

Summary of Auditor-General Reports No's 13 - 27 (2017-18)

Contents

Report No.	Audit report hyperlink	Agency	Tabled
13	Decision-making Controls for Sustainability — National Disability Insurance Scheme Access	National Disability Insurance Agency; Department of Human Services	19 October 2017
14	The Design and Implementation of the Community Development Programme	Prime Minister and Cabinet; Employment; Social Services	31 October 2017
15	Costs and Benefits of the Reinventing the ATO Program	Australian Taxation Office (ATO)	22 November 2017
16	Administration of the National Broadband Network Satellite Support Scheme	Department of Communications and the Arts; nbn co limited; Department of Finance	28 November 2017
17	New South Wales' Protection and use of Environmental Water in the Murray-Darling Basin	Department of Agriculture and Water Resources	28 November 2017
18	Monitoring the Impact of Australian Government School Funding	Department of Education and Training	6 December 2017
19	Australian Government Procurement Contract Reporting	Across entities	6 December 2017
20	Low Emissions Technologies for Fossil Fuels	Department of Industry, Innovation and Science	12 December 2017
21	The Australian Taxation Office's Use of Settlements	Australian Taxation Office	13 December 2017
22	Administration of Medicare Electronic Claiming Arrangements	Department of Human Services	19 December 2017
23	Delivery of the Moorebank Intermodal Terminal	Moorebank Intermodal Company Limited; Department of Infrastructure and Regional Development;	19 December 2017

		Department of Finance	
24	Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2017	Across Entities	20 December 2017
25	Australian Electoral Commission's Procurement of Services for the Conduct of the 2016 Federal Election	Australian Electoral Commission	22 January 2018
26	2016-17 Major Projects Report	Department of Defence	23 January 2018
27	Management of the Australian Government's Register of Lobbyists	Department of the Prime Minister and Cabinet	14 February 2018

**Decision-making controls for sustainability—National Disability Insurance Scheme access
[No.13 2017–18]**

The National Disability Insurance Agency and the Department of Human Services

Background

1. The National Disability Insurance Scheme (NDIS or the Scheme) will replace existing Commonwealth, state and territory disability support systems with a nationally consistent scheme for Australians under the age of 65 who have a permanent and significant disability.¹ When fully implemented, the Scheme will benefit an estimated 460 000 Australians with a disability, at a total cost of around \$22 billion in the first year of full operation (2020–21).
2. The number of people receiving individualised supports under the NDIS is a major driver of Scheme costs. Eligibility requirements to access the NDIS are set out in the *National Disability Insurance Scheme Act 2013* (the Act). The National Disability Insurance Agency (NDIA) is responsible for administering the Scheme, including ensuring that Scheme participants meet the eligibility requirements set out in the Act. The NDIA has outsourced processing of some streamlined access requests to the Department of Human Services (Human Services).
3. The NDIS was trialled in seven sites between July 2013 and June 2016 and is being rolled out nationally from July 2016. The transition to the full Scheme will require a rapid scale up of the NDIA's capacity to determine access requests.

Audit objective and criteria

4. The objective of this audit is to assess the effectiveness of controls being implemented and/or developed by the NDIA to ensure that NDIS access decisions are consistent with legislative and other requirements. To form a conclusion against the audit objective, the following high-level audit criteria were adopted:
 - Suitable information, training and guidance is available to support effective decision-making about access to the NDIS.
 - Suitable administrative systems and processes are in place to support transparent, accurate, timely and consistent assessment of NDIS eligibility.
 - Suitable quality and compliance arrangements have been established to mitigate the risk of incorrect NDIS access decisions.

Conclusion

5. The NDIA has implemented some controls to ensure that NDIS access decisions are consistent with legislative requirements, but these have been inconsistently applied. As at August 2017, the NDIA is developing an integrated assurance framework to enhance decision-making controls.
6. Accurate and accessible information is available for consumers and carers about how to access the NDIS. Suitable training and guidance is available to support access decision-making by NDIA officers and processing of access requests by Human Services' staff.
7. Data integrity and reporting issues limit the NDIA's ability to monitor training completion by access decision-makers. In addition, NDIA requirements for on-the-job training were not documented and the ANAO found limited evidence that these requirements were implemented.

8. The NDIA's access processes supported the transition of a large volume of people into the NDIS in a short space of time. In practice, the ANAO observed legislative and administrative non-compliance that potentially affected the transparency, accuracy and timeliness of access decisions.

9. The access process was not well supported by the first stage of the NDIA's ICT system, introduced in July 2016, requiring implementation of inefficient manual work-arounds. The NDIA advised the ANAO that new ICT workflow management functionality was implemented from July 2017.

10. The NDIA had not established efficient or effective processes for internally reviewing access decisions. New procedures introduced by the NDIA in May 2017, if implemented effectively, will provide an internal review process that is consistent with legislative requirements.

11. The NDIA has implemented executive monitoring and reporting of strategic and operational risks, including risks to Scheme financial sustainability, which is informed by actuarial analysis of Scheme outlays and risks.

12. Comprehensive quality and compliance arrangements have not been implemented to mitigate the risk of incorrect NDIS access decisions. These are currently in development as part of a broader integrated assurance framework.

Supporting findings

Information, training and guidance

13. Information for consumers and carers on the NDIS is readily accessible from the NDIA website in multiple formats. The NDIA is in the process of translating key communication products into ten languages.

14. The NDIA has established training requirements for access decision-makers but training records are incomplete. Consequently, the NDIA does not have assurance that all officers making access decisions have been appropriately trained.

15. Requirements for on-the-job training for access decision-makers were not documented and the ANAO found limited evidence that pre-decision checks for less experienced decision-makers were occurring.

16. The NDIA's *Operational Guidelines* on Scheme access reflect the requirements of the legislation underpinning the Scheme. The *Operational Guidelines* are supplemented by a range of procedural materials for access decision-makers and relevant Human Services' staff.

NDIS entry and exit pathways

17. The sample of NDIA general access decisions reviewed by the ANAO demonstrated high levels of legislative and administrative non-compliance, including missing evidence of: disability and impairment; and written advice to applicants notifying them of their review rights. This result occurred within an environment of rapid expansion in the volume of access requests and the number of access decision-makers; significant changes to the guidance provided to decision-makers; and the introduction of stage one of a new ICT system.

18. Streamlined access was designed to bring a large volume of people into the Scheme quickly when compared to the general access pathway. There was no documentation to support the creation and approval of lists of specified conditions, but the lists had been applied effectively with no evidence of decision errors related to specified conditions in the samples reviewed by the ANAO, once internal review processes had been completed. The quality of data provided to the NDIA by Australian, state and territory governments reduces the NDIA's ability to link Defined Program

participants to approved Defined Programs; and therefore to manage a key risk associated with streamlined access arrangements.

19. The first stage of the NDIA ICT system, implemented in July 2016, did not provide for workflow management functionality or real-time monitoring of decision-making timeframes. In July 2017, planned enhancements to the NDIA's ICT system were introduced which the NDIA advised allows monitoring of workflow and legislated timeframes for access decisions.

20. The ICT system provides computer-aided decision making, which the ANAO identified was being manually overridden in a large volume of cases, associated with a known misalignment between the NDIS Rules and the ICT system business rules. The ANAO also identified a discrepancy between the system business rules and other NDIA guidance.

21. The NDIA has implemented measures to address lower than expected exit rates from the NDIS. It is too early to assess the effectiveness of these strategies.

22. To improve assurance that only people who meet the NDIS access requirements remain in the Scheme there would be value in the NDIA introducing risk-based reassessments of NDIS eligibility for participants who enter the Scheme under the disability requirements.

Internal reviews and appeals

23. The NDIA did not have in place efficient or effective processes for internally reviewing access decisions. Revised internal review procedures introduced by the NDIA from 29 May 2017 are consistent with legislative requirements and provide greater clarity about procedures to be followed by NDIA officers in conducting internal reviews of access decisions. There is scope for the NDIA to improve quality assurance processes for internal reviews of access decisions.

Quality and performance arrangements for access decisions

24. The NDIA Board and executive have established systems and processes to identify, monitor and report strategic and operational risks to Scheme sustainability, including identification by the Scheme Actuary of emerging issues. Actuarial reports identify several access-related threats to Scheme sustainability and monitor the effectiveness of mitigation strategies. Access-specific risks are not reflected in the NDIA's strategic and operational risk plans.

25. Until July 2017, the NDIA had limited ability to monitor the performance of the National Access Team, due to the absence of a workflow function in the first stage of the NDIA ICT system. A 2017 Business Services Schedule between the NDIA and Human Services established performance metrics for the National Call Centre.

26. During the trial phase of the NDIS, the NDIA did not conduct regular quality assurance reviews of access decisions. The NDIA implemented monthly quality assurance reviews from October 2016, which indicate that the NDIA is not achieving its quality target for access decision-making. The Agency is developing a new quality assurance program, which is expected to be supported by enhanced ICT system functionality from September 2017.

27. The NDIA's quality assurance reviews of access decisions have identified potential improvements. Implementation of these improvements is monitored through the NDIA Executive Management Group and the NDIA Board. Actuarial analysis is used to inform the development of strategies to address emerging risks and to monitor the impact and effectiveness of these strategies.

Recommendations

Recommendation no. 1
Paragraph 2.9 The National Disability Insurance Agency should establish, implement and monitor a robust quality framework for access decisions addressing training, ongoing assessment of officer proficiency and decision quality.

NDIA response: Agreed.

Recommendation no. 2
Paragraph 3.55 The National Disability Insurance Agency should ensure that the business rules underpinning computer aided decision-making are clearly documented, aligned with legislative and policy requirements, and verified to ensure they have been correctly incorporated into the National Disability Insurance Agency ICT system.

NDIA response: Agreed.

Recommendation no. 3
Paragraph 3.70 The National Disability Insurance Agency should review its processes to include reassessments of the eligibility of participants who enter the Scheme under the disability requirements, taking into account levels of impairment, and conditions that have greater prospects of improvement.

NDIA response: Agreed.

Recommendation no. 4
Paragraph 4.26 The National Disability Insurance Agency should implement quality control and assurance processes for internal reviews of access decisions, with the aim of supporting accurate, consistent and transparent decision-making.

NDIA response: Agreed.

Summary of entity responses

28. The National Disability Insurance Agency's and the Department of Human Services' summary responses to the proposed report are provided below.

The National Disability Insurance Agency

The NDIA takes the ANAO audit recommendations seriously and is committed to strengthening control weaknesses through continuous improvement.

The NDIA acknowledges the audit findings and agrees with the four recommendations. Steps have already been taken to address a number of the recommendations and issues raised in the report.

As a general observation, the NDIA notes that the audit took place during a time of significant transition and growth. From 1 July 2016 until 31 March 2017 (the period covered by the audit), the NDIA processed 81,172 access decisions. By comparison, over the previous three years of trial a total of 37,946 access decisions were made.

During the audit period the NDIA also faced a number of externally driven pressures and challenges, including: elements of key operational policy was not finalised between governments (for example phasing agreements); data on existing participants was received late and was of variable quality (for example missing information fields on primary disability type); and the late deployment of an IT system resulted in the NDIA staff having limited access to and time for training.

The NDIA is addressing the four recommendations of the audit report through: the implementation of a quality management framework and an integrated assurance framework; improvements to the storage and quality of decision making guidance and support documentation; and staff training to build core competencies. These activities will improve the quality, consistency and assurance of access decisions.

More broadly, the NDIS is implementing a program of work to improve the participant and provider experience which will be underpinned by clear operational processes, practices and controls.

The Department of Human Services

The Department of Human Services (the department) welcomes this review into the effectiveness of the National Disability Insurance Agency's (NDIA) implementation of the National Disability Insurance Scheme (NDIS).

The department notes the review's four recommendations refer to the NDIA. The department will work with the NDIA to ensure that the business rules underpinning computer aided decision-making are correctly incorporated into the NDIA business system as outlined in Recommendation Two.

Key learnings

Key learnings

A summary of key learnings identified in this audit report that may be considered by other Commonwealth entities

Staff training and guidance

- Staff training forms an important part of internal governance and control frameworks, and can support staff in providing them with the knowledge and skills to perform their roles effectively. Entities should implement procedures and maintain appropriate records to ensure all relevant staff have undertaken all required training.
- Staff guidance, training and procedural resources are often required to support officers to effectively implement or administer legislation. These resources should be reviewed regularly to ensure they are consistent with legislation and policy and internally consistent, particularly where the guidance and training informs determinations of individuals' eligibility for government assistance.

Risk management and governance

- When implementing large-scale projects with high materiality and risk, entities should ensure that the governance procedures remain effective throughout both the planning and implementation phases. In particular, risk management plans and strategies should be supported by institutional frameworks that ensure: continuity in risk management for the duration of the project; and that mitigation strategies are developed and effectively deployed when required. Risk plans should also reflect the context, timeframes and capabilities that exist and impact on project delivery.
- When developing processes to support an efficient, risk-based approach to administering legislation or policy frameworks, entities should ensure that: processes are consistent with relevant legislation or policy documents; and approval of these processes and associated risk is clearly documented. The procedures should also be regularly reviewed to ensure relevance and accuracy.

Business processes and decision-making tools

- IT-based decision-making tools should be consistent with legislation, including the delegations framework in place under the relevant legislation; and any requirements for a delegated officer to be involved in the IT-supported decision-making process.

Design and Implementation of the Community Development Programme
ANAO Report No.14 2017–18
Department of the Prime Minister and Cabinet
Department of Employment
Department of Human Services

Background

1. The Community Development Programme (CDP) is an Australian Government employment and community development program designed to support jobseekers and reduce welfare dependency in remote Australia. The CDP commenced on 1 July 2015, replacing the Remote Jobs and Communities Program (RJCP).¹ The key objectives of the CDP are increasing: workforce participation and improving job opportunities; sustainable work transitions; and employability in remote communities.

2. The Department of the Prime Minister and Cabinet (PM&C) is responsible for the overall design and administration of the CDP; however some aspects of the CDP are administered by other Australian Government entities. Of the 33 000 jobseekers in the CDP, more than 80 per cent of these jobseekers identify as Indigenous. Currently, 40 third-party providers deliver employment services to CDP jobseekers, of which 65 per cent are Indigenous organisations. Total expenditure is estimated to be \$1.6 billion over four years from 2014–15 to 2017–18.

Audit objective and criteria

3. The objective of the audit was to assess the effectiveness of the transition of the Remote Jobs and Communities Program to the Community Development Programme including whether the Community Development Programme was well designed and administered effectively and efficiently. To form a conclusion against the audit objective, the ANAO adopted the following high level audit criteria:

- Sound analysis and advice informed the design of the Community Development Programme and transition from the Remote Jobs and Communities Program.
- The Community Development Programme was effectively and efficiently administered.
- Performance was appropriately monitored and outcomes were measured, reviewed and reported to the Minister.

¹ The RJCP was introduced in July 2013 following a review of remote participation and employment servicing. The RJCP replaced four existing programs then operating in remote areas: Job Services Australia; Disability Employment Services; the Indigenous Employment Program; and the Community Development Employment Projects program.

Conclusion

4. The transition from the RJCP to the CDP was largely effective. The CDP was supported by stakeholder consultation, as well as risk management and evaluation frameworks. In addition, PM&C has strengthened its approach to monitoring and responding to compliance issues impacting on provider payments. There would be scope to review the incentives created by the revised provider payment structure.
5. The implementation of the CDP was supported by an external review of Indigenous Training and Employment, stakeholder engagement, and an effective communication strategy. However, the design of the CDP was not informed entirely by sound analysis of the RJCP.
6. The timeframes in which the RJCP was transitioned to the CDP impacted on the ability of providers to understand the changes prior to implementation. In addition, PM&C did not have arrangements in place to ensure funding commitments made by providers from their RJCP Participation Accounts met program requirements. Finally, aspects of the revised provider payment structure may reduce provider incentives to transition jobseekers into ongoing employment.
7. PM&C has established appropriate governance, key program frameworks and guidance material to assist in the administration and delivery of the CDP. PM&C has also strengthened its approach to compliance and fraud prevention in light of identified program risks.
8. PM&C has established transparent performance monitoring and reporting arrangements for CDP providers. These performance indicators are measurable and linked to the CDP's policy objectives, and have shown improvements in terms of 13 and 26 week employment outcomes; as well as aggregate hours of attendance by participants.
9. PM&C established complementary policies—the Employer Incentive Fund and the Indigenous Enterprise Development fund—aimed at addressing gaps in regional labour markets. However, these programs were significantly undersubscribed. In addition, there is scope to improve the targeting of funding to remote areas by monitoring the number of businesses created to better integrate the CDP Funding Arrangements with related policies.
10. PM&C has developed and implemented a program evaluation strategy for the CDP; however the timing of the review was not aligned to the Government's consideration of further funding in the 2017–18 Budget.

