contract management plan to be periodically reviewed and approved by the Agency's Accountable Officer.
- develop a formal Contract Management Framework and policies and procedures relevant to the management of the Agreement. The Contract Management Framework should be presented for approval to the Accountable Officer with both the Contract Management Framework and accompanying policies and procedures reviewed with sufficient regularity to enable them to be kept up-to-date and relevant to current practice.
- perform detailed spot checks to determine whether faults are being accurately rectified on a timely basis. Such checks may include:
 - comparison against the local registers used to record job numbers obtained when reporting a fault to the Facility Manager Helpdesk; and
 - a review of the details of the fault recorded, including whether the fault has been correctly classified.

Department of the Attorney-General and Justice cont...

- require the Facility Manager to develop processes with respect to the inspection of work performed once complete.
- develop processes that require confirmation from Corrections personnel that the fault has been satisfactorily rectified.
- review the accuracy of the abatement parameters recorded in the QFM system against the Project Deed and Services Specifications.
- develop appropriate processes to check the accuracy of the supporting schedules for Territory Responsible Damage, including checking:
 - mathematical accuracy;
 - whether the costs assigned can be appropriately substantiated;
 - whether correct margins have been applied; and
 - whether each incident listed represents Territory Responsible Damage that has been previously agreed.
- take what action it can to expedite the finalisation of the current audit of the QFM system.
- seek greater input into the scope of future audits related to service provision.
- instigate appropriate responses should any control deficiencies be identified such as the requirement of QFM system improvements and / or the development of supporting manual controls and checks to mitigate identified risks.
- provide annual updates to its Minister.
- establish the extent by which representations made by the software provider can be relied upon through the performance of applicable information technology testing and to initiate and implement appropriate responses to findings resulting from that testing.
- develop documentation protocols to facilitate efficient and reliable document management and record keeping practices with respect to the management of the Agreement.

Department of the Attorney-General and Justice cont...

Audit Observations

The complexities and challenges faced by Corrections in managing the Northern Territory Secure Facilities Public Private Partnership are acknowledged. These complexities and challenges are partly due to delays in the completion of the Construction Phase and ongoing issues encountered with construction faults and defects and Corrections' ongoing management of their rectification.

My observations in respect to the work performed, including both strengths and opportunities for improvement, are set out below and have been categorised into the following sections:

- Overview of the Public Private Partnership;
- Contract Management;
- Governance Arrangements;
- Performance Reporting; and
- Document Management.

Overview of the Northern Territory Secure Facilities Public Private Partnership

The Northern Territory Government entered into a contract with CIPL Sentinel Pty Ltd and BBPI Sentinel Pty Ltd, as Joint Venturers in the Joint Venture and collectively referred to as the 'Project Company' on 5 October 2011 for the design, construction, finance and maintenance of the 1048 bed correctional facility referred to as the Darwin Correctional Precinct ('DCP'). The project is referred to as the Northern Territory Secure Facilities Public Private Partnership ('NTSF PPP').

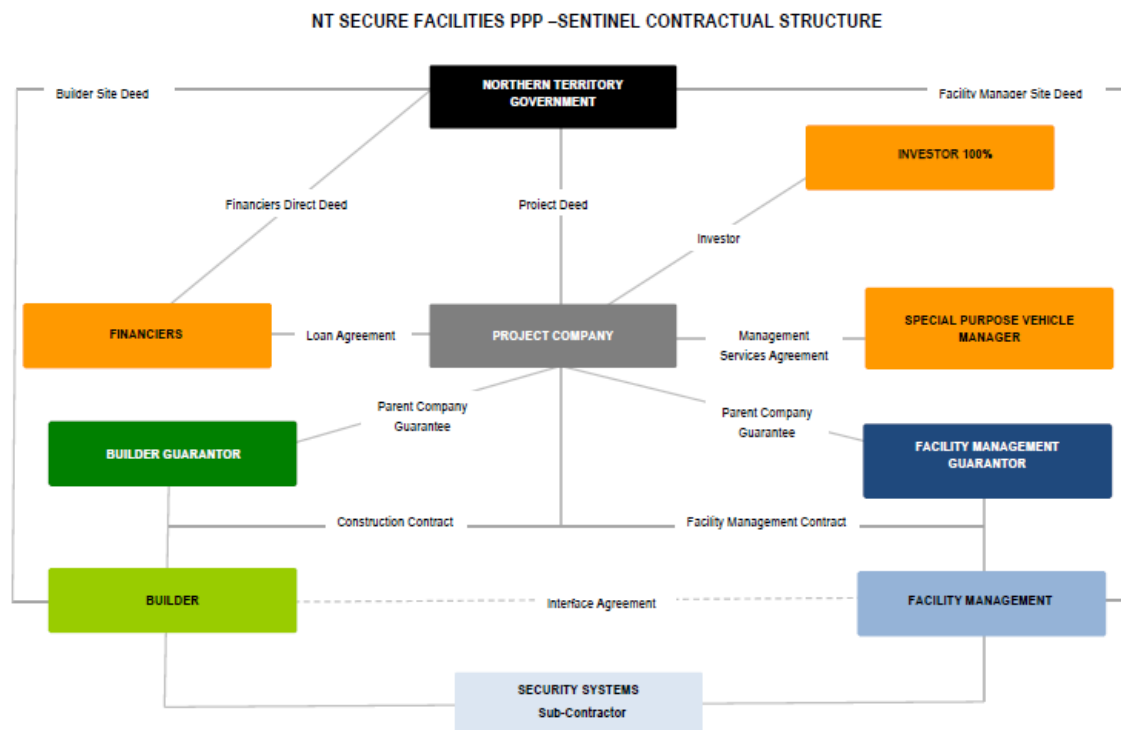
The contract encompasses the head agreement, referred to as the 'Project Deed' and more than 100 subordinate documents. The Project Deed was executed for and on behalf of the Territory by the Chief Executive of the Department of Infrastructure at the time of document execution. All documents relevant to the agreement were listed in a covering schedule referred to as a 'Transaction Bible' at the time of execution.

The Project Deed did not permit any change to the Project Company Group structure without the prior written consent of the Territory. The Territory provided consent to the sale and transfer of the equity interest of CIPL [a wholly owned subsidiary of the Commonwealth Bank of Australia] to Bilfinger Berger Guernsey Holding Ltd ('BBGI') in June 2015. The transfer of interest of CIPL in the Northern Territory Secure Facilities PPP to BBGI was finalised on 3 July 2015.

Department of the Attorney-General and Justice cont...

The Project Company subleased the construction of the facility to Sitzler Boulderstone ('the Builder') and facility maintenance of the facility to Honeywell ('the Facility Manager'). A pictorial representation of the parties to the contract is below:

Figure 1: Contractual Structure



Source: Contract Management Plan

The former Northern Territory Government Department of Infrastructure was responsible for the delivery of the facility during the Construction Phase before handing over the facility to the former Northern Territory Government Department of Correctional Services during the Services Phase.

The original date for completion of the construction of the DCP was 30 June 2014. The capital cost to construct the facility was a fixed price of \$495 million. In consideration of the Project Company carrying out its obligations under the Project Deed, the Territory pays the Project Company a Quarterly Services Payment ('QSP') during the Services Phase. The term of the arrangement is 30 years, unless terminated earlier. Under the Project Deed, the Territory had no obligation to pay the QSP until commencement of the Services Phase. At the end of the 30 year concession period, the DCP reverts back to the Northern Territory Government. The Northern Territory Government has an option to extend the facility management services for a further 10 years based on current pricing indexed by relevant labour price and consumer price indices.

Department of the Attorney-General and Justice cont...

The Project Deed was subsequently varied by two documents: a Conditional waiver of certain Defaults and Termination Events ('Waiver letter') executed on 21 August 2014 and the Northern Territory Secure Facilities Public Private Partnership Project Amendment Deed ('Amendment Deed') executed on 18 November 2014.

The waiver letter came into effect as a result of delays in the completion of the construction of the DCP. The effect of the waiver letter was that the Project Company released the Northern Territory Government from any claim, action, demand, suit or proceeding suffered or which may be suffered by the Project Company (and the Builder and the Facility Manager) prior to 21 August 2015 and provided that the Project Company will not claim a Change Event in relation to the period prior to 21 August 2015 in respect of:

1. any delay to the successful completion of the Post Completion Fault Free Running Period;
2. any delay to the rectification of Major Items;
3. any entitlement to a Relief Event or Compensation Event in relation to the period prior to 21 August 2015, in accordance with the Project Deed and in relation to the subject matter in above paragraphs 1 and 2.

The acceptance of the amendment deed marked the completion of the Construction Phase and the start of the Services Phase of the DCP. The amendment deed required:

- rectification of a number of major items related to the DCP's security systems and provided abatement relief for agreed rectification timeframes; and
- the achievement of a post completion fault free running period of 28 consecutive days following the completion of the major items to the satisfaction of the Independent Certifier.

The Independent Certifier issued a Certification of Completion confirming that the works had achieved completion, together with an itemised punch list of outstanding minor defects and minor omissions. The project deed required the outstanding minor defects and minor omissions to be rectified to the satisfaction of the Independent Certifier within six months of the date of completion. The Project Company successfully completed the post completion fault free running period on 15 January 2016.