Supporting findings

Design and transition

11. PM&C's design of the CDP was supported by an analysis of the Review of Indigenous Training and Employment (the Forrest Review) and consultation across Government. In addition, the Minister for Indigenous Affairs consulted with employers, community councils, the Indigenous Advisory Council and representative bodies on the design of the CDP.
12. However, changes introduced as part of the CDP were not informed entirely by a sound evidence base. In particular, the review of the CDP's predecessor program, the RJCP, was based on incomplete analysis of the data. In addition, there would be scope for PM&C to consider the incentives created by the revised provider payment structure, and its alignment with the underlying policy objectives of the program changes.

13. PM&C developed a suitable phased transition and implementation plan, and communication strategy, to support the transition to the CDP. Due to the short implementation timeframes, many of the risks identified by PM&C materialised. In particular, the timeframes reduced the opportunity for providers to understand the substantial changes prior to implementation. While providers were authorised to access their Participation Accounts to facilitate the transition to the CDP, PM&C did not have arrangements in place to appropriately ensure commitments from the Participation Accounts met the program requirements. Four months following the introduction of the CDP, only 37 per cent of regions were on track to meet performance targets.

Administration of the Community Development Programme

14. PM&C has established appropriate governance frameworks and guidance material to assist the administration and delivery of the CDP. There are appropriate administrative arrangements in place between the relevant Australian Government entities responsible for delivering the CDP.

15. It is too early to assess whether the CDP is administered efficiently. The CDP is administered by entities at a higher unit cost than the RJCP and the broader jobactive employment services program.

16. PM&C has developed a fit-for-purpose risk management strategy to support the administration of the CDP. In late 2016, PM&C integrated its approach to risk management across the broader Indigenous Affairs Group grants program, which included the CDP. PM&C also established provider risk plans and assessments. However, some key program risks were either not identified in the program level risk plan, or were not fully addressed by mitigation strategies.

17. PM&C has developed a suitable compliance framework for both jobseekers and providers under the CDP. Given the inherent risks associated with issuing payments based on provider-reported data, PM&C has now strengthened its approach to identifying and pursuing suspected instances of non-compliance by providers.

18. PM&C has implemented suitable arrangements to support the administration of provider funding under the CDP. There would be scope to adopt a more transparent and systematic approach to making ancillary payments.

19. PM&C consults with key stakeholders on potential changes to the CDP. The level of engagement between CDP providers, and employers and communities, varied across the 60 regions in which the CDP was implemented.

Monitoring and reporting on CDP performance and outcomes

20. PM&C has established transparent and effective arrangements for measuring the performance of the CDP. Appropriate tailored approaches have been developed to suit delivery across the regional network.

21. PM&C regularly monitors and reports to its Minister on provider performance. While the basis of performance assessment and reporting is set out in provider agreements, there would be scope for greater transparency on the calculation of the Regional Employment Targets.

22. PM&C administers the Employer Incentive Fund to stimulate employment; however, only a small proportion of eligible employers have received the incentive payment. Similarly,

there was minimal use of the Indigenous Enterprise Development funds to support the establishment of Indigenous business in CDP regions, resulting in a substantial underspend of allocated funding.

23. PM&C's evaluation strategy was developed late, some seven months after the CDP commenced and an overview of the evaluation strategy was not agreed by the Minister for Indigenous Affairs until 7 April 2016. This reduced the scope to collect data that was capable of informing an evaluation of the CDP's impacts.

24. The evaluation strategy was not peer reviewed by a reference group. Evaluation strategy milestones were not consistent with Government timeframes for considering ongoing funding of the CDP.

Recommendations

Recommendation no.1

The ANAO recommends the Department of the Prime Minister and Cabinet review the Community Development Programme provider payment structure, particularly the incentives it creates and its alignment with the underlying policy objectives of the program changes.

Department of the Prime Minister and Cabinet's response:
Agreed.

Summary of entity responses

25. The departments of the Prime Minister and Cabinet, Employment and Human Services' summary responses to the proposed report are provided below.

Department of the Prime Minister and Cabinet

The Department welcomes the audit's overall conclusions and findings. The Department is pleased that the ANAO found that the transition from the Remote Jobs and Communities Programme to the Community Development Programme (CDP) was largely effective and supported by stakeholder consultation, risk management and evaluation frameworks. The Department appreciates the audit's acknowledgement that we have established appropriate governance, key program frameworks and guidance material to assist in the administration and delivery of the CDP.

The Department is taking steps to consider and address the areas of potential improvement raised by the ANAO, in particular strengthening guidance on ancillary payments and ensuring the provider payment model aligns with the program's core objectives of assisting job seekers into long-term employment. This includes through the department's ongoing programme implementation and design work, supported by a continual focus on provider performance, which is lifting job seeker outcomes. The Department is also committed to improving evaluation efforts and building the evidence base for Indigenous policies and programmes.

The Government has also announced its intent to consult on a new remote employment and participation model, which will better tailor welfare arrangements. These audit findings will also inform this consultation process.

Department of Employment

The Department acknowledges the audit's conclusions and findings. The Department notes the report's observation that the changes to the Job Seeker Compliance Framework announced in the 2017–18 Budget will not apply to the Community Development Programme.

Department of Human Services

The Department of Human Services (the department) notes this report and that the ANAO has concluded that the administrative arrangements in place between the department and the Department of the Prime Minister and Cabinet are appropriate.

Key learnings for all Government entities

26. Below is a summary of key learnings identified in this audit report that may be considered by other Commonwealth entities in designing and implementing policy.

Policy Design

- Policy design, advice to Government, and program implementation, should all be informed by sound analysis and a strong evidence base.
- Effective program evaluation requires complete and robust data. Where new programs are being implemented, entities should identify evaluation strategies and data requirements (including baseline data) early in the process, and monitor implementation of data collection throughout the trial.

Implementation

- Implementation planning should reflect adequate consideration of key risks throughout the implementation process, particularly where policy or program implementation involves untested service delivery models, new technology, or where significant behavioural change is expected.
- Entities should ensure identified mitigation strategies are effectively implemented, particularly where identified risks have begun to materialise.
- Where programs are supported by compliance monitoring and support resources, these resources should be targeted on a risk basis. Where relevant, compliance monitoring and reporting activity should also be consistent with broader organisational compliance frameworks.

Costs and Benefits of the Reinventing the ATO Program
No.15 2017–18
Australian Taxation Office

Background

1. Reinventing the ATO is a broad transformational change program focused on achieving the Australian Taxation Office's (ATO) vision of being a contemporary service oriented organisation. The program was initiated partly in response to the Australian Public Service Commission's capability review in 2013, which outlined the challenge for the ATO to transform its existing processes, systems, culture and workforce to be more agile, responsive, efficient and effective. At a high level, implementation of the program was expected to better position the ATO to be more contemporary, innovate with technology and meet taxpayer expectations. While productivity benefits and operational savings are expected from the program, they were not a key driver for its implementation.
2. The Reinventing the ATO program formally commenced in 2015 with the release of a 'blueprint' that outlined experience shifts for key stakeholders, such as staff and taxpayers, as a result of implementation of the program. The program consists of behavioural and cultural elements, locally managed change and continuous improvement initiatives, as well as six strategic programs that oversee 100 projects. These projects are required to apply the ATO's corporate project management framework, which was revised in July 2016 to provide a greater focus on the value proposition of projects, including costs and savings.
3. The ATO is not managing the entire Reinventing the ATO program using a formal program management methodology, however, governance arrangements have been put in place to support the implementation of the Reinventing the ATO projects, including a program office and strategic program governance bodies.

Audit objective and criteria

4. The audit objective was to assess the effectiveness of the ATO's processes for estimating and monitoring the costs, savings and benefits associated with the Reinventing the ATO program. The audit criteria were that:
 - sound processes were in place for estimating the potential costs, savings and benefits associated with the Reinventing the ATO program; and
 - actual costs, savings and benefits associated with the Reinventing the ATO program are measured and monitored.

Conclusion

5. The ATO has sound systems and guidance for estimating and monitoring the costs, savings and benefits associated with Reinventing the ATO projects but the effectiveness of these processes has been compromised by low levels of conformance. As a result, the costs, savings and benefits from these projects cannot be calculated. The ATO never intended to calculate these measures for the entire Reinventing the ATO program as it included many locally managed and cultural change initiatives. The ATO needs to ensure greater conformance to processes for estimating and

monitoring project costs, savings and benefits, to provide transparency about the net benefits of programs and support decisions about the commencement, continuation, resourcing and direction of projects.

6. The ATO measures benefits from projects through a Connected Benefits Management System that links project and program outcomes to corporate benefits categories and ATO corporate impact areas. There was a general improvement across the ATO's corporate benefits categories from 2013–14 to 2015–16, particularly relating to the corporate impact areas of willing participation and revenue. Further, the ATO advised of a number of positive business changes, including improved employee engagement, as a result of the Reinventing the ATO program. However, there would have been a higher level of assurance of the benefits from the Reinventing the ATO program if the ATO had identified performance indicators to measure the impact of the program or established a baseline to systematically measure anticipated benefits.

7. The ATO has sound project management processes in place to support the estimation of costs associated with Reinventing the ATO projects but has not always had sound processes for estimating potential savings from the projects. Despite the availability of a cost estimation tool and a requirement to estimate costs in key pre-approval documentation, costs were not consistently recorded in business cases and project plans. Potential savings from the projects were rarely included in this documentation. Detailed processes have been in place to support the estimation of benefits associated with the Reinventing the ATO program, although these processes have often not been applied to projects.

8. Costs and savings associated with the Reinventing the ATO program and most of its projects have not been tracked. However, the ATO recently introduced internal financial benefits reporting that provides a framework for measuring and monitoring savings from Reinventing the ATO projects going forward. The ATO's benefits measurement approach has been strengthened since the commencement of the Reinventing the ATO program to enhance the profile of benefits and their alignment with broader ATO corporate impact areas when considering the value proposition of potential projects. Nonetheless, a lack of completeness in monitoring and reporting on the achievement of Reinventing the ATO projects, and the program more broadly, has limited transparency about the scale and nature of benefits achieved.

Supporting findings

Estimating costs, savings and benefits associated with Reinventing the ATO projects

9. The ATO has sound processes to support project managers to estimate the costs of Reinventing the ATO projects, including providing a cost estimation tool and having estimated costs assured by the ATO's Finance team. However, there was not widespread adherence to these processes. Of the 100 Reinventing the ATO projects, 62 had applied the ATO costing tool, of which 34 had costs assured by ATO Finance. Cost information was also infrequently recorded in project documentation such as business cases and project plans—25 Reinventing the ATO projects had final project plans that included estimated project costs.

10. Savings estimates were infrequently included in Reinventing the ATO project pre-approval documentation as required by the ATO's project management procedures. In early 2017, the ATO implemented a verification process to confirm expected savings from projects, which should improve the accuracy of savings estimates and frequency of inclusion in project management documentation.

11. While the ATO's guidance has consistently required that project outcomes and benefits are identified and recorded in key project management documentation, conformance with these requirements by Reinventing the ATO projects has been low. Only 56 of the 100 Reinventing the ATO projects outlined expected benefits in project pre-approval documentation, including non-financial benefits and productivity improvements. Under the revised project management approach, the ATO's benefits management processes have been strengthened to require that project outcomes align with broader ATO organisational priorities.

Measuring and monitoring costs, savings and benefits associated with Reinventing the ATO projects

12. The ATO is unable to measure and monitor the total costs of implementing Reinventing the ATO projects because of low levels of conformance with requirements to track costs—only eight projects included actual costs in status reports and 13 projects included actual costs in closure reports. The magnitude of costs of Reinventing the ATO projects warrants greater attention to measurement and monitoring—as for the 67 Reinventing the ATO projects where data was available, costs were estimated at \$300 million from 2013–14 to 2018–19.

13. The ATO has not been tracking the monetary savings associated with the Reinventing the ATO program. However, in April 2017 it implemented internal reporting on financial benefits across the office, including Reinventing the ATO projects. As the reporting process involves the verification of estimated and realised financial benefits, this should better position the ATO to consider realised savings when making operational decisions, such as reallocating resources due to productivity gains.

14. The Reinventing the ATO program has provided a number of benefits, as indicated by the large number of outcomes listed as achieved for individual projects. However, there is a lack of clarity about the results of Reinventing the ATO projects as a consequence of the:

- lack of conformance with the ATO's processes for monitoring and reporting on the achievement of project outcomes—of 57 closed, cancelled or transferred to business-as-usual, 21 had closure reports that indicated whether project outcomes had been achieved; and

- implementation of the Connected Benefits Management System after the commencement of the program and many projects, and the ATO not accurately identifying the contribution made by Reinventing the ATO projects to corporate priorities.

15. The ATO has identified and discontinued projects as a result of concerns relating to their relevance and progress. Nevertheless, there is scope for the ATO to improve the: frequency of program status reporting to governance bodies; quality of information provided in relation to projects' status; and use of governance gates.

Recommendations

Recommendation no.1 The Australian Taxation Office mandates and monitors the recording and reporting of actual project costs for all corporate projects.

Australian Taxation Office response: Partially agreed.

Paragraph 4.10

Recommendation no.2 The Australian Taxation Office enforces the mandating of status reports and governance gate assurance activities to support assessment of the ongoing viability of projects including delivery of expected benefits.

Australian Taxation Office response: Partially agreed.

Paragraph 4.50

Summary of entity responses

16. The summary response to the report from the ATO is provided below, with the covering letter included in Appendix 1.

The ATO acknowledges the ANAO review and considers the report supportive of our overall approach to estimating and monitoring the costs, savings and benefits associated with projects.

The review recognises the overall intent of the Reinventing the ATO program was to transform our internal culture, providing a stronger connection to the community and an openness and willingness to change in order to maximise willing participation in the tax and superannuation systems. Although some elements were delivered through formally recognised programs of work and projects, a large proportion of the Reinvention Program was driven through localised action in teams, branches and business lines.

Our approaches to strategic planning, investment management, project delivery and change management have evolved and matured since the establishment and of the Reinventing the ATO program in 2015. The review acknowledged that the ATO has developed sound systems and guidance to support project management including estimating and monitoring costs, savings and benefits.

The review also identified that there is scope for the ATO to continue to increase consistency of application as part of maturing our frameworks. The ATO recognises this opportunity and is committed to continuous improvement in relation to project management, including recognising the refinement of frameworks and practices as an area of focus in our corporate plan for 2017–18.

Summary and recommendations

Background

1. nbn co limited (nbn), a wholly owned Commonwealth company, was established in 2009 to design, build and operate Australia's first national wholesale-only broadband network.¹ The National Broadband Network is expected to be completed by 2020. As at 30 June 2017, nbn had 6000 employees and the Commonwealth Government has committed up to \$49 billion in funding to the company.²

2. Satellite services are part of the Multi-Technology Mix model that is being used to deliver the National Broadband Network. In April 2014, the Government announced that a subsidy scheme, the National Broadband Network Satellite Support (NSS) Scheme, would be established to allow up to 9000 new retail customers (end users) to access satellite services in the period before the rollout of nbn's long-term satellite service (Sky Muster). Potential users of the NSS Scheme included residents, small businesses and Indigenous communities in rural and remote Australia. The NSS Scheme commenced in July 2014 and is to last until December 2018, or until the final NSS Scheme user disconnects their service. nbn expended \$4.62 million on the NSS Scheme and subsidised the services of 2018 end users.

Audit objective and criteria

3. The objective of this audit was to assess whether nbn effectively administered the NSS Scheme.

4. To form a conclusion against the audit objective, the Australian National Audit Office (ANAO) adopted the following high-level criteria:

- the NSS Scheme was effectively established;
- nbn effectively promoted the NSS Scheme and accurately determined applicants' eligibility to apply for the scheme; and
- the NSS Scheme contract to deliver wholesale satellite services was effectively managed by nbn.

¹ nbn is a company established by the Commonwealth under the *Corporations Act 2001* and is classified as a Government Business Enterprise. nbn's Government Shareholder Ministers are the Minister for Communications and the Minister for Finance.

² The number of nbn employees does not include temporary staff, that is, on-hire personnel. nbn co limited, *Corporate Plan 2018–21*, pp. 25 and 32.

Conclusion

5. nbn effectively administered the NSS Scheme to deliver subsidised satellite services to a limited number of end users for a fixed period of time.

6. During the establishment of the NSS Scheme in 2013 and 2014 nbn provided timely and appropriate advice to its two Shareholder Ministers and their respective Departments (Communications and Finance). Both Departments in turn provided appropriate advice to their respective Ministers during the establishment of the NSS Scheme.

7. nbn managed demand for the capped NSS Scheme by monitoring how actively the subsidy scheme was promoted by the satellite wholesaler and retail service providers, and by applying clearly defined criteria to accurately determine applicants' eligibility for access to the NSS Scheme.

8. nbn's management of the contract between nbn and IPSTAR Australia Pty Ltd (IPSTAR) to deliver the NSS Scheme was largely consistent with indicators of the contract's mid-range value, risk and complexity. nbn adequately monitored the performance of IPSTAR in delivering the agreed service levels outlined in the contract, and made payments to IPSTAR in accordance with the provisions outlined in the contract.

Supporting findings

Establishing the scheme

9. nbn provided timely and appropriate advice to its Shareholder Ministers and their Departments about the development of the NSS Scheme in 2013 and 2014. In consultation with its shareholders, nbn identified that its existing satellite capacity would be unable to provide coverage to all targeted users during the period of the roll-out, proposed options to address this and executed a timely solution in the form of the NSS Scheme. nbn's reporting on the implementation of the NSS Scheme addressed the expectations of the Shareholder Ministers.

10. Both the Department of Communications (Communications) and the Department of Finance (Finance) provided appropriate advice to their respective Ministers about the establishment of the NSS Scheme during 2013 and 2014. Communications was the lead Shareholder Minister's Department during developmental discussions with nbn to establish the NSS Scheme.

11. The NSS Scheme was effectively established by nbn in a short timeframe during which a major procurement was completed. nbn launched the NSS Scheme in July 2014, three months after the scheme was first announced publicly in April 2014. However, the absence of a consolidated risk assessment for the procurement of wholesale satellite services under the NSS Scheme was not in accordance with the requirements in the *NBN Co Procurement Manual (2014)*.

Applications for the scheme

12. nbn provided advice about the application process to potential end users and monitored the promotional activities undertaken for the NSS Scheme by the satellite services wholesaler and the retail service providers that sold plans to end users.

13. nbn used an existing Broadband Service Locator tool (obtained from Communications), and other criteria, to reliably determine an applicant's eligibility for the NSS Scheme. nbn staff assessed a total of 4191 applications for the NSS Scheme: most of the applicants that were found eligible (88 per cent) were in residential premises. The applications resulted in a total of 2018 activations of satellite services.

14. Monitoring by nbn of the experience of end users for the NSS Scheme indicated positive satisfaction results in relation to the delivery of the scheme. nbn also had appropriate processes for applicants to the NSS Scheme to challenge unfavourable eligibility decisions and/or make complaints about the scheme. The total number of challenges to eligibility assessments and complaints recorded while the NSS Scheme was open for applications was 157. After applications closed, two further complaints were received. The 159 records represented 31.6 per cent of the unsuccessful applications made (by 503 people) for access to the scheme.

Contract management for satellite support services

15. nbn did not formally define the value, risk and complexity of the contract for the NSS Scheme service provider in relation to the company's larger scale initiatives and in terms of its broader contracting environment. However, nbn's practical management of the contract was largely consistent with indicators of the contract's mid-range value, risk and complexity.

16. Given the size and nature of the Contract, nbn adequately monitored the performance of the contractor, IPSTAR. The primary process to monitor and assess contractor performance was through monthly reporting produced by IPSTAR. nbn also engaged a third party external provider to independently verify the NSS Scheme service speeds at selected end user premises and nbn reviewed end user experience data gathered directly by nbn for the scheme.

17. nbn accurately made payments to IPSTAR under the Contract to deliver the NSS Scheme. This included that procedural elements of nbn's internal payment process were followed, and a subsidy payment was made for each eligible service that was connected by IPSTAR.

Recommendation

Recommendation no.1

Paragraph 2.34

If a variation from the requirements contained in nbn's Purchasing Rules is needed, nbn staff should document the reasons the variance is necessary and seek approval from the delegate specified in the nbn Delegation of Authority Policy.

nbn's response: *Agreed.*

Department of Communications and the Arts' response: *Agreed.*

Summary of entity responses

18. The proposed audit report was provided to nbn, the Department of Communications and the Arts, and the Department of Finance. An extract from the proposed audit report was provided to IPSTAR.

19. Formal responses to the proposed audit report were received from nbn, the Department of Communications and the Arts, and the Department of Finance. The summary responses are provided below.

nbn

nbn welcomes the ANAOs' review of the NSS Scheme, which was an important element of **nbn's** efforts to make broadband services available to rural and remote end users prior to the availability of our long-term satellite service, Sky Muster. These end users are important to **nbn** and it is appropriate that the effectiveness of programs designed for them should be the subject of independent review.

nbn welcomes the many positive conclusions in the Report, particularly those which reflect upon the end user experience for Australians living in rural and remote locations. These include findings that:

- **nbn** effectively administered the NSS Scheme
- **nbn** provided timely and appropriate advice to its two Shareholder Ministers during the establishment of the NSS Scheme
- the NSS Scheme was effectively established by **nbn** in a short timeframe during which a major procurement was completed
- **nbn** effectively managed demand for the capped NSS scheme by applying clearly defined criteria to accurately determine applicants' eligibility
- **nbn** had appropriate processes for applicants to challenge eligibility decisions and/or make complaints about the NSS Scheme
- **nbn** adequately monitored the performance of its contractor, IPSTAR Australia Pty Ltd (**IPSTAR**) and made payments in accordance with the contract
- end users reported positive satisfaction results in relation to the delivery of the NSS Scheme

nbn considers that our agility in establishing and implementing this scheme contributed to the positive outcomes noted by the ANAO. **nbn** agrees that we can improve by more explicitly recognising that there will be occasions where our values of decisiveness and urgency may support an informed decision to vary from our internal Purchasing Rules, and that we should document such a variance when it occurs.

Department of Communications and the Arts

The Department of Communications and the Arts (the Department) welcomes the ANAO's conclusions that nbn's administration of the National Broadband Network Satellite Support (NSS) Scheme has been effective and that during the establishment of the NSS Scheme both Shareholder departments provided appropriate advice to their Ministers. The Department also notes the ANAO's conclusion that nbn provided timely and appropriate advice during the establishment of the NSS Scheme, managed demand for the capped NSS Scheme appropriately, and adequately monitored the performance of IPSTAR under the contract between nbn and IPSTAR for delivery of services under the NSS Scheme.

Department of Finance

Finance supports the findings and key learnings of this report regarding the *Administration of the National Broadband Network Satellite Support Scheme*.

Key learnings for all Australian Government entities

20. Below is a summary of key learnings and opportunities for improvement identified in this audit report that may be considered by other Commonwealth entities, and Government Business Enterprises, when establishing and implementing government funded schemes.

Establishing schemes

- When establishing a scheme, clearly defining roles and responsibilities, budget, duration, outcomes, and monitoring and reporting arrangements, will lead to better results.

Implementing schemes

- A lack of documentation makes it difficult for entities to manage risk effectively and demonstrate how the implementation of a scheme is being monitored.
- Adapting existing guidelines/criteria for eligibility, or making use of previously reliable assessment tools, can assist entities when implementing new schemes and avoid the need to develop additional resources.

Assurance review—section 19A of the *Auditor-General Act 1997*

INDEPENDENT ASSURANCE REPORT

DEPARTMENT OF AGRICULTURE AND WATER RESOURCES' ASSESSMENT OF NEW SOUTH WALES' PROTECTION AND USE OF ENVIRONMENTAL WATER UNDER THE NATIONAL PARTNERSHIP AGREEMENT ON IMPLEMENTING WATER REFORM IN THE MURRAY-DARLING BASIN

Qualified Conclusion

I have undertaken a limited assurance review of the Department of Agriculture and Water Resources' assessment of the performance of New South Wales (NSW) under the *National Partnership Agreement on Implementing Water Reform in the Murray-Darling Basin* (Murray-Darling Basin NPA) relevant to the protection and use of environmental water for the 2014–15 and 2015–16 financial years.

The limited assurance review examined whether the assessment undertaken has provided a high level of assurance about the protection and use of environmental water in the Murray-Darling Basin as evaluated against the following criteria ('the criteria'):

- Does the framework established under the Murray-Darling Basin NPA support the Department of Agriculture and Water Resources to effectively assess the performance of NSW in protecting and using environmental water in line with the Murray-Darling Basin Plan (Basin Plan)?
- Has the Department of Agriculture and Water Resources effectively assessed the performance of NSW against the milestones in the Murray-Darling Basin NPA?

Based on the procedures I have performed and the evidence I have obtained, the following matters have come to my attention:

- the lack of specific, measurable deliverables, and outcome measures in the milestones and criteria for assessing the performance of NSW under the Murray-Darling Basin NPA represent significant weaknesses in the performance framework; and
- while the Department of Agriculture and Water Resources has followed agreed processes for monitoring performance, there was a lack of evidence and explanation to substantiate its positive assessment of NSW's progress under Milestone 8¹ of the Murray-Darling Basin NPA for 2015–16, in light of serious issues raised about the state's water regulation

¹ Milestone 8 is that the 'state has cooperated for Basin Plan arrangements for environmental watering'. The Department of Agriculture and Water Resources also assessed Milestones 6, 7 and 9 and identified issues in relation to Milestones 6 and 7 for 2015–16.

arrangements. Importantly, there was little in the Department of Agriculture and Water Resources' submission to the Minister for 2015–16 to suggest that there were risks that NSW was not delivering environmental water consistent with the Basin Plan. These factors have limited the effectiveness of Department of Agriculture and Water Resources' assessment.²

Other than the possible effects of these matters, nothing has come to my attention that causes me to believe that the assessment undertaken by the Department of Agriculture and Water Resources for 2014–15 and 2015–16 has not provided a high level of assurance about the protection and use of environmental water in the Murray-Darling Basin, as evaluated against the criteria.

I have conducted the review in accordance with the ANAO Auditing Standards, which include the relevant Standard on Assurance Engagements ASAE 3000 *Assurance Engagements other than Audits or Reviews of Historical Financial Information* issued by the Auditing and Assurance Standards Board.

I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my qualified conclusion.

Responsibilities of the Secretary of the Department of Agriculture and Water Resources

The Secretary of the Department of Agriculture and Water Resources is responsible for the Department of Agriculture and Water Resources' management of the Australian Government's interests under the Murray-Darling Basin NPA. This responsibility includes assessing the performance of NSW in accordance with the agreement, and making recommendations for associated payments to the Minister for Agriculture and Water Resources.

Independence and Quality Control

I have complied with the independence and other relevant ethical requirements relating to assurance engagements, and apply Auditing Standard ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements* in undertaking this assurance review.

Responsibilities of the Auditor-General

My responsibility is to express a limited assurance conclusion on whether the assessment undertaken by the Department of Agriculture and Water Resources has provided a high level of assurance about the protection and use of environmental water in the Murray-Darling Basin, as evaluated against the criteria. ASAE 3000 requires that I plan and perform my procedures to obtain limited assurance about whether anything has come to my attention that the Department of Agriculture and Water Resources' assessment of the performance of NSW under the Murray-Darling Basin NPA has not provided a high level of assurance about the protection and use of environmental water in the Murray-Darling Basin, as evaluated against the criteria.

I have conducted my limited assurance review by making such enquiries and performing such procedures I considered reasonable in the circumstances, including examination and assessment of:

- the Murray-Darling Basin NPA and the requirements of the Intergovernmental Agreement on Federal Financial Relations;

² The Department of Agriculture and Water Resources advised that it does not agree with this finding.

- the Department of Agriculture and Water Resources' assessments of the performance of NSW in 2014–15 and 2015–16, and associated recommendations to the Minister for Agriculture and Water Resources; and
- information and advice provided by the Murray-Darling Basin Authority and the Commonwealth Environmental Water Holder in relation to the Department of Agriculture and Water Resources' assessments of the performance of NSW in those years.

Interviews were also conducted with Commonwealth officers with responsibilities for monitoring of the performance of NSW according to the Murray-Darling Basin NPA.

The procedures selected depend on my professional judgement, including identifying areas of risk that the monitoring of the performance of NSW was not in accordance with the requirements of the Murray-Darling Basin NPA.

The procedures performed in a limited assurance review vary in nature and timing from, and are less in extent than for, a reasonable assurance review and consequently the level of assurance obtained in a limited assurance review is substantially lower than the assurance that would have been obtained had a reasonable assurance review been performed. Accordingly, I do not express a reasonable assurance opinion on monitoring of the performance of NSW in accordance with the requirements of the Murray-Darling Basin NPA, as evaluated against the criteria.

Monitoring the Impact of Australian Government School Funding
[No.18 2017–18]
Department of Education and Training

Background

1. Schooling in Australia is delivered by the government and non-government sectors, with the non-government sector comprising both independent and Catholic schools. In 2016, approximately 3.8 million students were enrolled in primary, secondary and special education schools in Australia. Of these, 65 per cent were enrolled in government schools, 20 per cent were enrolled in Catholic schools and 15 per cent were enrolled in independent schools.
2. Under constitutional arrangements, state and territory governments are responsible for ensuring the delivery of schooling to all children of school age in their jurisdictions. The Australian Government works with state and territory governments and non-government education authorities to provide funding, develop and implement national policy priorities, assess performance and support other education initiatives.
3. Over time, the Australian Government has introduced various legislative frameworks under which funding for schooling is provided to the government and non-government sectors. The *Australian Education Act 2013* (the Act), which commenced on 1 January 2014, is the principal legislation currently governing the provision of Australian Government funding for school education and the progress of agreed reform directions across government and non-government schools in Australia. The Act and the accompanying Australian Education Regulation 2013 (the Regulation) set out the needs-based funding model for school education and outline the conditions that must be met by entities to receive Commonwealth financial assistance. These include the requirements to comply with intergovernmental agreements and to implement nationally agreed reform directions for school education. A key approach of the Australian Government across successive funding frameworks and underpinning policy settings has been to achieve improved educational outcomes through the establishment of nationally consistent approaches for schooling in Australia, including in relation to school funding, data collection and the adoption of the Australian Curriculum.
4. In 2014–15, 72 per cent (\$38.1 billion) of total recurrent public funding for schools (\$53 billion) was provided by state and territory governments. The Australian Government provided \$14.9 billion over the same period. The majority of state and territory government funding (91 per cent) was provided to government schools. Conversely, the majority of Australian Government funding (64 per cent) was provided to non-government schools.
5. The Department of Education and Training is responsible within the Australian Government for national education and training policies and programs. In relation to schooling, the department has two key sets of responsibilities:
 - through the Education Council, and in partnership with the states and territories, developing, progressing and reviewing national objectives and outcomes for schooling and the national curriculum; and
 - administering the Australian Education legislative framework (including the Act and the Regulation) and relevant agreements.

Audit objective and criteria

6. The objective of the audit was to assess the arrangements established by the Department of Education and Training to monitor the impact of Australian Government school funding. To form a conclusion against this objective, the following high-level audit criteria were adopted:

- arrangements established to account for Australian Government recurrent school funding are sound; and
- effective arrangements have been established to monitor progress against educational outcomes and analyse collected data to better understand the impact of Australian Government funding.

Conclusion

7. The arrangements established by the Department of Education and Training to monitor the impact of Australian Government school funding do not provide a sufficient level of assurance that funding has been used in accordance with the legislative framework, in particular the requirement for funding to be distributed on the basis of need. Further, the department has not used available data to effectively monitor the impact of school funding and to provide greater transparency and accountability. As such, the department is not well placed to determine whether the current policy settings are effective in supporting the achievement of educational outcomes. The department has, however, more recently recognised the need to improve its use of school data to monitor impact and to strengthen the evidence base underpinning its policy development processes, with steps taken to better manage its data assets.

8. The department is yet to establish sufficiently robust arrangements to ensure that system authorities¹ have in place, and make publicly available, compliant needs-based funding arrangements. There are also weaknesses in the arrangements established by the department to collect and validate the information provided by approved authorities to account for funding. These weaknesses have reduced the level of assurance the department has that funding is allocated in accordance with the needs-based principles established under the legislative framework. Under recent legislative reforms, additional mechanisms are being established to strengthen the monitoring of needs-based funding arrangements. To complement these mechanisms, there is scope for the department to strengthen its analysis of school funding data.

9. While the department has established processes to monitor the progress of national reform directions and ongoing policy requirements, weaknesses in these processes and their implementation have limited the level of assurance obtained by the department. Overall, the arrangements established by the department have not delivered the level of transparency and accountability envisaged under the Act and the department has not fully utilised available data to inform the development of current and future education policy. The department is, however, working to strengthen its capacity to undertake data analysis and has, more recently, increased its use of data analysis, particularly in the context of developing legislative amendments.