A number of obligations of the Builder remain outstanding and I was advised that the position of the Territory is that the Project Company is responsible for resolution of these issues.

A Defects Liability Bond of \$12.375 million remains in place with the Project Company as security for the Builder's obligations under the Design and Construct Contract with the Project Company.

In relation to the Waste Water Treatment Plant, there is a \$5 million performance bond which will remain in place until such time as the Builder has satisfied conditions for its release.

Department of the Attorney-General and Justice cont...

There is a Facility Management Bond of \$5.9 million in place with the Facility Manager. This bond acts as security for the performance of the Facility Manager's obligations under the Facility Management Subcontract to the Agreement.

A further level of security to the Northern Territory Government exists in the form of the Parent Company Guarantee of \$45 million.

A formal process for managing and monitoring bonds recognising the relevant amounts and the periods of extension that would apply had not been established at the time of this audit.

Contract management

Contract Administrator

The current Contract Administrator was appointed to the role effective from 18 January 2013. Prior to appointment, that individual acted in the role of Contract Administrator's Representative and had significant experience managing major infrastructure projects on behalf of the former Northern Territory Government Department of Infrastructure.

The Contract Administrator is supported by the Contract Administrator's Representative who was appointed to the role effective 29 August 2016. Prior to appointment as the Contract Administrator's Representative, that individual held the Business Manager role responsible for the DCP and had been involved with the DCP since the commissioning stage of the project. The Contract Administrator's Representative role was vacant during the period April to August 2016. The resources available within the business and financial management areas of Corrections were considered adequate by the Agency during the period in which the position remained vacant.

The work of the Contract Administrator and Contract Administrator's Representative is complemented by the use of specialist advisors as required. Given the size and complexity of the NTSF PPP, whilst the contract management function appears to be being performed with significant economy, the function may be insufficiently resourced to fully perform its role and responsibilities.

References to roles and responsibilities performed by the Contract Administrator refer to the work performed by one or both of the Contract Administrator and the Contract Administrator's Representative.

Department of the Attorney-General and Justice cont...

Contract management

Closely following the execution of the Project Deed, the Legal Advisor to the Territory drafted an explanatory memorandum which outlined key aspects of the Project Deed. The explanatory memorandum was dated 14 October 2011. The Legal Advisor to the Territory also drafted a guide that listed the obligations of the parties to the Project Deed ('obligation guide'), including the Territory, the Project Company, its subcontractors including the Builder and the Facility Manager, the Independent Certifier and the Financiers. The obligation guide was dated 13 September 2013.

In relation to obligations outlined in the Services Specifications, the Contract Administrator worked with the Facility Management Advisor to the Territory to develop a contract management plan. The Services Specifications is a subordinate document that forms part of the entire Agreement. The Services Specifications stipulate the obligations of the Project Company to provide facility management services during the Services Phase of the PPP.

The contract management plan has been reviewed and received input from a Senior Solicitor for the Solicitor for the Northern Territory. The contract management plan specifies:

- the relevant reference from the Services Specifications;
- a brief description of the obligation including the activity and the process;
- the timescale by which the obligation is required to be performed; and
- a status update of how the obligation has been implemented operationally.

Work commenced on the draft contract management manual and draft plan in October 2013. A working copy of the draft contract management plan had been developed by 13 July 2014.

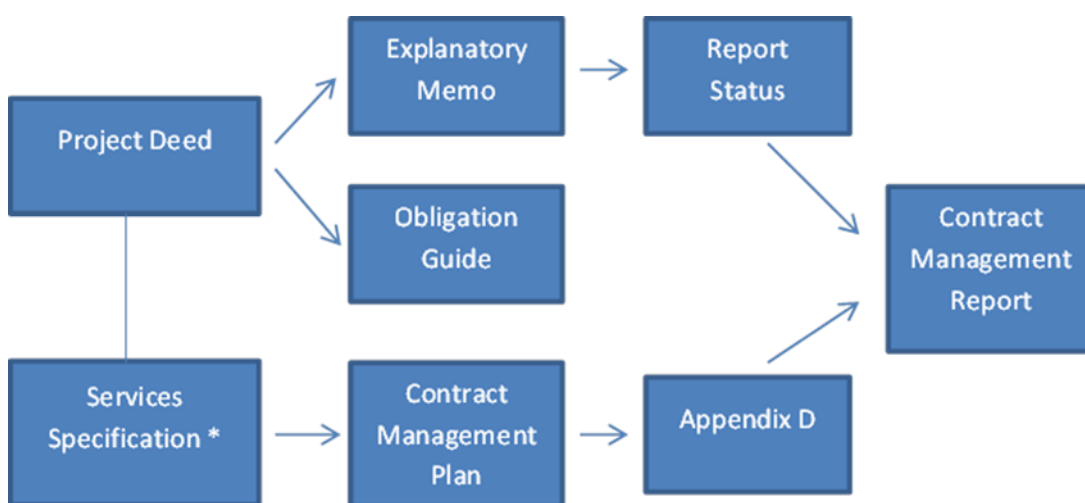
Notwithstanding the actual standalone contract management plan has not been formally endorsed, as evidenced by a copy signed by the Accountable Officer, the acceptance of the report, including the contract management plan, by the senior staff and Commissioner of Corrections has been assumed by the Contractor Administrator to represent acceptance and endorsement. Best practice would involve the formal endorsement of the contract management plan by the Accountable Officer with the endorsed copy retained for the life of the contract. Progress against this contract management plan would be reported as it currently is in the contract management report.

A review of the contract management manual was undertaken in March 2015. Review of the contract management report was undertaken during June and July 2016. The actual contract management plan was subsequently updated on 17 August 2016.

Department of the Attorney-General and Justice cont...

A diagrammatical representation of the relevant components to the contract, and the composition of the contract management report, is presented below.

Figure 2: Contract Management Report composition



* The Services Specification is a subordinate document of the Project Deed

At the time of the audit, the obligation guide and the contract management plan had not yet received final approval and endorsement for use from the Accountable Officer however both the obligation guide and the contract management plan have been used by the Contract Administrator and the Contract Administrator's Representative to capture key obligations of the respective parties and to develop processes and systems to assist with managing these obligations.

These processes and systems include:

- the use of the QFM system that is used to record, report, manage and monitor faults and their rectification including timeframes;
- the review and approval of invoices from the Project Company including those related to the Quarterly Service Payment and Territory Responsible Damage;
- numerous meetings held at varying periodic intervals;
- performance reporting by both the Contract Administrator and the Project Company at varying periodic intervals;
- periodic review and audit of relevant processes and systems; and

Department of the Attorney-General and Justice cont...

- the use of the Aconex system to document pertinent communication between the Project Company and the Territory and to support general document management and retention requirements and record keeping practices.

The Project Deed, its subordinate documents, the guides and plans utilised and the resulting processes and systems developed and implemented as described above constitute the Agency's performance management system established to manage the Services Phase of the NTSF PPP. The Agency's Contract Management Framework and relevant supporting policies and procedures have not been documented.

QFM system

The Facility Manager operates a national helpdesk that supports the provision of facility management services for the DCP. This helpdesk operates 24 hours a day, seven days a week. All queries and fault reporting are required to be initiated through this helpdesk.

A number of Correctional staff are authorised as "delegated officers" to log jobs with the helpdesk. The helpdesk operator will ask the delegated officer a series of questions and the responses to these questions determine how a job is classified. Once a job has been logged in the QFM system, the Helpdesk operator will provide the delegated officer with a job number.

Once logged, a job is recorded in the QFM system, a cloud-based facility management software application, and becomes visible to all persons that have access. The Facility Manager manages and administers the QFM system. Full reliance is placed by Corrections on the QFM system despite the integrity and operating effectiveness of the system not yet being established. The Contract Administrator has advised that a Project Company demonstration and acceptance testing of the QFM system by the Territory, including compliance and accuracy with the abatement schedules outlined in the NTSF Project Deed, was carried out in November 2013. My Authorised Auditors have not reviewed evidence of this testing as the timing of the testing was prior to the audit period which commenced when the services phase was invoked from 18 November 2014.

Quarterly Services Payment

The Northern Territory Government pays a Quarterly Services Payment to the Project Company for the provision of the Services. The Project Company must provide the Services in accordance with the Project Deed, Industry Best Practice, all laws and other standards and the Services Specifications so as to provide a modern, cost effective and secure Facility which optimises operating efficiencies and innovation. The Project Company bears the risk of the provision of the Services and the carrying out of any required Works so as not to cause disruption to the Territory Functions under the Project Deed.

Department of the Attorney-General and Justice cont...

The calculation of the Quarterly Services Payment specified in the Project Deed is a variable amount calculated as:

- the Quarterly Services Fee for the quarter comprising of (1) Quarterly Services Amount CPI indexed, (2) Quarterly Services Amount LPI indexed, (3) Quarterly Lifecycle Amount CPI indexed and (4) Quarterly Services Amount Non Indexed;
- less deductions for any failure abatements for the previous quarter;
- plus any pass through costs, such as the costs of fuel or insurance policies; and
- less the cost of electricity and water directly attributable to the conduct of the Project Company.

The formulae for the computation of abatements are specified in the Project Deed. Abatements are automatically computed through the use of the QFM system and commence once a reported fault is not rectified within the timeframe specified in the Services Specifications. My Authorised Auditors were unable to obtain any evidence that the Agency had reviewed the accuracy of the abatement parameters as recorded in the QFM system against the Project Deed.

The Quarterly Service Payment is required to be invoiced by the Project Company on the second day of the following quarter in accordance with a pro forma template provided in the Project Deed. If the invoice meets the requirements of the Project Deed and contains no errors, the Territory must make payment of the invoiced amount within 20 business days of the date of the invoice. The Project Deed allows for penalty interest to apply in the event of late payment.

At the end of each quarter, the Project Company issues an invoice to the Contract Administrator through the Aconex system. The Contract Administrator is responsible for performing an initial check of the invoice for accuracy. This check includes:

- agreeing the unindexed amounts to the amounts included in the Schedule of Quarterly Services Payments in the Project Deed;
- recomputing the invoice for mathematical accuracy;
- agreeing abatements to supporting abatement reports, checking abatement calculations, assessing reasonableness of fault classification and checking whether all abatements for the previous quarter have been properly brought to account; and
- agreeing pass-through costs (fuel, insurance) to supporting supplier invoices. The legitimacy of supplier invoices is also checked with Custodial Operations.

Department of the Attorney-General and Justice cont...

The invoice is then forwarded to Corrections' Finance Manager, Northern Territory Treasury Corporation and the Northern Territory Department of Treasury and Finance who undertake various checks to verify the invoice.

My Authorised Auditors reviewed three invoices and relevant supporting documentation related to the Quarterly Services Payments for the quarters ended 31 March 2016, 30 June 2016 and 30 September 2016 and noted no errors or deficiencies in the accuracy of the invoicing, substantiation of relevant amounts, coding of the invoice and evidence of review and authorisation processes. All invoices were paid on time.

Territory Responsible Damage

Unless a fault constitutes Territory Responsible Damage, the Project Company is responsible for rectifying the fault at its own cost within the rectification times stipulated in the Services Specifications.

The Project Deed defines Territory Responsible Damage as damage or destruction to the facility if and to the extent that the Project Company demonstrates to the Company Administrator's satisfaction (acting reasonably) that:

- (a) *"The relevant damage or destruction:*
 - (i) *was caused by Territory Related Parties;*
 - (ii) *does not constitute fair wear and tear;*
 - (iii) *did not arise as a result of the item or area affected by the damage or destruction being used for its reasonable and proper purpose having regard to the Project Company's obligation to ensure that the Facility is Fit for Intended Purpose; and*
 - (iv) *was not caused or contributed to (directly or indirectly) by any Project Company Conduct; or*
- (b) *The relevant damage or destruction was caused by a blockade or riot, or is fire or water damage, in each case caused by Occupants or Occupant Guests."*

There is no requirement under the Project Deed that requires the Project Company to submit invoices within a specified time following the repair of Territory Responsible Damage; only that the Northern Territory Government is required to make payment of the invoiced amount within 20 days of receipt.

Department of the Attorney-General and Justice cont...

For Territory Responsible Damage, the Facility Manager charges the Northern Territory Government:

- an agreed hourly rate for labour performed by their own technicians to rectify Territory Responsible Damage; and
- the direct costs incurred to engage external contractors to rectify Territory Responsible Damage, plus additional margins that are applied in accordance with that set out in the Project Deed.

The Facility Manager will prepare a schedule that itemises each event that has been agreed by the Contract Administrator as Territory Responsible Damage including the relevant costs that have been assigned to each event. Supplier invoices are provided to support the costs.

Historically there have been substantial delays with invoicing. The Facility Manager has represented that the cause of the substantial delays has been the delay in the receipt of invoices from outside contractors that have been engaged to perform the work, or difficulty in determining accurate allocation of costs where invoices from outside contractors represent work performed for multiple jobs. By the end of October 2016, claims for Territory Responsible Damage had only been received for the months up and including to April 2016 but excluding February 2016 and March 2016 which remained outstanding. As at 30 September 2016, the total amount of Territory Responsible Damage invoiced and approved for payment representing the period March 2015 to April 2016 (excluding the months of February 2016 and March 2016) was \$146,495.96.

Upon receipt of the invoice, supporting schedule and invoices from external contractors, the Contract Administrator will:

- agree the total of the supporting schedule to the total invoice amount;
- check that individual incidents of Territory Responsible Damage listed on the supporting schedule are consistent with that previously agreed; and
- check that all costs incurred from work performed by external contractors is substantiated with supporting invoices.

My Authorised Auditor's review of the supporting schedules for one invoice found that the supporting schedule was mathematically incorrect however this had not been identified during the Agency's review and approval process.

Department of the Attorney-General and Justice cont...

Other key processes

Asset management plan

The Project Company is required to maintain an Asset Management Plan in respect of significant assets and must maintain and/or replace those assets in accordance with the plan.

The Contract Administrator reviewed and provided comment on the revised Asset Management Plan in June 2016. A follow up workshop was held on 2 and 3 August 2016 to review the lifecycle and maintenance plan for the contract term. The Contract Administrator, in consultation with its Facility Management Advisor, sought further clarification and supporting detail relating to the Plan from the Facility Manager. The Contract Administrator advised this information was received on 5 October 2016.

A further workshop between the Territory, Project Company and the Facility Manager was scheduled to be held on 7 February 2017 to enable a more detailed review and clarification.

Policies and procedures manual

The Project Company is required to prepare a Policy and Procedures Manual ('the Manual') that details the methods, processes, procedures and instructions to be followed in the provision of the Facility Management services for the Darwin Correctional Precinct in accordance with the Services Specifications.

The Contract Administrator undertook an initial review of the Manual with an emphasis on the overall structure of the Manual and the most critical policies, procedures, forms and plans contained therein.

The Contract Administrator made a number of observations and made a series of requests and recommendations for the Manual to be improved.

The review by the Contractor Administrator was performed in April 2016. As at the end of November 2016, the Contract Administrator was currently awaiting an updated version in order to progress a more detailed review.

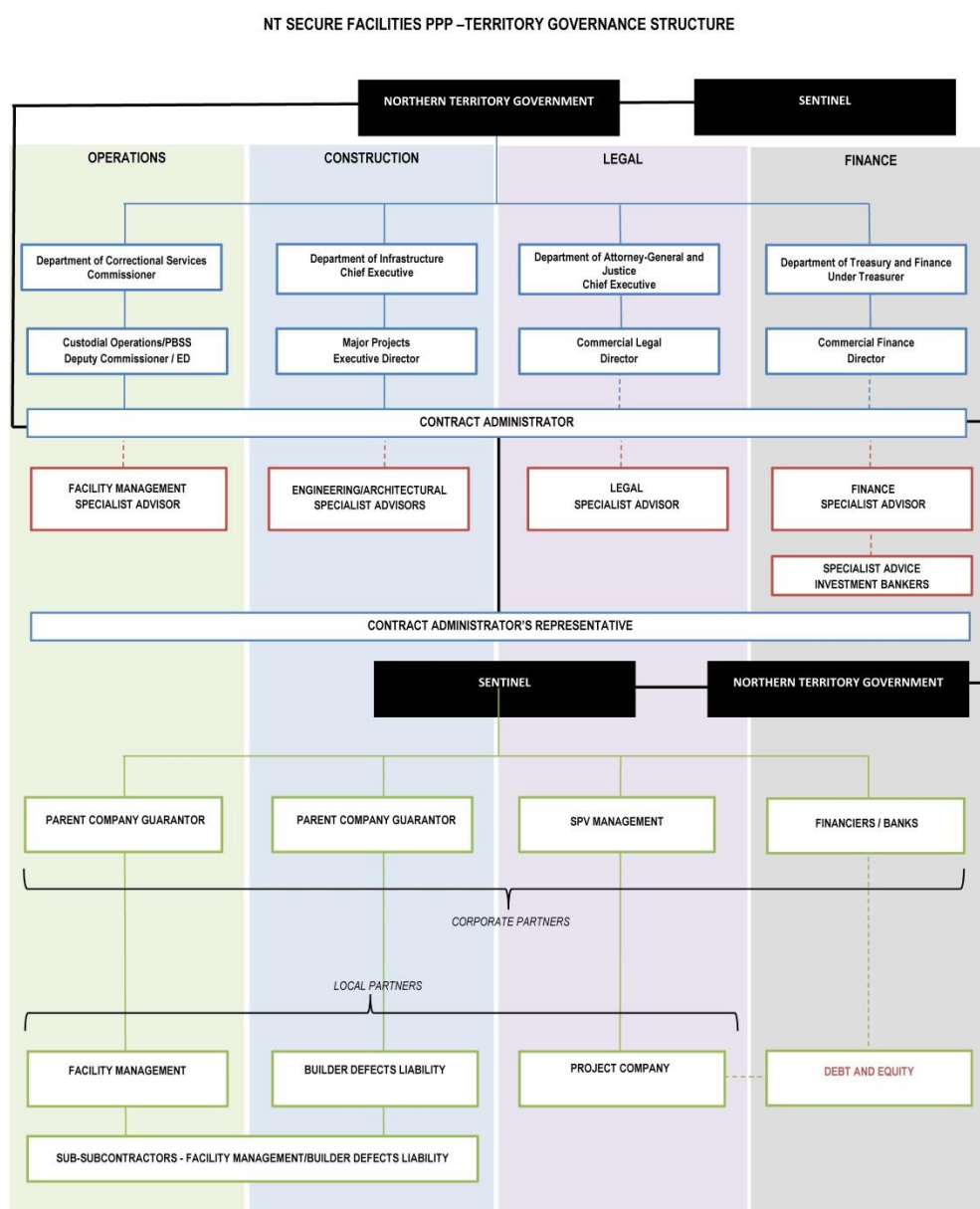
Governance Arrangements

Governance Structure

The Governance Structure for the Northern Territory Secure Facilities Public Private Partnership is shown in the following diagram:

Department of the Attorney-General and Justice cont...