1 Under the Act, an approved authority is the legal entity that the Minister has approved to administer funding for a school or schools. The approved authority for each school must spend, or commit to spend, financial assistance that is payable to the authority for the purpose of providing school education. The Act further defines an approved system authority as an approved authority for more than one school that has entered into an approved system arrangement with the Australian Government. In general, an approved system authority has the same responsibilities as an approved authority. However, an approved system authority is to receive funding for all of its member schools, which it can redistribute according to its own needs-based funding model. This model must comply with the needs-based principles established under the Act.

Supporting findings

Accounting for Australian Government school funding

10. The department has not effectively monitored the requirement for system authorities to have in place needs-based funding arrangements and, therefore, is not well positioned to determine whether the basis on which authorities are distributing Australian Government funding is in accordance with legislative requirements. Further, in the interest of reducing the regulatory burden on the sector, the department has not monitored whether approved system authorities' funding models are publicly available and transparent as required. The ANAO's analysis revealed only nine of 33 authorities had included their arrangements on their websites. In addition, changes to the presentation of information publicly reported on funding allocated at a school level have made comparisons of funding provided at a school level more difficult. Under recent legislative reforms, additional mechanisms are being established to strengthen the monitoring of needs-based funding arrangements.

11. Weaknesses in current monitoring arrangements have undermined the department's ability to appropriately verify reported school data in order to assess progress against established policy objectives and to support accountability, transparency and analysis. This adversely impacts the level of assurance that the department has in relation to the use of Australian Government funding to progress agreed education policy objectives.

12. The department has not effectively monitored the distribution of funding by approved system authorities to gain assurance that funding is being allocated on a needs-basis, as required by the legislative framework. The establishment of fit-for-purpose monitoring arrangements, having regard to the need to minimise regulatory burden, would better position the department to support the activities of the proposed National School Resourcing Board in determining: the extent to which funding is distributed on a needs-basis; and the impact of funding. The ANAO's analysis has shown: significant variances between the funding allocated to non-government system authorities by the department and the funding these authorities reported having distributed to each of the schools that they represent; a lack of clarity around the alignment of additional loadings² created by non-government system authorities and student needs; and significant variances in the amount of funding retained by non-government system authorities for administrative costs and centralised expenditure.

Monitoring the implementation of and progress against policy objectives

13. The department has not established robust arrangements to monitor the implementation plans that are required to be developed, published and maintained by authorities participating in the National Education Reform Agreement (NERA), or used the plans to measure progress against reform directions. Further, the department has not conducted bilateral discussions, prepared annual progress reports or conducted a comprehensive review as required under relevant bilateral agreements. As a consequence, the department is not well placed to determine the extent to which reform directions established under the NERA have been progressed by authorities.

14. The department uses compliance certificates prepared by authorities to monitor the implementation of ongoing policy requirements established under the Act, but weaknesses in administrative arrangements for these certificates limit the assurance obtained. In particular, the inconsistent follow-up of reported non-compliance; the heavy reliance on self-reporting in the

2 The funding model as set out in the Act comprises a base funding amount and loadings for various student-based and school-based disadvantages.

absence of targeted verification activity; and the absence of evidence to demonstrate compliance limit the usefulness of the certificate process.

15. The department has made limited use of the available data to build its understanding of the impact of funding on educational outcomes. The department is, however, working to build its data and evidence capability, including through the establishment of a branch tasked with helping the department to better manage its data assets.

Recommendations

Recommendation no.1
Paragraph 2.9 The Department of Education and Training establish a risk-based approach to monitoring compliance with requirements established under the *Australian Education Act 2013* and, in keeping with the intent of the Act, increase the transparency surrounding the allocation and use of Australian Government school funding.

Department of Education and Training's response: *Agreed.*

Recommendation no.2
Paragraph 2.47 The Department of Education and Training strengthen its analysis of school funding allocation data to gain assurance that school funding is appropriately distributed in accordance with need as required under the *Australian Education Act 2013*.

Department of Education and Training's response: *Agreed.*

Recommendation no.3
Paragraph 3.14 The Department of Education and Training enforce legislative provisions that enable it to measure progress against the achievement of reform directions.

Department of Education and Training's response: *Agreed.*

Recommendation no.4
Paragraph 3.44 The Department of Education and Training make greater use of available data to better understand the impact of funding on educational outcomes and to inform the development and refinement of education policy.

Department of Education and Training's response: *Agreed.*

Summary of entity response

16. The Department of Education and Training's summary response to the proposed report is provided below.

The Department of Education and Training welcomes the Australian National Audit Office's (ANAO) report on *Monitoring the Impact of Australian Government School Funding* and supports its recommendations.

The department recognises the need for enhanced accountability and transparency to ensure that record levels of Commonwealth school funding are used in accordance with the legislative framework.

The Australian Government will introduce new school funding arrangements from 2018 that will increase Commonwealth funding for schools from \$17.5 billion in 2017 to \$30.6 billion in 2027, to better target need. These new arrangements were informed by rigorous analysis and will be simpler and more transparent than current arrangements.

The National School Resourcing Board has been established to provide greater independent oversight over Commonwealth school funding, in line with the recommendations of the 2011 *Review of Funding for Schooling*.

Together with enhanced departmental assurance activities, the Board will help ensure the public can be confident that Government funding for schooling is delivered as intended and that funding recipients are meeting their obligations under the *Australian Education Act 2013*. This will include a review of the compliance of school authorities with the requirement to distribute funding in accordance with a needs-based funding model.

The Australian Government shares responsibility for school funding with states and territories, and works collaboratively through the COAG Education Council to progress national reforms to improve educational outcomes and to monitor progress against national targets and objectives.

The Government has commissioned the *Review to Achieve Educational Excellence in Australian Schools* to examine evidence and provide recommendations on how funding should be used to improve school performance and student outcomes. This review will inform the development of a new national reform agreement in 2018.

The department has also invested in the establishment of the Strategic Policy and Data Analytics Branch to enhance the department's use of data and evidence in policy development and decision-making.

Key learnings for all Australian Government entities

17. Below is a summary of key learnings identified in this audit report that may be considered by other Australian Government entities.

Regulatory reform

- The anticipated benefits accruing from regulatory reform should be balanced with the need for recipients of Australian Government funding to be accountable and transparent in the use of those funds. Where regulatory reform is being considered, the risks to accountability and transparency should be carefully assessed and considered.
- Not all regulatory activity is 'red tape'—the achievement of regulatory outcomes is dependent on a minimum of level of activity. Entities should balance the impact on regulated entities with the intent of the regulatory policy when deciding on the level of regulatory activity to undertake.

Development and implementation of government policy

- In addition to addressing the regulatory requirement for which it was collected, data collected through existing monitoring, regulatory and compliance activities should be fully utilised by entities to better inform the development and ongoing refinement of policy.
- Entities should not compromise their ability to meet existing legislative obligations set by the Parliament in the implementation of government policy.

Record keeping

- Sufficient records should be created and retained to demonstrate the basis on which key policy design and implementation decisions were taken.

Reducing duplicative reporting

- The regular review of reporting obligations on regulated entities, in collaboration with co-regulators, helps to identify and remove duplicative and overlapping requirements and positively contributes to the lowering of regulatory burden.

Australian Government Procurement Contract Reporting No.19 2017–18

Summary

1. The purpose of the Australian National Audit Office (ANAO) is to improve public sector performance and support accountability and transparency in the Australian Government sector through independent reporting to the Parliament, the Executive and the public.
2. Procurement is a significant public sector activity worth \$47.4 billion in 2016–17.¹ This information report seeks to provide greater transparency on procurement activity in the Australian public sector. This information report is neither an audit nor an assurance review. This means that no conclusions or opinions are presented. The report presents publicly available data from public sector procurement activity in a number of ways. The approach to analysis is set out in Appendix 1 which includes important background to the data and methodology used. The Auditor-General Act 1997 (section 25) enables the Auditor-General at any time to cause a report to be tabled in either House of the Parliament on any matter.
3. In conducting this work, the ANAO did not obtain information from individual entities in respect of the data reported on, nor did the ANAO formally communicate with the entities included in this report in respect of this analysis. However, the ANAO did release relevant parts of the report to the Department of Finance, the Department of Veterans' Affairs and the Australian Bureau of Statistics for comment prior to publication.
4. The ANAO has not tested the integrity of the underlying data contained in this report and, accordingly, does not provide any assurance in respect of the reliability of that data. The analysis contained in this report is based on the reported contract notice data as of the date it was extracted. Contract notices may be amended or updated, which would impact on the analysis. In addition, contract notifications may not reflect actual expenditure in each instance.
5. The Commonwealth Procurement Rules (CPRs) issued by the Minister for Finance outline the Government's procurement policy framework. Their core objective is to ensure relevant entities² achieve value for money in the conduct of procurement activity.
6. The CPRs contain mandatory requirements to support this objective as well as providing tools and guidance to ensure accountability and transparency in Government contracts.
7. Procurements with an estimated monetary value above the relevant reporting thresholds³ must be publicly reported via the Australian Government's procurement information system,

¹ Figure published by Department of Finance based on the value of contracts reported (published) in 2016–17
<https://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/>

² Officials from non-corporate Commonwealth entities and prescribed corporate Commonwealth entities listed in section 30 of the Public Governance, Performance and Accountability Rule 2014 must comply with the CPRs when performing duties related to procurement.

AusTender. The objectives of AusTender are to provide timely and transparent information on Government procurement.

Background

1.1 Procurement of goods and services is an important and substantial activity for Australian Commonwealth entities to achieve their objectives. The Department of Finance's most recent publication on 'Statistics on Australian Government Procurement Contracts' reported in that in 2016–17, 64 092 contract notices were published on AusTender with a total value of \$47.4 billion.⁴

1.2 Each reporting entity is responsible for the accurate and timely reporting of contracts on AusTender.

1.3 Inaccurate contract reporting has been discussed in numerous ANAO audits.⁵ Most recently, the audit of Limited Tender Procurement found that only 41 of 155 contracts examined, correctly reported all details on AusTender.⁶ Common issues included inaccuracies in contract dates, contract values, procurement method, and categories of procurement.

1.4 This report covers a range of themes and analysis of the Australian Government's centralised publication of contract notices. The report aims to provide insight and information addressing the following areas:

- the volume and value of Government procurement contracts by entity, product/service categories, and other characteristics;
- entities' procurement contract behaviour in regards to the timing of procurements during each financial year, their use of procurement methods and confidentiality clauses, and amendments to contracts;
- accuracy and timeliness of entities' procurement contract reporting; and
- reporting on the number and value of procurement contracts undertaken with Small to Medium Enterprises (SMEs).

³ The reporting thresholds (including GST) are: \$10,000 for non-corporate Commonwealth entities; and for prescribed corporate Commonwealth entities, \$400,000 for procurements other than construction services, or \$7.5 million for construction services.

⁴ Figure published by Department of Finance based on the value of contracts reported (published) in 2016–17 <https://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/>

⁵ ANAO recommended entities improve AusTender accuracy in the following audits:

- ANAO Audit Report No.4 2015–16 Confidentiality in Government Contracts: Senate Order for Entity Contracts (Calendar Year 2014 Compliance), Recommendation 3, Para. 4.17.
- ANAO Audit Report No.48 2014–15 Limited Tender Procurement, Recommendation 2, Para. 3.18.

⁶ ANAO Audit Report No.48 2014–15 Limited Tender Procurement, p. 19 and p. 56.

Low Emission Technologies for Fossil Fuels
[No.20 2017–18]
Department of Industry, Innovation and Science

Background

1. Electricity generation is a major source of greenhouse gas emissions, accounting for around 35 per cent of Australia’s national emissions in 2016.¹ Burning fossil fuels such as coal, natural gas and oil, including to produce electricity, releases carbon dioxide (CO₂) and other greenhouse gases into the atmosphere. In order to support the development of greenhouse gas emission reduction technology, the Australian Government is funding the research and development of technologies under a suite of Low Emission Technologies for Fossil Fuels (LETFF) programs. The LETFF comprised a number of initiatives including: the Carbon Capture and Storage (CCS) Flagships program; the National Low Emissions Coal Initiative (NLECI); the Low Emission Technology Demonstration Fund; and the Coal Mining Abatement Technology Support Package. This ANAO audit focused on two of these initiatives: the NLECI and the CCS Flagships programs.
2. The NLECI program was announced as a \$500 million election commitment in November 2007, to contribute to the Government’s goal of reducing greenhouse gas emissions. The program was established in the 2008 Federal Budget with the aim of accelerating the development and deployment of low emission technologies and carbon dioxide (CO₂) transport and storage infrastructure. The NLECI program included five specific funding commitments, with the remaining funding to be allocated to projects that supported the program objective. As at 30 June 2017, all NLECI program funding had been expended—approximately \$233 million.
3. The CCS Flagships program was announced as part of the Clean Energy Initiative² in the 2009 Federal Budget to support the construction and demonstration of large-scale integrated CCS projects in Australia. The program was allocated \$2 billion³ to fund between two and four projects and, to the extent possible, demonstrate a range of low emission technologies. As at 30 June 2017, approximately \$217 million had been expended on the program.
4. The Department of Industry, Innovation and Science (DIIS) is responsible for the legislation, policy and program delivery for the NLECI and CCS Flagships programs.⁴

1 Department of the Environment and Energy, *Quarterly Update of Australia’s National Greenhouse Gas Inventory: June 2016*, 2016, p.9 as cited in *Independent Review into the Future Security of the National Electricity Market: Blueprint for the Future*, Commonwealth of Australia, 2017.

2 The 2009 Federal Budget allocated \$4.5 billion to the Clean Energy Initiative to support clean energy technologies and industries.

3 This included \$200 million from the Education Investment Fund over four years. This audit did not examine the Education Investment Fund.

4 These programs were established under the former Department of Resources, Energy and Tourism (RET). On 18 September 2013, RET was abolished and the resources and energy functions were transferred to the Department of Industry. In September 2015, the department was renamed the Department of Industry, Innovation and Science.

5. The objective of the audit was to assess the effectiveness of the Department of Industry, Innovation and Science's implementation and evaluation of the Low Emission Technologies for Fossil Fuels (LETFF) program. To form a conclusion against the audit objective, the ANAO adopted the following high level criteria:

- has program funding been allocated effectively;
- has the department responded effectively to the changing policy and funding environment; and
- have LETFF program outcomes been monitored, evaluated and reported on.

Conclusion

6. The National Low Emissions Coal Initiative (NLECI) program and the Carbon Capture and Storage (CCS) Flagships program have been operating for almost a decade, during which time the department's approach to governance has improved. However, key performance measures for the programs provide limited insight into the extent to which the programs are achieving the LETFF strategic objective of accelerating the deployment of technologies to reduce greenhouse gas emissions.

7. Funding under the **NLECI program** was originally directed towards five election commitments, three of which were unable to be fulfilled due to technical and/or financial reasons. The selection of replacement projects was not supported by a clear strategy, and therefore their alignment to the original election commitments is unclear.

8. Key program governance documents, such as program guidelines and risk management plans, were not developed at the commencement of the NLECI program, however improved governance arrangements were put in place later on in the program.

9. The process designed to assess and select projects under the **CCS Flagships program** was sound, and was supported by clear eligibility and selection criteria; technical and commercial advice; and risk management and probity arrangements. Process transparency would have been improved with earlier communication to applicants on the selection criteria weightings.

10. The CCS Flagships projects are yet to reach the stage of deployable technology as originally envisaged in the program design. It is unclear whether the program is capable of delivering on its strategic policy objective as the program is due to close in 2020, and all program funding is currently committed.

11. There have been ongoing reductions in the available funding for each of the NLECI and CCS Flagships programs which have not been supported by a strategic approach to applying remaining funding across the projects. Additionally, although both programs were designed on the premise of receiving funding contributions from participating states and territories as well as private sector entities, this was not achieved to the level originally envisaged.

12. The department reports at a project level on progress and the funds expended. However, this reporting does not provide visibility and oversight of program achievements against its strategic objectives. In addition, the department has not applied its evaluation strategy to the LETFF programs. Consequently, reporting and evaluation does not provide insights into the programs' contribution to advancing/accelerating the demonstration of low emission technologies; nor does it inform decisions on the future of the programs.

Supporting findings

National Low Emissions Coal Initiative program

13. At the time the program commenced, relevant governance documents such as program guidelines and plans had not been developed. One of the later projects under the program, the Advance Lignite Development Program, was supported by program guidelines.

14. Risk management plans for the program were not identified until the first quarter of 2011–12, despite the program commencing in 2008.