Figure 3: Governance Structure



Source: Contract Management Plan

Department of the Attorney-General and Justice cont...

The Contract Administrator is the primary representative of the Northern Territory Government to the Project.

Multiple Northern Territory Government agencies are involved in the Project, namely:

- Department of Correctional Services – Operations
- Department of Infrastructure – Construction
- Department of the Attorney-General and Justice – Legal
- Department of Treasury and Finance – Finance.

Machinery of Government changes during the time of this audit mean the former Department of Correctional Services and the former Department of the Attorney-General and Justice are now one agency, the Department of the Attorney-General and Justice, with Corrections now being a Directorate of that agency.

The Contract Administrator is assisted by these agencies and the following independent advisors:

- Facility Management Services
- Engineering Services
- Architectural
- Legal
- Finance.

These advisors have continued to be utilised by the Contract Administrator during the Construction and Services phases through an available budget line specific to this Project held by the former Department of Infrastructure. Following Machinery of Government Changes as a result of the August 2016 Northern Territory Election, this agency is now called the Department of Infrastructure, Planning and Logistics.

Project Control Group

The Project Deed requires the establishment of a committee referred to as a Project Control Group prior to the commencement of construction which is to remain in existence until the termination of the Services Phase. The Project Control Group, as a minimum, is to comprise:

- the Project Company Representative;
- two other representatives of the Project Company, of which one representative is to be a representative of the Builder during the Construction Phase;

Department of the Attorney-General and Justice cont...

- two representatives of the Northern Territory Government; and
- the Contract Administrator (who is also the Chair).

Other advisors, consultants and subcontractors may attend these meetings as required from time to time at the request of any member of the Project Control Group.

During the Services Phase, the roles and responsibilities of the Project Control Group are “to discuss any matters relating to the Facility; including:

- *the provision of Services;*
- *issues arising from the notices, reports or documents provided by the Project Company to the Territory;*
- *coordination, management and scheduling of maintenance, refurbishment and cleaning services; and*
- *facilities management and maintenance issues generally.”* (Project Deed)

Meetings are held monthly with discussions and decisions reached documented in meeting minutes. Draft and final versions of the meeting minutes, including any requests for additions or amendment, are disseminated and documented through the use of the Aconex system.

Other meetings

There are also a number of other meetings that occur to oversee and facilitate management of the DCP. These are the:

- Corporate and Strategic Services Meeting
- Facility Management Committee Meeting
- General Manager's Meeting
- Weekly Management Meeting
- Work Health Safety Meeting
- Site Visits
- Territory Responsible Damage
- Focused meetings - Workshops

Department of the Attorney-General and Justice cont...

Dispute resolution process

Should a matter require escalation, the Contract Administrator will at first gather all information relevant to the matter. This process involves liaising with Correctional Services operational management and collating supporting documents.

The Contract Administrator is responsible for drafting a notice outlining the Territory's position on the matter. The draft notice will be forwarded to the Solicitor for the Northern Territory for comment and input. Once satisfied with the form and substance of the notice, the notice will be served on the Project Company through the use of Aconex.

Discussions between the Contract Administrator and the Project Company's Representative are required to take place subsequent to the receipt of such notice by the Project Company. The Project Control Group meetings are generally used as the forum by which these discussions take place.

Should the Contract Administrator and the Project Company's Representative be unable to reach agreement, the Dispute Resolution Process as documented within the Project Deed is enacted. After five Business Days the dispute may be referred to Dispute Representatives. Should the dispute fail resolution after another five Business Days have elapsed, the dispute can be referred to expert determination or court. Disputes arising under some clauses of the Project Deed will be referred to expert determination while others will be referred to a court of competent jurisdiction.

Audits and reviews

The Project Company is required to have its compliance with the programs, plans, procedures, standards, policies, systems, records and manuals implemented and maintained in accordance with the Services Specifications and audited annually by an independent auditor acceptable to the Contract Administrator.

In June 2016, the Territory agreed to the appointment of an independent firm to carry out an independent audit of the Facilities Management subcontract to the Agreement.

The scope of the audit was to determine whether the Facility Manager was undertaking planned maintenance in accordance with the requirements of the subcontract and Asset Management Plan, the quality of maintenance records evidencing maintenance undertaken and whether the Facility Manager is otherwise complying with all of the Services plans. The audit was to be conducted in three stages.

Department of the Attorney-General and Justice cont...

A report in respect of the first stage of the audit was provided to the Contract Administrator for review in October 2016. The Contract Administrator has raised a number of concerns in regard to the format and presentation of the report as well as a number of operational areas that had been expected to be included within the audit scope but which appear to have been omitted. A final report on Stage 1 of the audit had not been received by the time my audit concluded. The second stage of the audit commenced on 24 October 2016 with the third stage scheduled to occur in early January 2017. As at the end of November 2016, the auditor had not yet responded to the concerns raised by the Contract Administrator.

A review of back up processes for Darwin Correctional Precinct IT systems provided by the Facility Manager was undertaken in May 2016. The final report was presented to the Contract Administrator and the Facility Manager in August 2016.

The scope of the review was to:

- review the backup processes that were in place;
- compare backup processes that were identified to be in place with that stipulated in the original plan presented by the Facility Manager;
- identify and document discrepancies between current processes and the planned processes; and
- recommend solutions that would enable existing systems to comply with the requirements of the original plan.

The review identified a number of opportunities to improve the backup procedures and processes.

The report states that the Facility Manager is “committed to implementing” the recommendations within the report and intended that a post implementation review be performed in late 2016/early 2017.

Performance Reporting

Performance reporting from the Facility Manager

The Services Specifications mandates for the Facility Manager to prepare a Quarterly Performance Report within 10 business days after the end of each quarter in which the services are provided. Non-compliance with this requirement, as demonstrated by failure to produce a report that contains the stipulated information or failure to deliver the report within the required timeframe is abatable.

Department of the Attorney-General and Justice cont...

The Services Specifications are explicit with regard to the information that is required to be included in the report. In general terms, the Quarterly Performance Report includes the following information:

- health and safety incidents that have occurred during the quarter;
- failures that have occurred during the quarter, including the number and type, as well as any abatements that will be applied;
- the extent by which prisoners have been involved in the provision of facility management services;
- help desk service performance;
- an overview of building management services including an update on the status of the asset management plan and details of planned preventative maintenance, unscheduled repairs and pest control activities;
- utilities consumption during the quarter and measures that are being put in place to reduce overall consumption; and
- details of training and induction activities provided to onsite staff and external contractors.

The Contract Administrator is responsible for reviewing the Quarterly Performance Report for factual accuracy. Once the Contract Administrator is satisfied with the factual accuracy of the report, the report is shared with relevant Correctional Services management personnel.

The Services Specifications also allow for the Contract Administrator to request performance reports in relation to the performance of facility management services and requires such performance reports to be provided within seven business days after receipt of the request from the Contract Administrator. All requests for additional information are made through the Aconex system. Non-compliance with ad hoc requests for performance reports is abatable.

Performance reporting by the Agency

The attendance and active participation of members that hold senior management and leadership positions from both Correctional Services and other Northern Territory Government Agencies in numerous meetings held at varying periodic intervals was the primary form of performance reporting to management.

The Contract Administrator also prepared an annual Contract Management Report.

Department of the Attorney-General and Justice cont...

The 2015/16 report comprised:

- an overview of the Agreement which presented information predominantly extracted from the explanatory memoranda for the Project Deed and the variation documents;
- a diagrammatical representation of the contractual structure and governance arrangements;
- a summary of Quarterly Service Payments for the financial year;
- the draft contract management plan pending approval and endorsement for use; and
- a schedule of the costs to the Territory for Modifications and Minor Works up to 17 August 2016.

Following the Public Accounts Committee (PAC) Review of the PPP in May 2013, the PAC recommended that *“the NT Department of Correctional Services (NTDCS) provide its contract management plan for the agreement with Project Company to Treasury for review every 3 years and report on the performance of that plan annually to the Minister.”* The draft contract management plan has been provided to Treasury for review and endorsement however my Authorised Auditors received no evidence of performance against that plan being formally reported to the Minister.

Performance reporting to other third parties

No performance reports have been provided to other third parties. The Territory does not have any reporting obligations in this respect.

Cost management

The key costs that require management with respect to the Services Phase of the Agreement are:

- the Quarterly Services Payment including any additions for pass-through costs and any deductions for failure abatements; and
- Territory Responsible Damage.