15. The NLECI program was not supported by an overarching strategy to guide the selection of projects under the program. In addition, an independent assessment panel to assess and select projects was only established for one project—the Advanced Lignite Development Program. Recommendations from the National Low Emissions Coal Strategy and requirements to fulfil specific program components were used to guide the selection of other projects.

Carbon Capture and Storage Flagships program

16. Appropriate program governance documents were developed for the CCS Flagships program, including program guidelines, conflict of interest arrangements, and risk management plans.

17. None of the CCS Flagships projects met the original timeframe or reached the stage of deployable technology as originally envisaged in the program design. It is therefore unclear whether the program is capable of delivering on its strategic policy objective as the program is due to close in 2020 and all funding is currently committed.

18. The department established a clear framework for assessing and selecting projects for the CCS Flagships program, including eligibility criteria and selection criteria. However, the transparency of the process would have been improved by earlier communication to applicants on the weightings that would be applied to the selection criteria.

19. The department established a multi-stage process to assess and select the projects to be funded, based on the eligibility and selection criteria to enable regular assessment of the merits of projects. The assessment and selection process was undertaken by independent assessors, supported by technical and commercial advisors.

Program funding and reporting

20. Over the life of both programs, funding was significantly reduced—to around half the original NLECI program funding and around 75 per cent of the CCS Flagships program funding. The program was not supported by a framework for monitoring the impact of the changing funding environment. As a consequence, when the funding envelope for both programs was reduced, there was no clear strategy for determining how the reduced funding would be applied across the programs. Both programs were designed on the premise of contributory funding from state governments and other parties, however, the NLECI program did not achieve this intended outcome. For the CCS Flagships projects, given the projects have not reached the expected level of completion, it is not clear whether they would have achieved the level of contributory funding expected.

21. Currently, there is no transparent framework in place to publicly report program outcomes. The department has established one performance measure for each program, related to the number of projects supported (NLECI) and the number of companies supported (CCS Flagships). However, these measures provide limited insight into whether the program is achieving its strategic policy objectives.

22. The departmental oversight and internal reporting arrangements for the CCS Flagships Program and the NLECI Program are generally effective at a project level. However, the absence of sufficient program level reporting on performance limits visibility and oversight of both programs' achievements, and the ability for Government to make decisions on the future of LETFF programs and CCS technology more broadly.

23. An evaluation strategy was not developed at the commencement of the programs. The NLECI program has been subject to several internally focussed reviews since 2009, which identified opportunities to improve its governance arrangements. The CCS Flagships program has not been evaluated since its inception, with the exception of an internal audit.

Recommendation

Recommendation no. 1 That the department undertake an evaluation of the programs to identify the extent to which the programs have achieved their strategic policy objectives.

Paragraph 4.44 **Department of Industry, Innovation and Science's response:** *Agreed.*

Summary of entity responses

24. The summary response from the Department of Industry, Innovation and Science is provided below.

In agreeing with this recommendation I note that the department has a robust evaluation strategy and plan in place to regularly assess the performance of policies and programmes against their objectives. This involves taking a strategic, risk-based, whole-of-department approach to prioritising evaluation effort and ensuring appropriate program governance. The department introduced the 'Evaluation Ready' process in 2016 to ensure all new and existing programs are prepared for evaluations well in advance, with identified objectives, key performance indicators and data collection strategies in place early in their implementation. All existing and new programs will be subject to this process over the next year. The establishment of the Business Grants Hub also ensures there are appropriate governance and risk management plans in place from program inception.

An evaluation of the LETFF programs was scheduled for 2017 but was delayed due to the ANAO's audit. The evaluation is now scheduled in early 2018.

The proposed report notes that the overall strategic objective of the LETFF programs evolved over time, and that the department's efforts are strategically focused on deepening the understanding of Australia's carbon capture and storage resources and LETFF capabilities to support longer-term commercial development and deployment.

Australia has made significant contributions to national and global research and development efforts to better understand LETFFs which are technically complex. Learnings and outcomes from individual projects will contribute to Government's ongoing consideration of LETFF policy.

Key learnings for all Government entities

25. Below is a summary of key learnings and areas for improvement identified in this audit report that may be considered by other Commonwealth entities when administering grant funding for research and development programs.

Programme Implementation

- Entities should develop program guidelines, and appropriate and reliable performance indicators, at the commencement of a program, to provide a sound and transparent basis for grant funding allocations, project selection and subsequent evaluation.

Governance and Risk Management

- Where programs are not the subject of specific rules under the Commonwealth resource management framework, there is still a general obligation on accountable authorities to ensure procurements, grants and other commitments of Commonwealth resources achieve value-for-money.
- Where long-term programs are the subject of Machinery of Government changes, the entity assigned responsibility for the program should undertake a 'health check' to ensure key governance elements are in place and operating effectively. In these circumstances, sound record keeping, including documented rationales for key decisions, can also assist in providing continuity in program administration.
- For large-scale, long-term projects, with a high degree of uncertainty, there is a need for continuity in risk management and ongoing review to ensure programs are continuing to meet their objectives in the context of a changing policy or funding environment.

Performance and Impact Measurement

- Where program co-contributions are envisaged as part of the program design, entities should take an active role in monitoring if the program is achieving these objectives to enable transparency and appropriate oversight of funding.
- An effective performance and reporting framework can provide transparency of program performance and support decision making processes. This is of particular importance to long-term research and development programs that operate in an uncertain environment, to enable decisions on program funding to be made in a timely manner, and for performance to be evaluated over time.

The Australian Taxation Office's Use of Settlements
ANAO Report No.21 2017–18
Australian Taxation Office

Background

1. Tax disputes arise when a taxpayer disagrees with an Australian Taxation Office (ATO) decision in relation to a tax liability or entitlement. Where disputes occur, the ATO's intention is to resolve them in the most cost-effective, timely and efficient manner with the aim of treating taxpayers fairly and respectfully. If the ATO is not able to resolve a dispute with a taxpayer, the disputed matters will proceed to litigation through courts and tribunals. Settlements are one of the dispute resolution strategies used by the ATO.

2. A settlement is an agreement between the ATO and the taxpayer to resolve matters in dispute where one or both parties make concessions on what they consider to be the legally correct position. The ATO has a Code of Settlement that sets out its policy in relation to the settlement of tax and superannuation disputes, including disputes involving debt.¹ Three key factors under the Code of Settlement must be considered by the ATO when deciding whether to settle a dispute: the relative strength of the ATO's and taxpayer's position; the costs versus the benefits of continuing the dispute; and the impact on future compliance for the taxpayer and the broader community. The Code of Settlement is supplemented by other ATO guidance, including various business line specific settlement policies and procedures.

3. In 2016–17, the ATO concluded 648 settlements, of which 89 per cent occurred in the pre-litigation stage. The settlement variance, which is the difference between the ATO's pre-settlement and settled positions, is the amount of tax revenue potentially forgone by the ATO. Settlement cases for 2016–17 had a pre-settlement amount of \$4.6 billion, settled amount of \$2.7 billion, and variance of 41 per cent. The number of settlements and proportion of variance differ across various taxpayer market segments.²

4. In February 2017, the ATO implemented an external independent assurance process that focuses on reviewing settlements concluded in large businesses and multinational enterprises. The ATO has engaged three retired Federal Court judges to provide independent assurance by assessing whether settlements examined have provided a 'fair and reasonable' outcome for the Australian community.

Audit objective and criteria

5. The objective of the audit was to assess the effectiveness of the Australian Taxation Office's use of settlements to resolve taxpayer disputes. The high-level criteria were:

- Does the ATO enter into, negotiate and follow up on settlements in accordance with its policies and procedures, including the Code of Settlement?
- Does the ATO have adequate internal guidance and public reporting for settlements?

¹ The ATO reviewed and refreshed the Code of Settlement into a more streamlined and principles-based policy statement in October 2014.

² In 2016–17: micro enterprises accounted for the highest number of settlements (326 settlements); not-for-profit organisations accounted for the highest proportion of variance (85 per cent); and large businesses accounted for 36 settlements with a variance of 49 per cent.

Conclusion

6. The ATO effectively uses settlements to resolve disputes with taxpayers. The ATO has made many improvements to its approach to settlements in recent years, including refreshing the Code of Settlement and introducing the Independent Assurance of Settlement process that has found settlements with large businesses and multinational enterprises to have been fair and reasonable.

7. The ATO's settlement practices are effective, in that settlements have been entered into, negotiated and followed up largely in line with its settlement policies and procedures, including the principles outlined in the Code of Settlement.

8. The ATO has comprehensive policies and procedures to provide guidance to officers with settlement responsibilities, although there is scope for improved conformance with requirements to retain adequate settlement case records in its case management system. Effective mechanisms are in place for the ATO to identify issues, share lessons learnt and make improvements to settlement policies and procedures. The ATO has provided higher levels of public reporting about settlement activities than comparable national revenue authorities.

Supporting findings

Settlement practices

9. The ATO has entered into settlements in line with its policies and procedures. Approvals were obtained in all cases examined by the ANAO prior to commencing settlement negotiations, and the rationale for the settlement decision was outlined in a settlement submission template or other supporting documentation in the vast majority of cases examined (98 per cent). The decisions to settle aligned with the principles outlined in the Code of Settlement. Systematic recording and monitoring of cases where settlement was considered but did not proceed could support the ATO in refining its settlement case selection processes over time.

10. The ATO's management of settlement negotiations is largely in accordance with its pre-settlement assurance mechanisms.³ The ANAO's sampling results indicate that advice obtained from relevant technical experts and stakeholders was commensurate with the complexity of the settlement cases. Settlement submissions were appropriately prepared, and final settlement decisions were approved in all 60 cases examined. While there was a degree of non-conformance in all business lines, Public Groups and International business line (that deals with large businesses and multinational taxpayers) had the highest level of conformance with pre-settlement assurance mechanisms of all business lines.⁴ The level of pre-settlement assurance mechanisms varies between business lines and there is not a clear rationale for many of the differences, including for the use of panels and approval arrangements.

11. The ATO has cited variances from settlements as an indicator of settlement outcomes, and these have been relatively moderate for large business taxpayers in recent years. To gain a further perspective on the negotiation of settlement outcomes, the ATO could conduct analysis to compare

³ Pre-settlement assurance mechanisms include: referral of the settlement proposal to a settlement panel; consultation with relevant internal and external stakeholders; completion of a settlement submission, its approval by an authorised decision-maker and counter-signoff by another senior executive; and assistance to the case team by settlement coordinators.

⁴ Public Groups and International also had the most extensive assurance mechanisms of all business lines. The other ATO business lines that undertake settlements are Private Groups and High Wealth Individuals, Small Business, Individuals, Indirect Tax, Superannuation, and Review and Dispute Resolution.

the positions in initial settlement submissions with the final settlement positions agreed in settlement deeds.

12. The ATO has established a number of mechanisms to follow up on the settlement amounts payable to the ATO and to ensure that taxpayers abide by their future compliance obligations in the settlement deed. The process to follow up on the financial terms of settlement is effective, as evidenced by all required settlement payments having been made in the sampled cases. The ATO does not have a systematic approach to monitoring and analysing the extent of adherence to future compliance obligations.

Settlement policies, procedures and public reporting

13. The Code of Settlement and supplementary policies and procedures, to a large extent, provide sufficient guidance for officers administering settlements. Extensive information on settlement policies and procedures is available on the ATO intranet, which the ATO is currently reviewing and updating to make more streamlined and integrated. In reviewing settlement policies and procedures, the ATO could provide additional guidance on: principles for determining the terms and amount of settlement; conflicts of interest; widely-based settlements; and verifying that client account records reflect terms of settlements.

14. There is scope for the ATO to improve its conformance with settlement policies and procedures. Areas with the lowest levels of conformance with requirements for recording in the ATO's case management system (Siebel) were: case officers completing tasks within required timeframes; attaching appropriate evidence of approvals and the rationale for settlements; accurately recording settlement amounts; and adequately explaining differences between amounts in settlement submissions and settlement deeds.

15. The ATO's introduction of the Independent Assurance of Settlements external review, the Settlement Coordinator Network, external stakeholder consultation, and quality assurance and management reporting processes are effective mechanisms to identify issues, share lessons learnt and make improvements to settlement policies and procedures. There would be merit in the ATO focusing on improving its compliance with settlement policies and procedures.

16. The ATO provides sufficient transparency around settlements in its public reporting, having regard to restrictions on disclosing information on particular settlements. The settlement information reported publicly by the ATO includes data on: the stage at which settlements occurred; and market segment and client group breakdowns of the number of settlement cases finalised, pre-settlement and settled ATO positions, and settlement variance. The ATO also provides a statement in its annual reports about the Independent Assurance of Settlements process and the level of confidence indicated by the review findings. When compared to other national revenue authorities, the ATO provided the highest level of public reporting around settlement activities.

Recommendations

Recommendation no. 1

Paragraph 2.26

The Australian Taxation Office reviews key pre-settlement assurance mechanisms (such as panel usage, authority to settle, dual signoff, and the use of settlement submission template) across business lines and implements changes to ensure all business lines have appropriately tailored pre-settlement mechanisms.

Australian Taxation Office response: *Agreed.*

Recommendation no. 2

Paragraph 2.59

The Australian Taxation Office implements processes that provide assurance that settlement terms involving future compliance obligations are being met.

Australian Taxation Office response: *Agreed.*

Recommendation no. 3

Paragraph 3.27

The Australian Taxation Office enforces the retention of adequate settlement case records and evidence in Siebel.

Australian Taxation Office response: *Agreed.*

Summary of entity responses

17. The Australian Taxation Office's summary responses to the report are provided below.

The ATO welcomes this review and considers the report supportive of our overall approach in effectively managing the administration and use of settlements with all taxpayer markets.

In finding the ATO's approach in using settlement generally effective, the review identified a number of opportunities for improvement on some pre and post settlement mechanisms. The review also recognises a number of recent improvements that have been made regarding settlements and the potential of these to further enhance our compliance approach. As a result of these recent improvements the ATO is also well positioned to implement the findings of this report.

The ATO agrees with the three recommendations contained in the report.

Key learnings for all Australian Government entities

18. Below is a summary of key learnings and areas for improvement identified in this audit report that may be considered by other Commonwealth entities.

Quality assurance and continual improvement

- Processes that can support assurance and continual improvement include:
 - external review by independent experts, who can also contribute to the design of the review processes;
 - consultation with external stakeholders (including the community, industry and professionals) to gain external perspectives on initiatives, discuss and develop strategies, and help identify areas for improvement;
 - an internal network of practitioners or coordinators across functional units to share information, learn from others, promulgate better practices and identify potential improvements at an enterprise level. This group can also provide assurance of the integrity of policies, practices and procedures; and
 - internal assurance processes such as enterprise-wide assurance mechanisms (that address customer service, accountability, accuracy and performance) and

additional local assurance mechanisms aimed at reviewing higher risk cases.

Record keeping

- Entities should retain adequate documentation and records to support the rationale for decisions made and actions undertaken. Keeping sufficient evidence of the decision-making processes and business activities is fundamental to accountability and transparency.

Fit-for-purpose policies and procedures

- Conformance with enterprise policies and procedures by entity staff is important for ensuring the accuracy of outcomes and consistency of decision-making. Any variations in processes and procedures among different business areas should be appropriately tailored to risk and supported by clear rationale.

Administration of Medicare Electronic Claiming Arrangements
[No.22 2017–18]
Department of Human Services

Background

1. Electronic claiming for Medicare benefits was first introduced in 1992. Channels to facilitate electronic claiming were progressively introduced for use by medical practitioners, members of the public and private health insurers over the intervening decades. In 2016–17, claims for just over 97 per cent of the approximately \$22 billion of Medicare benefits paid were lodged electronically.
2. The Department of Human Services (Human Services or the department) currently administers eight electronic claiming channels: six provider channels for point of service claiming¹ and two channels for claiming by patients at their convenience. In addition Human Services provides a number of manual claiming options (in-person, dropbox, post and phone). Most of the electronic claiming channels were introduced ten or more years ago—prior to Medicare’s integration into the Department of Human Services in July 2011.² The provider channels are:
 - Simple Mail Transfer Protocol (1999);
 - Medicare Online (2002);
 - Electronic Claim Lodgement and Information Processing Service Environment (2004);
 - Easyclaim (2007);
 - Bulk Bill Webclaim (2015); and
 - Patient Claim Webclaim (2016);
3. The additional channels for use by patients are Claiming Medicare Benefits Online (2011) and Express Plus Medicare Mobile App (2013).
4. The department’s administration of claiming channels is focussed on its overarching strategy of achieving as close as possible to 100 per cent electronic claiming.
5. On 19 October 2016, the Government announced it will replace the current systems used by Human Services to deliver health, aged care and related veterans’ payments as they are ‘old, complex and at risk of failure and therefore need to be upgraded’³. The program of work is being led by the Department of Health and supported by the Departments of Human Services and Veterans’ Affairs, and the Digital Transformation Agency. This decision provides Human Services a further opportunity to consider what if any changes could be made to the current channel service offer.