Not all costs associated with running the Darwin Correctional Precinct are captured within the financial records of Corrections. The costs of specialist advisors that were engaged initially to provide advice and assistance during the Procurement and Construction phases and have continued to be engaged are recorded within the financial records of the former Department of Infrastructure and, following Machinery of Government changes, within the financial records of the Department of Infrastructure, Planning and Logistics. The costs associated with the provision of programs and services are recorded in the general ledger of the Agency responsible for the program, such as the Departments of Health and Education.

Department of the Attorney-General and Justice cont...

With the exception of reporting performed within Quarterly Services Payment and Territory Responsible Damage processes, the Agency does not perform any financial reporting in addition to the Agency's monthly financial reporting and other established processes related to the annual budgets and estimates cycle.

Document Management

Aconex system

The Aconex system is used by the Territory, the Project Company and the Facility Manager to support document management requirements and record keeping practices with respect to the Services Phase of the NTSF PPP. Aconex was also used during the Construction Phase.

Aconex is project management software that is widely used for construction, infrastructure, energy and resources projects.

My Authorised Auditors did not identify any shortcomings in relation to the software functionality as part of their review of relevant systems and processes used by the Agency to manage the NTSF PPP. I understand that Aconex has security controls and back-up processes in place however information technology controls relating to the Aconex system were not tested as part of my audit.

The term of the Aconex licence has been extended until 30 June 2019 with the costs of licence renewal shared between the Territory, the Project Company and the Facility Manager. The respective parties intend to evaluate extending the licence for a further period at a time closer to the licence expiry.

I was informed that, in the event that the licence is not subsequently renewed, the software provider will make available a read-only file that will enable future access to and use of the documents stored within the Aconex system. In my opinion, appropriate levels of due diligence have not yet been undertaken to ascertain that such arrangements will be in place and that the read-only version will operate as anticipated.

Documentation and records with respect to the Services Phase of the NTSF PPP are stored in Aconex. My Authorised Auditors observed that in some instances, documentation and records that are circulated internally within Corrections are stored on a restricted location on the Corrections server and/or in the Northern Territory Government's document management system TRIM. Coordination of day-to-day operational arrangements and messaging occurs through Outlook. A protocol that specifies the circumstances by which each document management/record keeping system is to be utilised has not yet been developed.

Department of the Attorney-General and Justice cont...

The Department of the Attorney-General and Justice has commented:

Thank you for your letter dated 24 February 2017 which included a summary of findings.

The Department concurs with the Report and is in the process of prioritising and addressing the recommendations.

Desert Knowledge Australia

Audit Findings and Analysis of the Financial Statements for the Year Ended 30 June 2016

Background

Desert Knowledge Australia (DKA) was established under the *Desert Knowledge Australia Act 2003* (the Act), which came into force on 18 September 2003. DKA is a body corporate that has been declared by its enabling Act to be excluded from the provisions of the *Commonwealth Corporations Act 2001*. The objectives of DKA are centred on a range of activities intended to promote economic and social development in desert and arid land areas.

DKA is managed by a Board, the members of which hold office in accordance with the provisions of the Act.

Audit Opinion

The audit of Desert Knowledge Australia for the year ended 30 June 2016 resulted in an unmodified independent audit opinion, which was issued on 23 November 2016.

Key Findings

My audit identified that there was no effective corporate governance framework at DKA. Specifically, during the financial year ended 30 June 2016, DKA did not have a Chief Executive Officer (CEO) and the Business Manager was acting as CEO during that period. The then acting Minister for Business removed the entire Board of Directors (effective 31 March 2016) with the new Board being appointed on 22 April 2016.

The last meeting of the Board of Directors was held on 10 March 2016 (just prior to the Board's removal by the Minister) and the Finance, Audit and Risk Committee only met once during the year (on 30 September 2015).

Whilst I note that DKA outsources some of its functions (for example, bookkeeping and accounting) to external service providers, DKA remains responsible for ensuring that adequate policies, procedures, systems and processes are exercised and maintained.

Ineffective corporate governance will result in DKA not achieving its objectives and not being accountable to its stakeholders. There is also a risk that intentional or unintentional errors or irregularities will occur and remain undetected.

Desert Knowledge Australia cont...

Performance Overview

DKA reported a deficit of \$75,100 compared to prior year's deficit of \$87,600 thousand. The deficit is attributed to:

- Total income of \$1.7 million (2015: \$1.8 million) which decreased from prior year by \$113,530 mainly due to a decrease in government funding.
- Total expenses of \$1.8 million (2015: \$1.9 million). The decrease in expenses of \$126,026 is mainly due to lower employee costs which are related to the CEO position that has been vacant during this financial year.

DKA continues to hold a strong net asset position. As at 30 June 2016, the net asset position of DKA is \$12.4 million (2015: \$11.9 million). The net assets at 30 June 2016 comprise:

- Cash and cash equivalents of \$2.3 million;
- Trade and other receivables of \$255,638;
- Property, plant and equipment of \$13.0 million; and
- Intangible assets of \$816; partially offset by
- Trade and other payables of \$532,707;
- Employee benefits of \$43,365; and
- Rent received in advance of \$2.5 million.

Desert Knowledge Australia cont...

Financial Performance for the year

	2016	2015
	\$'000	\$'000
Income		
Other income	587	507
Rent received	234	227
Interest revenue	50	73
Grants – Northern Territory Government	810	960
Grants – other	-	27
Total income	1,681	1,794
Less expenditure		
Salaries	(552)	(841)
Depreciation and amortisation	(412)	(378)
Board costs	(18)	(24)
Consultants	(84)	(29)
Media/marketing/advertising	(10)	(31)
Motor vehicles	(15)	(20)
Travel	(12)	(18)
Desert Knowledge Precinct	(350)	(314)
Other	(303)	(227)
Total expenditure	(1,756)	(1,882)
Surplus/(deficit)	(75)	(88)

Desert Knowledge Australia cont...

Financial Position at year end

	2016	2015
	\$'000	\$'000
Cash and cash equivalents	2,252	1,675
Receivables and other current assets	256	227
Less current liabilities	(687)	(241)
Working Capital	1,821	1,661
Add non-current assets	13,029	12,869
Less non-current liabilities	(2,487)	(2,598)
Net Assets	12,363	11,932
Represented by:		
Accumulated funds	7,809	7,809
Capital	4,554	4,123
Equity	12,363	11,932

Desert Knowledge Australia cont...

The Desert Knowledge Australia has commented:

In response to the 'Key Finding' outlined in your report, that "no effective corporate governance framework at DKA. Specifically, during the financial year ended 30 June 2016, DKA did not have a Chief Executive Officer (CEO) and the Business Manager was acting as CEO during that period. The then Acting Minister for Business removed the entire Board of Directors (effective 31 March 2016) with the new Board being appointed on 22 April 2016." we would like to provide the following additional information and response:

The new Desert Knowledge Australia Board set an immediate priority to recruit a new CEO and as a result Ms Lauren Ganley joined the organisation on 30 January 2017.

We acknowledge the reported deficit of \$75K for the financial year 2015-16 but wish to highlight that due to requirements under the Desert Knowledge Australia (DKA) Act, to report in accordance with the Corporations Act, this reflects expenditure against tied funds received in previous financial year/s. Further to our discussions throughout the audit process with the office of the Auditor-General, we are exploring whether the DKA Act should be amended to require DKA to report against the Australian Charities and Not for Profit Commission (ACNC) given the nature of DKA as a not-for-profit entity.

Motor Accidents (Compensation) Commission

Audit Findings and Analysis of the Financial Statements for the Year Ended 30 June 2016

Background

Effective 1 January 2015 the insurance business (excluding the Motor Accidents Compensation Fund) of the Territory Insurance Office (TIO) was sold to Allianz Australia Insurance Ltd (Allianz) and the banking business sold to People's Choice Credit Union.

By virtue of the *Motor Accidents (Compensation) Commission Act 2014*, the same corporate entity continues after 31 December 2014 under the name of the Motor Accidents (Compensation) Commission (the Commission).

The Commission's functions are to administer the Motor Accidents (Compensation) scheme, manage the Motor Accidents (Compensation) Fund, promote road safety, and perform any other function conferred on it under an Act. Administration of the Motor Accidents (Compensation) Fund is outsourced to Allianz in accordance with a Management Agreement for a contracted value.

All liabilities of the Commission in relation to the Motor Accidents Compensation business are guaranteed by the Territory.

Three audit tasks were undertaken in relation to the Commission between 1 July 2016 and 31 December 2016. These were:

- the audit of the financial statements for the year ended 30 June 2016;
- the audit of the Annual Return to the Treasurer for the year ended 30 June 2016; and
- the annual review of compliance with prudential standards issued by the Australian Prudential Review Authority (APRA).

Audit Opinion – Financial Statements

The audit of the financial statements of the Motor Accidents (Compensation) Commission for the year ended 30 June 2016 resulted in an unmodified independent audit opinion, which was issued on 26 October 2016.

Key Findings

Prior Period Error

Provision is made at the year-end for the estimated cost of claims incurred but not settled at the Statement of Financial Position date. This provision reflects the estimated cost of claims incurred but not reported to the Commission and includes direct expenses to be incurred in settling claims gross of the expected value of salvage and other recoveries.

Motor Accidents (Compensation) Commission cont...

The provision reported by the Commission as at 30 June 2015 (following the first six months of operation) was determined using the claims handling expense rate (per claim) calculated by Allianz as attributable to the claims paid over the six month period. This claims handling expense rate was broadly consistent with the claim handling expense rate of TIO in earlier years.

During my 2016 audit, I considered that the claims handling expense rate applied to the valuation of outstanding claims liabilities should take into account the cost of claims handling as it applies to the Commission rather than the costs of claims handling incurred by the outsourced service provider. It is my view that this more adequately reflects the expense applicable to the Commission. In the absence of more sufficiently detailed evidence, the claims handling expense was calculated as that proportion of the management fee paid to Allianz that could reasonably be attributed to claims handling activities (taking into consideration all activities undertaken by Allianz on behalf of the Commission).

The revised methodology was subsequently applied to the outstanding claims liability as at 30 June 2015 and the adjustment treated as prior period error. As a result, the Commission has reported restated comparative balances for 30 June 2015 in its financial statements for the year ended 30 June 2016.

Change to Accounting Policy

The Commission has previously valued its outstanding claim liabilities based on Australian Accounting Standards Board (AASB) *1023 General Insurance Contracts*. On assessment of the nature of the Commission's statutory relationship with its customers, the Commission determined that it is not of the nature of an insurance contract as defined under AASB 1023. As such, the Commission has determined that the use of AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* is more appropriate in valuing the funds liabilities.

I believe the determination by the Commission to apply AASB 137 in valuing outstanding claims liabilities is reasonable. I note that this change had no impact on the valuation of outstanding claims liabilities at 30 June 2016.

The disclosures included in the financial statements for 30 June 2016 relating to the referencing of insurance related language have remained unchanged from the prior year in order to ensure comparability and consistency however the Commission has undertaken to address this matter during the year ended 30 June 2017.

Performance Overview

The Commission incurred a net deficit of \$11.6 million in 2015-16 compared to a deficit of \$13.4 million in 2014-15. The movement in the deficit largely reflects a \$5.4 million fall in investment revenue offset by an underwriting result which improved by \$4.7 million (albeit still in deficit) and an increase in the non-underwriting result of \$2.5 million.

Motor Accidents (Compensation) Commission cont...

Audit Opinion – Annual Return

I issued an unmodified audit opinion as a result of my audit of the Annual Return. During my audit of the Annual Return I noted that there were a number of inconsistencies between the information provided in the initial return and the audited financial statements of the Commission for the year ended 30 June 2016. These inconsistencies included the classification of assets and liabilities, offsetting of income and expense accounts, and the classification of realised and unrealised gains. These inconsistencies were also observed in the quarterly returns submitted to the Treasurer throughout the year.

Whilst none of the items mentioned above impacted the solvency ratio calculation of the Commission, I recommended that a thorough review of the quarterly and annual returns is conducted prior to submission to the Treasurer to ensure they reflect the information reported in the audited financial statements.

During my audit of the financial statements of the Commission for the year ended 30 June 2016, representation was made to me that the Compulsory Third Party fee component of motor vehicle registration was not an insurance contract. In light of this, consideration should be given as to whether the forms comprising the Annual Return are still relevant and whether further amendments should be made to the new Determination.

Review Opinion - Prudential Review

The former Treasurer previously issued a Determination (the TIO Determination) pursuant to section 7 of the *Territory Insurance Office Act*. By virtue of section 42 of the *Motor Accidents (Compensation) Commission Act*, the TIO Determination applies to the Commission and requires the Commission to comply with prudential standards issued by the Australian Prudential Regulatory Authority (APRA). Thus while the Commission may lie outside the jurisdiction of APRA, the effect of the Treasurer's Determination is to subject the Commission to the same level of prudential regulation that applies to APRA regulated entities.

For the purposes of the TIO Determination 1/2014, the Auditor-General has been deemed to be the 'appointed auditor' consistent with the requirements imposed upon general insurers that are subject to direct supervision by APRA. Accordingly, I conducted reviews of the Commission's functions during the year ended 30 June 2016 to assess the extent to which the Commission met the requirements of the APRA prudential standards.

Following the review I issued a qualified review report to the Commissioner of the Motor Accidents (Compensation) Commission. The qualifications primarily relate to non-compliance with TIO Determination 1/2014 which was in force as at 30 June 2016 and during the year then ended.

Motor Accidents (Compensation) Commission cont...

The former Treasurer issued MACC Determination 1/2016 on 11 July 2016 following a review of the APRA standards. This review was conducted as a result of the sale of the Territory Insurance Office and the establishment of the Commission. The new Determination took effect on 11 July 2016 and superseded TIO Determination 1/2014 on that date.

Whilst I acknowledge that MACC Determination 1/2016 does not require the Commission to comply with a number of the previously existing requirements, my review opinion relates to the twelve months ended 30 June 2016 and the requirements applicable during that timeframe.

Non-Compliance with Prudential Standards

My review procedures identified a number of instances where the Commission did not comply with the *Motor Accidents (Compensation) Commission Act 2014* and TIO Determination 1/2014. As a result, my opinion is qualified in relation to the identified non-compliance. It will be necessary for the Commission to update its policies, procedures and processes to reflect MACC Determination 1/2016 as soon as practicable to ensure compliance with the revised requirements.

Comprehensive Review of Reinsurance Management (ReMF) and Risk Management Frameworks (RMF)

It was noted that the Commission's ReMF and RMF were last subjected to comprehensive review by an operationally independent party in March 2014 when the operations of the Commission were included as a business division of the Territory Insurance Office. I have recommended that a comprehensive review of the Commission's ReMF and RMF is conducted by an operationally independent party prior to 30 June 2017.

Regular Review of the Commission's Prudential Policies and Strategies

The Commission's Prudential Policies and Strategies are developed in accordance with its Prudential Supervision Framework as set out in the *Motor Accidents (Compensation) Commission Act 2014* and the TIO Determination 1/2014. The policies and strategies, as required by APRA Prudential Standards, are subject to review at least annually.

Prudential Framework

While the Commission has underlying documentation in relation to its processes and controls for ensuring compliance with the *Motor Accident (Compensation) Commission Act 2014* and the TIO Determination 1/2014 requirements, that documentation is neither complete nor comprehensive. Deficiencies in documentation can lead to inconsistent practices and lay the groundwork for potential breaches of prudential requirements.

Motor Accidents (Compensation) Commission cont...

The requirement to maintain appropriate documentation is a requirement of GPS 310 Audit and Related Matters. The Commission should take the appropriate steps to improve the documentation of its processes and controls as soon as required. The amended documentation should take into account the requirements of MACC Determination 1/2016.

Motor Accidents (Compensation) Commission cont...

Financial Performance for the year

	2016	Restated 2015	2015
	\$'000	\$'000	\$'000
Underwriting result			
Net premium revenue	71,862	68,212	68,212
Net claims expense	(111,052)	(112,308)	(80,213)
Acquisition costs	170	341	341
Underwriting result	(39,020)	(43,755)	(11,660)
Non-underwriting revenues and expenses			
Investment revenue			
Interest receivable	10,488	10,906	10,906
Change in value of investments	12,961	(6,673)	(6,673)
Gain on disposal of investments	(1,363)	19,121	19,121
Other investment income	20,414	24,530	24,530
Total investment revenue	42,500	47,884	47,884
Other revenue and expenses			
Other revenue	316	449	449
Other costs and depreciation	(15,385)	(18,004)	(18,004)
Total other revenue and expenses	(15,069)	(17,555)	(17,555)
Non-underwriting result	27,431	30,329	30,329
Profit/(loss) before tax	(11,589)	(13,426)	18,669
Tax and other comprehensive income	-	-	-
Comprehensive income after tax	(11,589)	(13,426)	18,669

Motor Accidents (Compensation) Commission cont...

Financial Position at year end

	2016	Restated 2015	2015
	\$'000	\$'000	\$'000
Assets			
Cash and cash equivalents	65,008	13,469	13,469
Trade and other receivables	3,562	2,892	2,892
Other financial assets	507,357	507,726	507,726
Reinsurance and other recoveries	129,889	61,918	61,918
Deferred acquisition costs	69	65	65
Investment property	44,500	43,000	43,000
Total assets	750,385	629,070	629,070
Liabilities			
Outstanding claims liability	(604,318)	(473,900)	(441,805)
Trade and other payables	(6,641)	(5,593)	(5,593)
Other financial liabilities	-	(258)	(258)
Unearned premium liabilities	(34,633)	(32,939)	(32,939)
Total liabilities	(645,592)	(512,690)	(480,595)
Net Assets	104,793	116,380	148,475

Motor Accidents (Compensation) Commission cont...

The Motor Accidents (Compensation) Commission has commented:

Prudential Framework

Previously, the MAC Commission was subject to a prudential regulatory regime that applied to the Territory Insurance Office (TIO) and was contained in TIO Determination 1/2014 (Determination 1/2014). Determination 1/2014 provided that the Australian Prudential Regulation Authority (APRA) Standards applying to general insurance companies should also apply to the Commission, unless expressly exempted.

The use of an APRA-like regime for regulating the Motor Accidents Compensation (MAC) Scheme reflected the fact that the Scheme was formally managed by TIO, which was subject to a prudential regime that aligned with the general insurance and banking industry.