¹ These channels are used for bulk bill claiming by providers where the provider receives the benefit, patient claiming where the patient receives the benefit and simplified billing where Human Services pays the private health insurer or billing agent.

² Prior to July 2011, Medicare payments were administered by Medicare Australia which, prior to October 2005, was known as the Health Insurance Commission.

³ Department of Health, *Guaranteeing Medicare—modernising the health and aged care payments systems*, Budget announcement, 2017.

Audit objective and criteria

6. The objective of this audit was to assess the effectiveness of Medicare electronic claiming arrangements, including an assessment of the extent to which claiming and processing efficiencies for the Government, health professionals and Medicare customers have been achieved.

7. To form a conclusion against the audit objective, the ANAO adopted the following high level criteria:

- Was effective planning undertaken for the implementation and ongoing delivery of Medicare electronic claiming channels?
- Has the implementation and ongoing delivery of Medicare electronic claiming channels been effective?
- Does Human Services monitor and evaluate the efficiency and effectiveness with which it delivers Medicare electronic claiming?

Audit methodology

8. The audit's methodology included:

- examination of documentation relating to the administration of Medicare electronic claiming channels, including program documentation and performance reports;
- review and analysis of departmental data related to the performance (take-up, costs/savings and timeliness) of the range of electronic channels currently available;
- ANAO analysis of quantitative data from Human Services ICT systems; and
- interviews with relevant departmental staff.

Conclusion

9. The Department of Human Services has been effective in driving the take-up of Medicare electronic claiming, with more than 97 per cent of all claims for Medicare services being lodged electronically. The department's approach to implementing future Medicare electronic claiming could be improved by clear analysis of the costs of developing and maintaining individual claiming channels and the extent to which planned efficiencies have been realised.

10. The objectives of introducing electronic claiming (to improve convenience and timeliness and reduce costs to Government and the health care sector) have been met through the introduction of a range of individual channels over time to allow claiming by different users. Human Services has mechanisms in place to identify issues and consider whether channels can be improved to meet user needs.

11. The introduction of electronic claiming channels has led to improved access to payments for the community and providers. More than 97 per cent of claims for Medicare services are lodged electronically and a majority of these are paid within one day of lodgement.

12. The ANAO reviewed the available data related to expected savings and costs from implementing electronic claiming channels. These expected savings were only estimated by Human Services in some cases. Where estimates were made either take-up rates or dollar savings have not been achieved.

13. Although the department monitors rates of electronic lodgement and tracks movements between channels by claim type and reductions in manual services, the long term benefits and relative efficiencies from introducing individual channels are largely unknown.

14. Human Services' monitoring and reporting includes business analytics used to inform channel delivery, and departmental management of risks and issues are supported by a range of

plans. The department's delivery of claiming channels is not supported by either: benchmarking of expected achievements; or a full understanding of the costs and benefits of individual claiming channels. There is a lack of information on whether the development of individual channels has delivered the intended administrative savings; and whether the savings achieved have outweighed the costs of introducing new channels. As such the department has not established a sufficiently strong information base to inform its business decisions.

Supporting findings

Planning and strategy

15. The Department of Human Services has identified the objectives and intended benefits of electronic claiming. The overall intent of introducing electronic claiming has been to increase the convenience to providers and patients, reduce costs to government and medical providers and improve the timeliness of claim processing. These objectives are consistent with Human Services' Channel Strategy and Digital Transformation Strategy and its current strategy to deliver as close as possible to 100 per cent of electronic claiming at point of service.

16. Electronic claiming channels have been developed to meet the needs of providers, patients and private health insurers, and to reduce manual processing for the department. The available channels allow claiming across the three claiming/billing methods and for the claims to be lodged at the point of service or at a time convenient to the claimant.

17. Human Services engages with peak stakeholder groups and providers to share information about business issues and consider improvements. The department measures channel usage and conducts analysis to identify health practices that continue to lodge manual claims. This data, along with the stakeholder feedback, is used by the department to target strategies to promote electronic claiming.

Implementation

18. The high level of provider and patient take-up of electronic claiming (with 97.1 per cent of claims for services lodged electronically at the point of service) reflects the convenience, accessibility and timeliness of electronic claiming.

19. Efforts undertaken by Human Services to increase electronic patient claiming rates for services provided by general practitioners and specialists have been successful albeit there is scope to improve claiming rates for other practitioners, in particular pathologists, although increasing the number of pathology claims lodged at the point of service may require adjustments to the legislative framework. Patient claims account for less than two per cent of all claimed pathology services but around 20 per cent of all patient claims lodged manually.

20. Given that Human Services has achieved 97.1 per cent electronic claiming at an aggregate level it is expected that savings to the department have been realised overall. The costs associated with introducing and maintaining these electronic claiming channels have not been tracked over time and the expected savings from introducing individual channels have not been realised within anticipated timeframes.

21. Anticipated savings for each channel have been estimated using standard assumptions of the price differential between manual and electronic claiming and projected channel take-up rates. The department has consistently overestimated the take-up rates when introducing new channels and has not followed up to determine whether the cost savings for individual channels have been met.

22. Human Services does not currently track the relative costs of maintaining each claiming channel. There would be benefit in Human Services developing the capability to better understand

the costs of each channel, as well as the administrative savings and other benefits that have been realised, to support decisions about future directions for, and investments in, electronic claiming.

23. Electronic claiming allows for increased automation of processing and payment of Medicare benefits and has improved timeliness. Not all electronic claims are able to be processed automatically. Human Services continues to make system enhancements to reduce the amount of manual intervention required.

Monitoring and reporting

24. Human Services has established relevant monitoring and reporting against its objective of attaining as close as possible to 100 per cent electronic claiming at the point of service. These reporting mechanisms inform the department's electronic claiming strategy. The department also monitors user satisfaction and service availability—information that can be used to highlight areas of improvement.

25. The department's monitoring and reporting on channel delivery does not cover all relevant aspects of electronic claiming service delivery. The department does not monitor the ongoing administrative costs and benefits of individual channels and therefore has an incomplete understanding of the performance of each channel against their respective business objectives.

26. Risks to the administration of Medicare electronic claiming channels have been managed effectively. The key risks to Medicare payment integrity and system functionality are addressed in a range of plans.

27. The Modernising Health and Aged Care Payments Services Program is in its early stages. Human Services is supporting the lead agency, the Department of Health, to understand the current state of service delivery and technology. Human Services' principal role comprises remediation activities to allow existing systems to continue to operate reliably and effectively.

Recommendations

Recommendation no. 1 To better inform its ongoing business decisions, the Department of Human Services should ensure its electronic claiming channel delivery strategy is supported by clear analysis of the costs and benefits of:

Paragraph 4.19

- establishing and maintaining electronic claiming channels; and
- maintaining manual Medicare claiming options.

Department of Human Services response: *Agreed.*

Summary of entity responses

28. The summary response to the report from Human Services is provided below.

The Department of Human Services (the department) welcomes the ANAO's key finding that Medicare electronic claiming arrangements are effective, with more than 97 per cent of all Medicare services now lodged electronically. In line with the recommendation, the department will ensure that future decisions on its electronic claiming channel delivery strategy are supported by clear analysis of the costs and benefits.

Key learnings and opportunities for improvement for Australian Government entities

29. Below is a summary of key learnings and areas of good practice identified in this audit report that may be considered by other Commonwealth entities when implementing electronic services is below.

Performance and Impact Measurement

- Large-scale investments in IT infrastructure should be supported by:
 - a transparent business case, including an appropriately detailed cost/benefit analysis;
 - monitoring of implementation against key business case assumptions; and
 - ongoing assessment of the extent to which planned benefits have been realised.
- Digital service delivery has the potential to deliver greater convenience, accuracy and data capture, both for the public and for service delivery agencies. However, it may take several years to fully realise expected efficiencies. It is therefore important to put in place effective mechanisms for monitoring the effectiveness and efficiency of the channels against their original business objectives.
- Effective performance monitoring should be supported by timely, relevant and accurate data. This may include information on demand for services, patterns of use and barriers to target improvements.
- Where administrative efficiency is a key objective of digital transformation, agencies will benefit from establishing standards of service delivery and operational efficiency to monitor and assess relative performance and costs.

Delivery of the Moorebank Intermodal Terminal
[No.23 2017–18]
Moorebank Intermodal Company
Department of Infrastructure and Regional Development
Department of Finance

Background

1. The Moorebank Intermodal Terminal (MIT) is a 241 hectare intermodal freight precinct in the south-western Sydney suburb of Moorebank consisting of an import-export (IMEX) rail terminal, interstate terminal and up to 190 hectares¹ of onsite warehousing. The Australian Government first announced its plan to relocate the School of Military Engineering (SME) to enable the construction of the MIT on its freehold land in September 2004. Following the Government's consideration of various studies it had commissioned, the project's implementation commenced in April 2012.
2. Within that timeframe, a private sector joint venture—the Sydney Intermodal Terminal Alliance (SIMTA)—was formed in 2007 to develop an IMEX-only terminal and onsite warehousing at Moorebank. SIMTA had planned to build this on its freehold land that was purchased from the Australian Government in 2003 (the original purchaser was Westpac). The original sale was on a leaseback arrangement, where Defence immediately signed a 10-year lease (with two five-year extensions at Defence's sole discretion) for the Defence National Storage and Distribution Centre's (DNSDC) operations to remain on the site.² The SIMTA site is situated directly across Moorebank Avenue from the SME land.
3. The Moorebank Intermodal Company (MIC) is a Government Business Enterprise (GBE). It was established in December 2012 and assumed full responsibility from the Department of Finance for the delivery of the project. This governance framework was selected to enable the MIT to be delivered by an entity with 'an appropriate commercial focus while maintaining effective Government oversight'. A large component of MIC's first year was comprised of setting up its operations. This included establishing its Board; appointing a permanent Chief Executive Officer (CEO); engaging a range of key advisory firms to support a competitive procurement process to find a private sector delivery partner; and undertaking market interactions.
4. Following an expression of interest (Eoi) process in early 2014, SIMTA was selected by MIC as the preferred private sector partner (from a total of five respondents) to be responsible for the delivery of the precinct. The parcels of developable land that make up the precinct are owned by the Australian Government (158 hectares) and SIMTA (83 hectares). The two entities entered into a formal direct negotiation process in May 2014 with contractual close occurring on 3 June 2015. Financial close was achieved on 24 January 2017, and the project is now in its delivery phase.

¹ This was the amount of Gross Developable Area allocated for warehousing in the precinct's financial model as at contractual close.

² Defence records for the sale and leaseback of the DNSDC site indicated that the users of that property required guaranteed use of the site for at least 20 years. See: ANAO Audit Report No.44 2004–05, *Defence's Management of Long-term Property Leases*, p. 49.

Audit objective and criteria

5. The objective of the audit was to assess whether the contractual arrangements that have been put in place for the delivery of the MIT will provide value for money and achieve the Australian Government's policy objectives for the project.

6. To form a conclusion against this objective, the following high-level criteria were adopted:

- Do the terms of the transaction represent value for money, including appropriate management of demand risk?
- Is non-discriminatory open access available within all aspects of the intermodal precinct?
- Does the project's governance framework support achievement of the Australian Government's policy objectives, including the planned future privatisation process?

Conclusion

7. Value for money progressively eroded during the negotiation of the contractual arrangements. The contractual arrangements support the achievement of all or part of each of the policy objectives for the project.

8. The procurement process has resulted in contractual arrangements being negotiated for the private sector to develop and operate an IMEX terminal, interstate terminal, and associated warehousing. Negotiating directly with one respondent, rather than the original plan of maintaining competition during the second stage of the procurement process, gave rise to a number of risks. Those risks were recognised and mitigation strategies identified but those strategies were not implemented. This situation makes it difficult to conclude that value for money has been achieved.

9. It is not possible to provide assurance that non-discriminatory open access is likely to be available within all aspects of the intermodal precinct given:

- the contractual framework does not apply to all elements of terminal operations, partially applies to the rail shuttle service between Port Botany and the MIT and internal transfers within the terminal precinct, and does not apply to warehouse operations;
- most of the key detailed documents that are required for implementation of effective open access arrangements have yet to be developed; and
- significant non-compliance is permitted before enforcement action can be taken.

10. Clear policy objectives were established for the project. The contractual arrangements support the achievement of all or part of each of those objectives. This includes providing a level of assurance that a commercially viable intermodal precinct will be constructed and operated, and future privatisation will be able to occur.

Supporting findings

Value for money

11. The key policy rationale underpinning the development of the MIT was the significant national productivity improvements anticipated by a road to rail modal shift. Of particular importance was the placement of the terminals along the Southern Sydney Freight Line, which was considered to support existing strategies to substantially increase rail utilisation in the region.

12. The procurement process was not sufficiently competitive. MIC suspended its planned procurement process at the end of the EoI stage to enter into direct negotiations with one respondent. This was on the basis that this respondent's proposal was significantly stronger than those lodged by the other four respondents. The planned approach had been to select two or three EoI respondents from which to obtain detailed and committed proposals before proceeding to direct negotiations. Competitive pressure was also hindered by MIC not informing EoI participants of the eight criteria that it would apply in scoring responses, or that the criteria were weighted.

13. Risks to removing competition from the second stage of the procurement process were identified. Risk mitigations were also identified.

14. Negotiations took twice as long as had been planned. There was no evidence that MIC contemplated implementing the planned risk management strategy of terminating negotiations and re-engaging with other parties on 'stand-by' when it became evident that the negotiations were not proceeding in accordance with the planned timetable.

15. Negotiations were expected to commence after MIC had obtained a binding commitment to the key elements of the successful respondent's EoI. No such commitment was obtained. There is no evidence that going to direct negotiations at an early stage produced a better outcome than was achievable under the original planned procurement approach of getting firm and binding offers from two or three competing parties to select from.

16. The direct negotiations secured contractual commitments to the development and operation of intermodal freight terminals and warehousing, as well as to an open access regime for the terminals. Between the commencement of direct negotiations and the final contracted outcome, MIC agreed to arrangements that have increased the Australian Government's financial contributions and contingent liabilities (as compared with those proposed within the successful proponent's EoI); mitigated private sector exposure to demand risk; reduced the coverage and effectiveness of the access regime; and reduced the revenue streams to the Australian Government.

17. There were shortcomings in the management of probity. For example, the probity plan did not apply to all stages of the procurement process. In addition, a probity adviser and a separate probity auditor were appointed later in the procurement process than is desirable through processes that did not involve open and effective competition for the roles. Further, MIC's response to the probity audit of the EoI process did not adequately address each of the findings that underpinned the auditor's recommendations.

18. Advice on the project's progress and whether value for money was expected to be obtained was provided to Ministers at key milestones. At the conclusion of the negotiation process, MIC advised the Shareholder Ministers (the Minister for Infrastructure and Regional Development and the Minister for Finance) that the outcome represented 'excellent value for money'. Ministers were separately advised by their departments that the negotiated outcome represented value for money.

Access arrangements

19. Notwithstanding that the preferred tenderer would gain exclusive access to a significant tract of Commonwealth land, MIC's view was that an open access regime administered through

contractual arrangements was the only mechanism that would attract private sector interest in the development of the project. The alternative approach preferred by the Shareholder Ministers' departments was an access undertaking under the *Competition and Consumer Act 2010* which would then be administered by the Australian Competition & Consumer Commission. The 2013 approach to the market did not seek to test whether an access undertaking would deter private sector interest in the project.

20. The open access arrangements have been agreed at a framework level. Most of the key detailed documents that are required to complete and operationalise the regime have yet to be developed.

21. The open access arrangements apply to the IMEX and interstate terminals, but not the warehousing component of the Moorebank precinct. MIC's approach to the market did not seek to include warehousing in the coverage of the open access arrangements. Only some parts of the open access regime apply to the port shuttle service between Port Botany and the terminal precinct, and internal transfers within the terminal precinct. These two partial exclusions are inconsistent with the coverage envisaged in the approach to the market, but reflect the result of the direct negotiations process.

22. A compliance regime is in place. There are shortcomings in its design that can be expected to limit its effectiveness. For example, it does not include a graduated regime of financial penalties in response to non-compliance, as was the stated preference in the request for expressions of interest. In addition, a significant number of non-compliance events can occur before there are any consequences.

23. MIC is contractually responsible for monitoring and enforcing adherence to the open access arrangements over the 99-year term of the leases. There are also other ongoing oversight responsibilities, including in relation to the capacity expansion arrangements. The resources required to undertake ongoing oversight have not yet been quantified.