With the sale of TIO and the establishment of the MAC Commission, an independent review of the applicability of the APRA standards to the MAC Scheme was conducted in January 2016. Subsequently, on 11 July 2016, the new Motor Accidents (Compensation) Scheme Determination 1/2016 (Determination 1/2016) came into effect and established a new prudential framework applicable to the MAC Scheme post sale of the Territory Insurance Office and subsequent establishment of the MAC Commission.

Given the non-compliance issues with the prudential framework largely relate to requirements not relevant to the MAC Scheme under Determination 1/2014, it is expected that these issues will be resolved now that Determination 1/2016 has been implemented.

A review of the Reinsurance Management and Risk Management Frameworks is currently being undertaken and will be completed before 30 June 2017.

Selected Agencies

Fuel Cards

Background

The objective of this analysis was to examine transactions for the purchase of fuel, using fuel cards, that were undertaken by the Department of the Legislative Assembly, the Department of the Chief Minister, and a former Northern Territory Government entity between 1 July 2016 and 31 January 2017 in order to identify transactions that displayed unusual characteristics or characteristics that might suggest the existence of fraud, and to provide information about those transactions to the Agencies' management for review and follow-up. Fuel cards issued to officers of the Agencies, and pool vehicles were included in the analysis.

Overall Assessment

It should be noted that this analysis did not constitute an audit.

My review of the data related to fuel card purchases highlights the necessity for Agencies to be vigilant at all times. Simply reviewing the data may not necessarily identify fraudulent or incorrect transactions. To highlight this – there are legitimate reasons for a driver to undertake two successive purchases of fuel within a few minutes (filling up a primary and secondary fuel tank on a vehicle for example); however, opportunities exist for inappropriate purchases to be made and charged to the fuel cards.

Key Findings

The following table outlines the vehicles identified as being in use at some time during the period 1 July 2016 and 31 January 2017.

Agency	Fuel Cards
Department of the Chief Minister	102
Department of the Legislative Assembly	14
Former Northern Territory Government entity	25

Acceptable error rate

In analysing the transaction errors, I consider an error rate of less than 5 per cent to be reasonable. I also consider an error rate between 6 per cent and 25 per cent to be reasonable when taking into account the probability of some console operator error occurring, however I would recommend that the users of the fuel cards for these vehicles be reminded of the need to provide accurate odometer readings to the fuel supplier.

Selected Agencies cont...

Missing or Incorrect Odometer Readings

There were a significant number of anomalous transactions recorded by the Agencies as outlined below:

Agency	Transaction Errors	Population	% of errors at Agency level
Department of the Chief Minister	172	1,069	16%
Department of the Legislative Assembly	31	221	14%
Former Northern Territory Government entity	101	333	30%

- Anomalous information included:
 - the driver failing to provide an odometer reading;
 - the console operator not recording the odometer reading provided;
 - the accounts department of the fuel supplier not providing the odometer reading on the invoice; or
 - the fuel card not allowing the odometer reading to be recorded.
- Incorrect odometer readings, such as a reading lower than the previous reading or an apparently incorrect reading. Possible reasons for this include:
 - the driver misreading the odometer;
 - the driver guessing the reading;
 - the console operator mishearing the reading; or
 - the console operator mistyping the reading.

Department of the Chief Minister

Vehicles Unable to be Analysed

Of the 102 fuel cards, two had incurred only one fuel purchase throughout the period under analysis and there were no exceptions identified in relation to the odometer reading related to those purchases, therefore no further analysis was undertaken. There were two fuel cards allocated for multi-vehicle use, one fuel card for 'garden maintenance' and eight other fuel cards where there was insufficient data to permit a reasonable analysis to be performed because sufficient correct odometer readings were not provided.

Selected Agencies cont...

Analysis and error rate

47 fuel cards had what appeared to be correct odometer readings for more than 95 per cent of the transactions. I consider an error rate of less than 5 per cent to be reasonable.

34 fuel cards had missing or incorrect odometer readings for between 6 and 25 per cent of the transactions. I consider this to be reasonable (taking into account the probability of some console operator error occurring), however I would recommend that the users of the fuel cards for these vehicles be reminded of the need to provide accurate odometer readings to the fuel supplier.

For the 21 remaining fuel cards, errors were identified on more than 26 per cent of the transactions. Even taking into account the probability of some console operator or supplier error, I find this to be an unacceptable error rate.

Other findings

In relation to the 1,069 individual transactions recorded against the fuel cards:

- There were 22 fuel purchases that appeared to be significantly higher than the reported fuel capacity of the vehicle. Specifically:
 - one vehicle was refuelled with over 220 litres on four occasions when the tank capacity is recorded as 170 litres; and
 - another vehicle was refuelled with over 70 litres on 18 occasions when the tank capacity is recorded as 70 litres.

If these vehicles have been retro-fitted with long range tanks, the records at NT Fleet should be adjusted accordingly to reflect the enhanced fuel capacity.

- There was one recorded purchase of "Sundries", with a value of \$1.25, being purchased on 5 October 2016.
- There were four purchases of Premium or Ultra fuel when the usual fuel for those vehicles is regular unleaded petrol.
- There were four instances where less than 15 litres of fuel were recorded as having been purchased but these appear to be 'topping up'.

Selected Agencies cont...

Department of the Legislative Assembly

Vehicles Unable to be Analysed

Of the 14 fuel cards, there were two fuel cards where there was insufficient data to permit a reasonable analysis to be performed because sufficient correct odometer readings were not provided.

Analysis and error rate

Five fuel cards had what appeared to be correct odometer readings for more than 95 per cent of the transactions. I consider an error rate of less than 5 per cent to be reasonable.

Six fuel cards had missing or incorrect odometer readings for between 6 and 25 per cent of the transactions. I consider this to be reasonable (taking into account the probability of some console operator error occurring), however I would recommend that the users of the fuel card for these vehicles be reminded of the need to provide accurate odometer readings to the fuel supplier.

For the three remaining fuel cards, errors were identified on more than 26 per cent of the transactions. Even taking into account the probability of some console operator or supplier error, I find this to be an unacceptable error rate.

Other findings

In relation to the 221 individual transactions recorded against the fuel cards:

- Seven fuel purchases occurred outside of the Northern Territory. This vehicle is allocated to an Assembly Member and I note that the Remuneration Tribunal Report and Determination relating to entitlements of Assembly Members indicates that Assembly Members are entitled to use their vehicles for private use thus there are no restrictions on the use of the fuel cards outside of the Northern Territory.
- There were five fuel purchases that appeared to be significantly higher than the reported fuel capacity of the vehicle. A vehicle was refuelled with over 140 litres on five occasions when the tank capacity is recorded as 130 litres. If the vehicle has been retro-fitted with long range tanks, the records at NT Fleet should be adjusted to reflect this changed fuel capacity.
- There were no instances where it appeared that incorrect fuel was purchased.
- There were no instances where less than 15 litres of fuel were recorded as having being purchased.
- There were no transactions highlighted as being particularly unusual (either individually or as part of a pattern of transactions).

Selected Agencies cont...

Former Northern Territory Government Entity

On 15 November 2015, a former Northern Territory Government entity was sold and therefore ceased to be a Northern Territory Government entity at that time. Transactions were still occurring under the auspices of the Northern Territory Government contract with the fuel supplier until at least 31 January 2017.

The use of the Northern Territory Government contract resulted in discounts totalling \$1,060.57 being made available to the former Northern Territory Government entity during the seven months of this analysis.

I also note that the former Northern Territory Government entity continues to lease vehicles from NT Fleet despite no longer being a Northern Territory Government entity. I have not considered within this analysis the risks to the Northern Territory Government associated with this arrangement.

In relation to the continued lease of vehicles from NT Fleet, NT Fleet's Charter of Operations states:

"NT Fleet is responsible for the management of the light and heavy vehicle fleet for the various arms of the NT Government, with the exception of Northern Territory Police, Fire and Emergency Services.

NT Fleet is responsible for the management, purchase, disposal and maintenance of the fleet. Vehicles are leased to government agencies at commercial rates with a key focus on providing low cost, fit for purpose vehicles.

NT Fleet strives to provide NT Government agencies with a vehicle fleet that meets their operational needs, is appropriate to their public image, and is assessable and available at competitive rates and service levels."

The former Northern Territory Government entity had 25 fuel cards allocated to vehicles in use at some time during the period 1 July 2016 and 31 January 2017 despite no longer being a Northern Territory Government entity. There were 333 transactions recorded against the 25 fuel cards.

Vehicles Unable to be Analysed

Of the 25 fuel cards, one had incurred only one fuel purchase throughout the period under analysis and there were no exceptions identified in relation to the odometer reading related to those purchases, therefore no further analysis was undertaken. There was one fuel card allocated for multi-vehicle use, and for two other fuel cards there was insufficient data to permit a reasonable analysis to be performed because correct odometers were not provided for most, if not all, purchases.

Selected Agencies cont...

Analysis and error rate

Five fuel cards had what appeared to be correct odometer readings for more than 95 per cent of the transactions. I consider an error rate of less than 5% to be reasonable.