Supporting the achievement of policy objectives

24. The Australian Government's policy objectives for the MIT were clearly identified, including by MIC in its approach to the market.

25. The contractual arrangements provide for the private sector to construct and operate the intermodal freight terminals and associated warehousing at Moorebank. Specifically, SIMTA has a contractual obligation to build both an IMEX terminal and an interstate terminal, each with an initial capacity of up to 250 000 Twenty-foot Equivalent Units (TEU) per annum. The contracts define the ultimate capacities for the IMEX and interstate terminals as 1.1 million and 500 000 TEU per annum, respectively. Expansion of the terminals to meet the ultimate capacities is set out within a heavily conditioned contractual regime, involving expansion following certain market demand signals. There is less certainty over the development timeframe for warehousing. This uncertainty is partially mitigated by warehouse ground rental payments being linked to the passage of time and MIC's expectation that warehousing will be highly profitable for Precinct Developer Co (warehousing is not subject to the Open Access Regime).

26. The contractual arrangements enable the operation of flexible and commercially viable intermodal terminals. Until the open access arrangements are completed and shown to be operating effectively, it is not possible to provide assurance that the MIT is available on reasonably comparable terms to all rail operators and other terminal users and, as a consequence, that the desired national productivity benefits of the project will be realised.

27. The transaction was structured in a way that will enable a privatisation process through the creation of predictable income streams. Such a process is not expected to take place for some years as advice to the Department of Finance (Finance) is that sustainable positive cashflows are not

expected for 15 years. There are also contractual restrictions on the entities to which the Australian Government can divest its interests.

Summary of entity responses

28. The proposed audit report was provided to MIC, the Department of Infrastructure and Regional Development (DIRD) and Finance. Extracts from the proposed report were also provided to SIMTA, Macquarie Capital, Herbert Smith Freehills, Walter Partners and Risk Reward.

29. Formal responses to the proposed audit report were received from MIC, DIRD, Finance, SIMTA, Macquarie Capital and Herbert Smith Freehills. If entities provided a summary response, these are below, with the full responses provided at Appendix 1.

Moorebank Intermodal Company

The commercial and contractual arrangements agreed with SIMTA are complex and unique. MIC absolutely disagrees with the ANAO's analysis that the direct negotiations did not secure a contractual commitment aligned to the Australian Government's preferred approach. MIC has met the objectives that the Australian Government determined for MIC and has demonstrated how these objectives have been satisfied in the procurement of the intermodal facility.

Moorebank Intermodal Company's response letter considers the government's objectives, then comments on the audit's high-level criteria. We have taken this approach because the ANAO appears to have not adequately understood this complex and unusual transaction and as a result has drawn several incorrect and misleading conclusions.

MIC is satisfied the arrangements represent very good value for money for the Commonwealth, provide a robust and commercially sensible open access regime, and leave the Commonwealth with a structure purpose built for divestment while maintaining full flexibility on what is sold and when.

ANAO comments on MIC's summary response

30. The conclusion against the audit objective is outlined between paragraphs 7 and 10. In reaching a conclusion that value for money progressively eroded during the negotiation of the contractual arrangements, the ANAO analysed the outcome of the negotiations against **both**:

- the Australian Government's preferred approach, as articulated in the Request for EoIs issued by MIC (noting that MIC suspended its planned procurement process at the end of the EoI stage to enter into direct negotiations with SIMTA on the basis that SIMTA's proposal was significantly stronger than those lodged by the other four respondents); and
- key elements of SIMTA's EoI response (given MIC's analysis had been that the 'commitments' given by SIMTA justified not continuing with the planned competitive approach, and that a key risk management strategy for negotiations was to have been to bind SIMTA to those commitments prior to commencing negotiations).

Department of Finance

Finance notes the findings and key learnings of this audit report regarding the *Delivery of the Moorebank Intermodal Terminal*.

Key learnings for all Australian Government entities

31. Below is a summary of key learnings identified in this audit report that may be considered by other Commonwealth entities when engaging with the private sector to deliver major infrastructure projects.

Governance and risk management

- Accountable Authorities should ensure that the coverage and scope of the probity management framework is commensurate with the nature and level of the risks involved. This framework should be established before market engagement commences, and should apply to all phases of the market engagement process.
- Selection processes for probity advisers and probity auditors should be transparent.
- Concerns, findings and recommendations of probity advisers and probity auditors should be effectively addressed in a timely manner.
- The risks of contracted advisers having a conflict of interest with potential/actual market respondents should be fully considered and addressed.

Procurement

- Market engagement processes should objectively test potential partners' preparedness to accept preferred Australian Government positions.
- Competition throughout the process of selecting a private sector project delivery partner plays an important role in obtaining, and being seen to obtain, value for money.
- An evaluation plan should be established before market responses are sought.
- Informing potential respondents of the evaluation criteria, and any weighting of those criteria, helps to promote competition as well as provide transparency.
- Significantly increased risks exist when negotiations commence with a single respondent in advance of a binding offer having been received. Experience has shown that Australian Government entities find it difficult to implement planned risk mitigation strategies, and this should be carefully considered before deciding that the risks of entering into negotiations are acceptable.
- Negotiations should retain a strong connection with the key elements of the successful proposal that supported the decision to proceed to direct negotiations.
- Where a future privatisation process is envisaged, this can be assisted by structuring the transaction in a way that enables an efficient sale process.
- Compliance regimes should be designed to be effective, and resourced appropriately.

Records management

- Good records should be created of the negotiations process including documentation that clearly identifies each meeting, the participants, agenda and outcomes.
- Information assets should be effectively managed, including by ensuring that entities not party to the transaction do not hold confidential project-related information.

Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2017

No.24 2017–18

Financial Statements Audits

Executive Summary

1. The primary purpose of financial statements is to provide relevant and reliable information to users about a reporting entity's financial position. In the public sector, the users of financial statements include Ministers, the Parliament and the community. 'The objectives of a financial statements audit in the public sector are often broader than expressing an opinion whether the financial statements have been prepared, in all material respects, in accordance with the applicable financial reporting framework. The audit mandate, or obligations for public sector entities, arising from legislation, regulation, ministerial directives, or government policy requirements may result in additional objectives'.¹
2. The ANAO applies these objectives in undertaking financial statements audits and considers areas that may give rise to risks of non-compliance with authorities or risks relating to effectiveness of internal control when planning and performing the audit.
3. The preparation of timely and accurate audited financial statements is also an important indicator of the effectiveness of an entity's financial management, which fosters confidence in an entity on the part of users.
4. This report provides a summary of the results of the final audits of the financial statements of Australian Government entities and the Consolidated Financial Statements as at 30 November 2017. These audit results have been reported to the responsible Minister(s) and those charged with governance of each entity.

Consolidated Financial Statements

5. The Consolidated Financial Statements present the consolidated whole of government financial results inclusive of all Australian Government controlled entities, as well as the General Government Sector financial report. The 2016–17 Consolidated Financial Statements were signed by the Minister for Finance on 27 November 2017 and an unmodified auditor's report was issued on the same day.

Financial audit results and other matters

Timeliness of Financial Reporting

6. The Auditor-General and senior staff under delegation also issued auditor's reports on 233 entities' 2016–17 financial statements up until 30 November 2017. All auditors' reports were unmodified. Ninety-one per cent of entities required to table an annual report in Parliament were provided with the auditor's report within three months of the financial year end. The average time taken for entities to table annual reports from the date the auditor's report was issued was 47 days.

1 ISSAI 1315 Practice Note 315 *Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment*: P4.

Key Audit Matter Reporting

7. The ANAO Report No 60. *Interim Report on Key Financial Controls of Major Entities* noted that there would be a number of changes to the auditor's reports for 2016–17, including the application of a new auditing standard ASA 701 *Communicating Key Audit Matters in the Independent Auditor's Report* (ASA 701). In 2016–17, the Auditor-General adopted Key Audit Matter (KAM) reporting for the 25 entities included in ANAO Report No. 60 and reported a total of 57 KAM across the 25 entities.

Financial sustainability

8. An analysis of the factors that influence an entity's financial sustainability can provide an indication of financial management issues or point to an increased risk that entities may require additional government funding. Our analysis concluded that the financial sustainability of the majority of entities was not at risk. Nevertheless, there would be benefit in government developing performance targets or benchmarks.² This would enable entities to assess their own financial sustainability against agreed parameters over time, and against like entities.

Summary of audit findings

9. A total of 222 findings were reported to entities as a result of the 2016–17 financial statements audits. These comprised two significant, 20 moderate and 200 minor findings. Six legislative breaches were also reported to entities during 2016–17.

10. Seventy-eight per cent of significant and moderate findings were in the areas of: management of IT controls, particularly the management of privileged users; compliance and quality assurance frameworks supporting program payments; revenue, receivables and cash management; and the management of non-financial assets.

Developments in financial reporting and auditing frameworks

Reduced disclosure regime

11. Efforts to reduce the volume and complexity of disclosures in financial statements continue. Australian Accounting Standards (AAS) include a Reduced Disclosure Regime (RDR) option that allows for some specified disclosures to be omitted from the general purpose financial statements of certain entities. The Department of Finance allowed Commonwealth entities to apply RDR for the first time in 2016–17.

12. Simplification and decluttering are important considerations in making financial statements more accessible and relevant to users. The ANAO supports these initiatives, to the extent that the needs of the Parliament are met.

Changes in Accounting Standards

13. Public sector entities will need to prepare for a number of new standards for 2018–19 and 2019–20. These new standards (AASB 9 *Financial Instruments*, AASB 15 *Revenue from Contracts with Customers* and AASB 16 *Leases*) represent major revisions to existing standards for financial instruments, revenue and leases. These new standards will take effort and time to transition to with preparers required to develop business

2 The Joint Committee of Public Accounts and Audit Report 463: *Commonwealth Financial Statements – Inquiry based on Auditor-General's report 33 (2016–17)* paragraph 2.36 recommended that 'the Department of Finance, in consultation with the Australian National Audit Office, work to: develop appropriate and robust performance targets or benchmarks, which can be publicly reported, to enable Commonwealth entities to assess their own financial sustainability against agreed parameters over time and against like entities'.

models, write new accounting policies, revise existing accounting policies, undertake a review of all the underlying contracts and in some instances consider amending contracts.

Executive remuneration reporting

14. The ANAO reported in ANAO Report No. 60 2016–17 *Interim Report on Key Financial Controls of Major Entities* that the Minister for Finance and the Secretary of the Department of the Prime Minister and Cabinet (PM&C) requested respectively government business enterprises (GBEs) and government entities to provide additional information relating to senior management personnel remuneration on their websites.

15. All GBEs complied with the request. The request from the Secretary of PM&C was made to 157 government entities. Of these entities 134 published the information and 68 published it in accordance with the requested timeframe.

Cost of this Report

16. The cost to the ANAO of producing this report is approximately \$440 000.

Australian Electoral Commission's Procurement of Services for the Conduct of the 2016 Federal Election

No.25 2017–18

Australian Electoral Commission

Background

1. The Australian Electoral Commission (AEC) is responsible for conducting federal elections. To assist it to conduct the 2016 federal election, the AEC procured the services of ten organisations under 17 contracts to transport ballot papers and other items at a cost of \$8.7 million. The AEC also procured the services of an ICT supplier for \$27.2 million to develop and deliver a Senate scanning system. This was a semi-automated process for capturing voter preferences from Senate ballot papers for entry into the count, as the previous manual process was no longer considered viable following significant changes to Senate voting provisions in the *Commonwealth Electoral Act 1918* (the Electoral Act).

2. The procurements were undertaken, and the Senate scanning system developed, in a tight timeframe given the changes to the Electoral Act were passed 18 March 2016, the double dissolution election was announced 9 May 2016 and the election was held 2 July 2016.

Audit objective and criteria

3. The objective of this audit was to assess whether the AEC appropriately established and managed the contracts for the transportation of ballot papers and the Senate scanning system for the 2016 federal election. To form a conclusion against the audit objective, the ANAO adopted the following high-level audit criteria:

- Did the procurement processes demonstrably achieve value for money?
- Were key risks to the security and integrity of ballot papers, and of ballot paper data, addressed?
- Did the AEC obtain adequate assurance of the service deliverables and of the effectiveness of risk treatments?

Conclusion

4. In delivering the 2016 federal election the AEC established and managed contracts for the transportation of ballot papers and, in a short timeframe, for a Senate scanning system. Insufficient emphasis was given by the AEC to open and effective competition in its procurement processes as a means of demonstrably achieving value for money. Its contract and risk management was also not consistently to an appropriate standard.

5. The AEC has not demonstrably achieved value for money in its procurement of Senate scanning services. It has not used competitive pressure to drive value nor given due consideration to cost in its procurement decision-making. The AEC sought to encourage competition amongst transport providers but at times struggled to achieve value for money. It would have benefited from additional logistics expertise and transport industry knowledge when establishing and managing transport arrangements.

6. Most contracts with suppliers contained comprehensive security requirements that appropriately reflected the AEC's ballot paper handling policy. The AEC was generally satisfied that the requirements were implemented.

7. The AEC addressed risks to the security and integrity of ballot paper data through the design and testing of the Senate scanning system. The AEC accepted IT security risk above its usual tolerance. Insufficient attention was paid to ensuring the AEC could identify whether the system had been compromised.

8. The Senate scanning and transport suppliers delivered the services as contracted. The AEC had limited insight into whether its contractual and procedural risk treatments were effective. Going forward, the AEC needs to be better able to verify and demonstrate the integrity of its electoral data.

Supporting findings

Demonstrating value for money

9. The AEC's procurement processes did not encourage open and effective competition sufficiently.

10. Approval was recorded by the financial delegate for 20 of the 25 procurements examined. On six occasions, costs exceeded the approved amount prior to a new approval being sought.

11. Adequate consideration was given to costs and benefits in the procurement of the transport services. The documentation on the transport procurements outlined how value for money was considered but did not always demonstrate that value for money would be achieved.

12. No consideration of financial cost was evident in the records of the AEC's decision-making to implement the Senate scanning system. Timeliness, quality and risk were taken into account. The documentation on the Senate scanning system procurement indicates that inadequate consideration was given to assessing value for money and did not demonstrate that it was achieved.

Addressing risks to the security and integrity of ballot papers

13. The ten contracts with suppliers procured from the AEC's transport panel contained security requirements that appropriately reflected the AEC's ballot paper handling policy. The seven contracts with suppliers procured from outside the transport panel did not explicitly reflect the AEC requirement that ballot papers not be left unattended. The AEC was generally satisfied that the requirements were implemented but with some room for improved adherence.

14. The contracts for the Senate scanning services contained security requirements that appropriately reflected the AEC's ballot paper handling policy. The AEC verified that the requirements had been implemented.

15. The AEC checked the political activity of suppliers during the procurement process and included political neutrality provisions in each contract. The AEC did not obtain assurance of the political neutrality of personnel transporting ballot papers. The AEC did obtain assurance of the political neutrality of supplier personnel involved in the Senate scanning system.

Addressing risks to the security and integrity of ballot paper data

16. The primary data generated by the Senate scanning system was XML files containing the voter preferences and whether the vote was formal or informal. A cryptographic digital signature on each XML file protected the data from modification. A secondary output was a digital image of each ballot paper.

17. Risks to the integrity of the ballot paper data were managed through system design and testing. To improve integrity, a late decision was made for all voter preferences to be entered by a human operator in addition to being captured by the technology. Any mismatches between the human's and the technology's interpretation were investigated and resolved. The AEC does not know the number or nature of mismatches to determine if this was a cost-effective risk treatment.

18. A range of IT security risk assessments were undertaken prior to operation. The AEC assessed that one quarter of the applicable Australian Government controls for treating security risks had not been implemented. The contract with the ICT supplier had not required compliance with the Australian Government IT security framework. The security risk situation was accepted by the AEC but was not made sufficiently transparent.

19. The AEC's IT security monitoring during system operation was sufficient to support its conclusion that there was no large-scale intentional tampering of the 2016 Senate election data. It did not have a systemic data and analysis plan or adequate visibility of IT security measures.

20. The ballot paper images were securely migrated to the AEC's repository environment after services were completed. There was a ten month delay in the AEC instructing the ICT supplier to delete electoral data from its environment.

Obtaining assurance

21. Assurance frameworks were in place for the agency and for the Senate scanning system project.

22. The AEC is unaware that any ballot papers were not accounted for. This is a considerably lower level of assurance than its stated performance indicator of accounting for 100 per cent of ballot papers.

23. The AEC relied on the effectiveness of its risk treatments to ensure the integrity of the Senate ballot paper data. It has not undertaken a statistically valid audit to verify or demonstrate data integrity.