Ten fuel cards had missing or incorrect odometer readings for between 6 and 25 per cent of the recorded transactions. I consider this to be reasonable (taking into account the probability of some console operator error occurring), however I would recommend, should the Northern Territory Government's contractual arrangements with the fuel supplier continue to be extended to the former Northern Territory Government entity as a non-government entity, that the users of the fuel card for these vehicles be reminded of the need to provide accurate odometer readings to the fuel supplier.

For the remaining fuel cards, errors were identified on more than 26 per cent of the transactions. Even taking into account the probability of some console operator or supplier error, I find this to be an unacceptable error rate.

Other findings

In relation to the 333 individual transactions recorded against the fuel cards:

- There were no instances where it appeared that incorrect fuel was purchased.
- There was one instance where less than 15 litres of fuel were recorded as having being purchased (excluding items identified as 'surcharge' and 'lube'), however this purchase was for 0.01 litres and \$0.01 and was immediately followed by a purchase that would be regarded as normal hence this appears to be an operator error.
- There were no recorded fuel purchases that appeared to be significantly higher than the reported fuel capacity of the vehicle.
- One vehicle is recorded in NT Fleet's records as being assigned to a person who no longer works at the former Northern Territory Government entity.
- One vehicle is recorded in NT Fleet's records as being assigned to "EAW Cargo Vehicle" however this vehicle appears to be home garaged.

Selected Agencies cont...

The Department of the Chief Minister has commented:

The 22 findings relating to excess fuel purchase were reviewed and cleared of any misuse. The vehicles with significant fuel fills in excess of the vehicle's reported capacity had been retro-fitted with long range tanks.

The agency will continue to remind staff of their obligations to provide accurate odometer readings to the fuel supplier to improve the accuracy of the readings being recorded.

The Department of the Legislative Assembly has commented:

Following the Auditor-General's Report and recommendations into Members of the Legislative Assembly's fuel card use provided on 18 December 2013, Members' fuel reports have been tabled in the Legislative Assembly each quarter by the Speaker. These reports contain updated information on fuel purchases such as odometer readings not included in Puma statements.

The Department of Treasury and Finance has commented:

In November 2014 the previous Government approved Department of Corporate and Information Services (DCIS) continuing to provide corporate and information technology services to a former Northern Territory Government entity on a full cost recovery basis for a transitional period not exceeding five years.

The former Northern Territory Government entity is currently transitioning its commercial vehicle arrangements from NT Fleet to a private provider with a separate fuel card. Vehicles are progressively replaced as they reach end of lease period and are returned to NT Fleet for disposal.

To date over 50% of the former Northern Territory Government entity's fleet has transitioned to the alternative supplier. This process will be completed prior to the expiry of the five year transitional period in 2019.

All other DCIS services to the former Northern Territory Government entity have transitioned to alternative supplier arrangements.

Selected Agencies cont...

NT Fleet has commented:

In November 2014 the previous government approved the continuation of corporate and information technology services to the former Northern Territory Government entity on a full cost recovery basis for a transitional period not exceeding five years.

The former entity is currently transitioning its vehicle supply from NT Fleet to a private provider using a separate fuel card arrangement. Vehicles are progressively replaced as they reach end of life with over 50% of the entity's fleet transitioned to date

Matters Referred to the Auditor-General Pursuant to Section 6 of the Public Information Act

Background

The *Public Information Act* (the Act), which came into effect in 2010, and was subsequently amended effective 14 February 2017, seeks to achieve a transparent and accountable mechanism for the review of public information produced by public authorities. A public authority is defined in section 5 of the Act and that definition is broad, capturing any:

- Member of the Legislative Assembly or the holder of any office of the Legislative Assembly;
- Agency or body corporate established under a law of the Territory;
- body corporate that is held to be controlled by a public authority; and
- person appointed or engaged to perform work for a public authority.

Excluded from the definition are holders or occupiers of:

- judicial office;
- an office as a member of a tribunal established under a law of the Territory;
- the office of the Auditor-General;
- a council constituted pursuant to the *Local Government Act*;
- the Territory Insurance Office;
- Jacana Energy;
- the Power and Water Corporation;
- Territory Generation; and
- a person or body prescribed by regulation.

The definition of what constitutes public information is equally broad and is defined as “*information given by a public authority to the public by using money or other property of the Territory...*” Exemptions from this definition are:

- information given to members of the electorate of an Assembly member if the preparation and giving of the information is funded by an allowance payable to the Member for the electorate under a law of the Territory;
- a media release of a Member of the Legislative Assembly; and
- information prescribed by regulation.

Matters Referred to the Auditor-General Pursuant to Section 6 of the Public Information Act cont...

The Act does place a limit on the scope of what might be considered to be public information in that section 4(2) provides that a “*public authority gives information to the public when it makes the information available to the public generally (rather than any particular members of the public) through any medium*”.

Section 6(1) of the Act provides that the Auditor-General must, upon the receipt of a written request of a Member of the Legislative Assembly, conduct a review of that information to determine whether the provisions of the Act have been contravened.

The Auditor-General may determine that the Act has been contravened if the material that is the subject of the review contravenes section 6(2) of the Act in that it:

- promotes particular party interests;
- includes statements that are misleading or factually inaccurate;
- does not clearly distinguish a statement of facts from a statement of comments; or
- is an advertisement that includes an image of the holder or occupier of the office of a minister.

There have been no matters referred to me since my November 2016 Report to the Legislative Assembly and no referred matters remain outstanding.

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Appendices

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Appendix 1: Audit Opinion Reports Issued Since 4 November 2016

Financial Statements for the year ended 30 June 2016

	Date 2016 Financial Statements tabled to Legislative Assembly	Date of Audit report year ended 30 June 2016	Date of Audit report year ended 30 June 2015
Common Funds of the Public Trustee	14 February 17	30 November 16	30 November 15
Cobourg Peninsula Sanctuary and Marine Park Board	16 March 17	14 November 16	6 November 15
Desert Knowledge Australia	30 November 16	23 November 16	3 November 15
Not yet tabled – as at 7 March 2017			

Acquittals or other returns for the year ended 30 June 2016

	Deadline for submission of Audited Financial Statements	Date of Audit report year ended 30 June 2016	Date of Audit report year ended 30 June 2015
<i>National Land Transport Act (2014):</i>			
Nation Building Program	31 December 16	19 December 16	7 December 15
Roads to Recovery	31 October 16	29 November 16	6 November 15
Natural Disaster Relief and Recovery Arrangements	31 March 16	7 March 17	15 January 16

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Appendix 2: Status of Audits and Reviews Previously Reported as Incomplete

Listed below is the status of non-routine audits and reviews identified as not yet complete in my November 2016 report to the Legislative Assembly:

Department of Correctional Services

Contract Management – Darwin Correctional Centre	Refer page 77
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Department of Education

General Computer Controls – Student Administration Management System	Refer page 26
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Department of Health

Contract Management – St John Ambulance, Careflight, Disability Services	Refer page 30
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Department of Infrastructure

Procurement	Refer page 41
Tiger Brennan Drive	Refer page 55

Selected Agencies

Fraud Assessment Framework	Not yet completed
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Appendix 3: Proposed Audit Activity in the Six Months Ending 30 June 2017

In addition to the routine audits, primarily being agency compliance audits and audits of financial statements for entities with a 31 December year end, the following audits have been scheduled to commence during the six months ending 30 June 2017:

Department of Health

E Medication

Department of Infrastructure, Planning and Logistics

Gifts and Benefits

Department of the Chief Minister

Gifts and Benefits

Department of Tourism and Culture

Gifts and Benefits

Department of Trade, Business and Innovation

Gifts and Benefits

Northern Territory Police, Fire and Emergency Services

Managing the Mental Health of Police

Selected Agencies

Fuel Cards – refer to page 114

Selected Agencies

Governance Framework - Lighthouse

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Appendix 4: Abbreviations

AASB	Australian Accounting Standards Board
APRA	Australian Prudential Review Authority
APRO	Agencies Purchase Requisitions Online
CA	Contract Administrator
CAPS	Contract and Procurement Services
CBD	Central Business District
CEO	Chief Executive Officer
Commission	Motor Accidents (Compensation) Commission
CPR	Contractor Performance Report
DCIS	Department of Corporate and Information Services
DCP	Darwin Correctional Precinct
DIPL	Department of Infrastructure, Planning and Logistics
DKA	Desert Knowledge Australia
DoI	Department of Infrastructure
DoT	Department of Transport
DRP	Disaster Recovery Plan
IT	Information Technology
KPI	Key Performance Indicator
MC	Managing Contractor
MCC	Managing Contractor Contract
NSW	New South Wales
NT	Northern Territory
NTDCS	NT Department of Correctional Services
NTG	Northern Territory Government
NTSF	Northern Territory Secure Facilities
PAC	Public Accounts Committee
PLT	Project Leadership Team

Appendix 4: Abbreviations cont ...

PMS	Performance Management System
PMT	Project Management Team
PPP	Public Private Partnership
QSP	Quarterly Services Payment
ReMF	Review of Reinsurance Management
RMF	Risk Management Frameworks
SAMS	Student Administration and Management System
SMART	Specific, Measurable, Achievable, Relevant and Time
TBD Project	Tiger Brennan Drive Duplication
TEMRS	Top End Medical Retrieval Service
TIO	Territory Insurance Office

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