24. The contracted transport services achieved the desired results. The AEC had difficulty reconciling invoices received for the services and it was slow in sending ballot papers to the Senate scanning centres.

25. The Senate scanning system was delivered on time and as per contractual requirements. The AEC was not able to demonstrate compliance with all elements of the *Commonwealth Electoral Act 1918*.

26. The AEC's post-election evaluation activities gathered lessons to be learned. These should inform improvements to future electoral events, including the transport of election-related materials and the operation of Senate scanning centres.

Recommendations

Recommendation no. 1

Paragraph 2.30

The Australian Electoral Commission employ openly competitive procurement processes so as to demonstrate value for money outcomes. In those circumstances when competitive procurement processes are not able to be employed, the Australian Electoral Commission document the reasons, appropriately benchmark the quoted fee and record how it was satisfied value for money was being obtained.

Australian Electoral Commission's response: *Agreed with qualification.*

**Recommendation
no. 2**

Paragraph 2.59

The Australian Electoral Commission revise its approach to procuring election-related transport services so as to improve value for money and to provide more efficient access to transport services that meet needs (which can vary between and within States). The approach should be underpinned by logistics expertise and transport industry knowledge.

Australian Electoral Commission's response: *Agreed.*

**Recommendation
no. 3**

Paragraph 4.38

The Australian Electoral Commission take the necessary steps to achieve a high level of compliance with the Australian Government's security framework when information technology systems are employed to assist with the capture and scrutiny of ballot papers for future electoral events.

Australian Electoral Commission's response: *Agreed.*

**Recommendation
no. 4**

Paragraph 5.48

When the Australian Electoral Commission uses computer assisted scrutiny in future federal electoral events, the integrity of the data is verified and the findings of the verification activities are reported.

Australian Electoral Commission's response: *Agreed with qualification.*

Summary of entity responses

27. The proposed audit report was provided to the AEC. Extracts from the proposed report were provided to Fuji Xerox Businessforce (who were contracted by the AEC to develop and deliver a Senate scanning system).

28. Formal responses to the proposed audit report were received from the AEC and Fuji Xerox Businessforce. The AEC also provided a summary response, which is below.

AEC summary response

The 2016 federal election was the largest and, in many ways, most complex in the nation's history. The Senate voting changes were the most significant reforms to Australia's electoral system in 30 years. In the extraordinarily short period of three months, and without prior warning, the AEC successfully developed and then implemented a robust, effective, technologically advanced and entirely new system for counting, under high levels of scrutiny, some 15,000,000 Senate votes in multiple locations around Australia.

Further layers of electoral complexity were added by: predictions of a close event (with attendant media and political focus); the election being a double dissolution; the election period following the very recent finalisation of several major boundary redistributions; a shorter than usual timeframe specified for the return of the Writs; the need to develop, test, and deliver a nuanced national education campaign for all voters about the changes; and the election being the first national event since the implementation of the Keelty Report recommendations following the 2013 federal election. Notwithstanding these additional complications, the AEC was keenly aware that failed delivery, non-delivery, or even partial delivery, of the Senate voting reforms would have had catastrophic consequences for Australia's system of governance with both domestic and international implications.

Key learnings for all Australian Government entities

29. Below is a summary of key learnings identified in this audit report that may be considered by other Australian Government entities when establishing and managing contracts.

Procurement

- An open tender should wherever possible be used for significant procurements. Reasons include that an open tender enables an entity to benefit from market developments (including innovation and the emergence of new potential suppliers) as well as maximising competitive pressure. Value for money is, as a result, more likely to be demonstrably obtained.
- A decision to use a panel established by another entity should be informed by an assessment of how long ago the panel was established, whether the other entity's approach to the market (and the resulting contractual arrangements) clearly provided for broader use of the panel, and the extent to which the goods and/or services are covered by the panel arrangements (including prices having already been established).
- Procurement and contract management are a standard business operation in the Australian Public Service. Entities should ensure they have a full understanding of what they are buying, and of the market, in order to generate and evaluate value for money.

Governance and risk management

- When deciding between a manual approach and a technology solution, entities should have a sound understanding of the likely cost and risk of the alternatives.
- To obtain the benefits envisaged from adopting new technology, risks should be identified and mechanisms be put in place to monitor the effectiveness of risk treatments. Entities should allow sufficient time in their system design and implementation processes for security risks to be identified, assessed and addressed.
- It is important that technology solutions be designed to comply with legislative requirements.

2016–17 Major Projects Report

No.26 2017–18

Department of Defence

Background

1. Major Defence equipment acquisition projects (Major Projects) continue to be the subject of parliamentary and public interest. This is due to their high cost and contribution to national security, and the challenges involved in completing them within the specified budget and schedule, and to the required capability.
2. The Australian National Audit Office (ANAO) has reviewed 27 of Defence's Major Projects in this tenth annual report (2015–16: 26). The objective of the report is '...to improve the accountability and transparency of Defence acquisitions for the benefit of Parliament and other stakeholders.'¹
3. The Capability Acquisition and Sustainment Group (CASG) within the Department of Defence (Defence), manages the process of bringing new capabilities into service.² In 2016–17 CASG provided support to the Australian Defence Force (ADF) through the acquisition and sustainment of required military equipment and supplies³, and expended some \$6.2 billion on major and minor capital acquisition projects.⁴
4. The February 2016 Defence White Paper established the Government's priorities for future capability investment for the next 20 years and provided for additional spending of over \$29 billion across the next decade. More recently, the 2017–18 Defence Portfolio Budget Statements indicated that the Defence budget would total approximately \$200 billion over the coming decade, for investing in Defence capability.⁵ Additionally, the Government commenced its \$89 billion investment in Australia's future shipbuilding industry in April 2017.⁶

Report objective and scope

5. The objective of this report is to provide the Auditor-General's independent assurance over the status of the selected Major Projects. The status of the selected Major Projects is reported in the *Statement by the Secretary of Defence* and the Project Data Summary Sheets (PDSSs) prepared by

¹ Joint Committee of Public Accounts and Audit, Report 468, *Defence Major Projects Report (2015–16)*, October 2017, Executive Summary, p. 1.

² Defence describes CASG's role as 'purchases and maintains military equipment and supplies in the quantities and to the service levels that are required by Defence and approved by the Government'. Department of Defence, *About CASG*, available from < <http://www.defence.gov.au/casg/AboutCASG/> > [accessed 18 October 2017].

³ Department of Defence, *Defence Annual Report 16–17*, Chapter 3, Annual Performance Statements, p. 33.

⁴ *ibid.*, Chapter 11, Financial Statements, p. 180.

⁵ Department of Defence, *Defence Portfolio Budget Statements 2017–18*, May 2017, p. 5.

⁶ The Minister for Defence Industry, the Hon. Christopher Pyne MP, *Historic milestone for Australia's shipbuilding program*, 26 April 2017. A performance audit to assess the effectiveness to date of Defence's planning for the mobilisation of its continuous shipbuilding programs in Australia, is expected to be tabled in 2018.

Defence. Assurance from the ANAO's review is conveyed in the *Independent Assurance Report* by the Auditor-General.

6. The following forecast information is excluded from the scope of the ANAO's review:
 - Section 1.2 Current Status—Materiel Capability Delivery Performance and Section 4.1 Measures of Materiel Capability Delivery Performance;
 - Section 1.3 Project Context—Major Risks and Issues and Section 5 – Major Risks and Issues; and
 - forecast dates where included in each PDSS.
7. Accordingly, the *Independent Assurance Report* by the Auditor-General does not provide any assurance in relation to this information. However, material inconsistencies identified in relation to this information, are required to be considered in forming the conclusion.
8. The exclusions to the scope of the review noted above are due to a lack of Defence systems from which to provide complete and accurate evidence⁷, in a sufficiently timely manner to facilitate the review. This has been an area of focus of the JCPAA over a number of years⁸, and it is intended that all components of the PDSSs will eventually be included within the scope of the ANAO's review.
9. Separate to the formal review, the ANAO has undertaken an analysis of key elements of the PDSSs—including cost, schedule, progress towards delivery of required capability, project maturity, and risks and issues. Longitudinal analysis across these key elements of projects has also been undertaken.
10. Defence provides further insights and context in its commentary and analysis—although this is not included within the scope of the ANAO's review.

Statement by the Secretary of Defence

11. The *Statement by the Secretary of Defence* was signed on 3 January 2018. The Secretary's statement provides his opinion that the PDSSs for the 27 selected projects '... comply in all material respects with the Guidelines and reflect the status of the projects as at 30 June 2017'.
12. The Secretary also 'acknowledge[s] the difference of view between Defence and the ANAO in relation to the AIR 87 Phase 2 – Armed Reconnaissance Helicopter PDSS'. Further detail is provided below (see Conclusion by the Auditor-General).
13. In addition, the *Statement by the Secretary of Defence* details significant events occurring post 30 June 2017, which materially impact the projects included in the report, and which should be read in conjunction with the individual PDSSs. These include: Joint Strike Fighter, AWD Ships, MRH90 Helicopters, Hawkei, ARH Tiger Helicopters, Battlefield Airlifter, Overlander Light, Additional MRTT, CMATS, ANZAC ASMD 2B, Additional Chinook, HATS, Battle Comm. Sys. (Land), Maritime Comms, Hw Torpedo, Collins R&S, ANZAC ASMD 2A and BMS.

Conclusion by the Auditor-General

14. The Auditor-General has been unable to provide an unqualified *Independent Assurance Report* for 2016–17 as a number of matters were identified, in the course of the ANAO's review, that

⁷ For example, Defence project risk management records can be managed in spreadsheets, where the risk to the completeness and accuracy of records is too high to be included within the scope of the review. Defence's Capability Acquisition and Sustainment Group issued a directive in May 2017 establishing a risk reform program which is to be implemented over two years.

⁸ JCPAA Report 468, *Defence Major Projects Report (2015–16)*, October 2017, Recommendation 1, p. vii.

resulted in the qualification of progress and performance as reported in one Project Data Summary Sheet (PDSS).

15. The review Guidelines define a project as the acquisition or upgrade of Specialist Military Equipment. The Guidelines provide that the scope of Defence reporting includes the performance of selected major equipment acquisitions and associated sustainment activities, where applicable.

16. The ARH Tiger Helicopters PDSS has been prepared on the basis of the Defence acquisition project⁹, which is narrower than the scope established in the Guidelines.

- The project maturity score in Section 6.1 of the ARH Tiger Helicopters PDSS reports a total of 69 out of a maximum of 70 (98.6 per cent) at the time of transition from acquisition to sustainment in April 2017. Noting the caveats, capability deficiencies and obsolescence issues at the declaration of FOC in April 2016^{10, 11}, and considering that only two of the nine caveats applying at FOC have been lifted by the Capability Manager (in July 2017), this score does not accurately or completely represent the project's maturity as at 30 June 2017. The Auditor-General's conclusion has had regard to the July 2017 events.

17. In addition, a material inconsistency has been identified in the forecast information. Section 4.1 in the ARH Tiger Helicopters PDSS reports that materiel capability delivery performance is at 100 per cent, indicating that materiel capability delivery performance has been met. Rate of effort continues to be lower than planned¹², and expert analysis commissioned by Defence in April 2016 indicates that the program will remain incapable of fully meeting expectations relating to reliability, availability, maintainability and rate of effort.¹³

18. The Auditor-General also drew attention to these matters in the *Independent Assurance Report* for 2015–16.¹⁴

19. With the exception of the matters above, the Auditor-General has concluded in the *Independent Assurance Report* for 2016–17 that '...nothing has come to my attention that causes me to believe that the information in the 27 Project Data Summary Sheets in Part 3 (PDSSs) and the *Statement by the Secretary of Defence*, excluding the forecast information, has not been prepared in all material respects in accordance with the *2016–17 Major Projects Report Guidelines* (the Guidelines), as endorsed by the Joint Committee of Public Accounts and Audit.'

20. Additionally, in 2016–17, a number of administrative issues were observed in the course of the ANAO's review, as summarised below:

- non-compliance with corporate guidance resulting in inconsistent approaches taken to contingency allocation (Section 1 of the PDSS);

⁹ An acquisition project can be closed at Defence's discretion.

¹⁰ The caveats, capability deficiencies and obsolescence issues were discussed in ANAO Report No.11 2016–17, *Tiger—Army's Armed Reconnaissance Helicopter*, September 2016, pp. 25–33 and pp. 50–53.

¹¹ Defence has advised that where FOC is declared with caveats, the Capability Manager will have considered other Defence capabilities that can substitute while the caveats are resolved, and the Capability Manager will have considered the capability risk acceptable.

¹² This shortfall in rate of effort has been reflected in the impairment of the value of this asset in Defence's 2016–17 financial statements.

¹³ Department of Defence, *Houston Review into Army Aviation*, April 2016.

¹⁴ The Auditor-General was unable to provide an unqualified *Independent Assurance Report* as a number of matters were identified, in the course of the ANAO's review, that resulted in the qualification of progress and performance as reported in two PDSSs, including the PDSS for the ARH Tiger Helicopters. See ANAO Report No.40 of 2016–17, *2015–16 Major Projects Report*, paragraphs 20–23 and pp. 129–131.

- a change to the basis of financial reporting and the application of incorrect exchange rates when managing contracts (Section 2 of the PDSS);
- a lack of oversight, non-compliance with corporate guidance and the use of spreadsheets¹⁵ in the management of risks and issues (Section 5 of the PDSS);
- outdated policy guidance for the project maturity framework¹⁶ (Section 6 of the PDSS); and
- an increase in the number of MPR projects which have achieved significant milestones with caveats.

¹⁵ Spreadsheets lack formalised change/version control and reporting, increasing the risk of error.

¹⁶ The project maturity framework—outlined in the Department of Defence’s Defence Materiel Standard Procedure (Project Management), DMSP (PROJ) 11-0-007, *Project Maturity Scores at Life Cycle Gates*, September 2010—is a methodology used to quantify the maturity of projects as they progress through the acquisition life cycle.

**Management of the Australian Government's Register of Lobbyists
No.27 2017–18
Department of Prime Minister and Cabinet**

1. Lobbying aims to influence government decision-making (including the making or amendment of legislation, the development or amendment of government policy or programs, the awarding of government contracts or grants or the allocation of funding).¹ Lobbyists' efforts to influence government decision-making may be in their own interest or in the interests of their employer, their clients or a group of related entities.

2. Contact between Australian Government representatives and lobbyists is managed by the Australian Government's *Lobbying Code of Conduct* (the Code), which was introduced in 2008 to establish 'rules for contact'² between lobbyists and Government representatives and reissued in 2013, and established to:

promote trust in the integrity of government processes and ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.³

3. Further, the Code acknowledges that:

there is a public expectation that lobbying activities will be carried out ethically and transparently, and that Government representatives who are approached by lobbyists can establish whose interests they represent so that informed judgments can be made about the outcome they are seeking to achieve.⁴

4. The Code does not apply to all lobbyists who have contact with Government representatives. Lobbyists who conduct lobbying activities on behalf of a client (third-party lobbyists) are required to apply to the Secretary of the Department of the Prime Minister and Cabinet (PM&C or the department) to have their details included on the Register of Lobbyists (the Register).⁵ Other lobbyists—such as employees of an in-house government relations team or a non-profit organisation, people making 'occasional' representations as part of their professional roles and trade delegates—are not required to register or comply with the Code.

5. The rationale for establishing different requirements is that in the case of employees of major companies or peak industry bodies 'the very nature of [the lobbyist's] employment means that it will be clear to ministers and others whose interests they will be representing'.⁶ Other exemptions apply so the Code does not 'impede day-to-day communications with government'.⁷ By requiring third-party lobbyists to register their details (including the identities of their clients) and complete a statutory declaration attesting to their integrity, honesty and independence from

¹ The Department of the Prime Minister and Cabinet, *Lobbying Code of Conduct*, 2013, Clause 3.4. Refer to <www.lobbyists.pmc.gov.au> [accessed 25 October 2017].

² J.Faulkner, *Media release 09/2008: Register of Lobbyists*, 2 April 2008.

³ *Lobbying Code of Conduct*, 2013, Clause 1.4.

⁴ *ibid.*, clause 1.3.

⁵ *ibid.*, clause 5.3

⁶ J.Faulkner, *Ministerial Statement-Lobbying Code of Conduct and Register of Lobbyists*, 13 May 2008.

⁷ *ibid.*

politics, the government aims to provide transparency to Government representatives about whose interests the third-party lobbyist represents.

6. PM&C is responsible for: administering the registration of lobbyists; confirming the accuracy of the information provided by registered lobbyists; receiving reports and assessing breaches under the Code; and removing lobbyists from the Register.

7. The Register of Lobbyists is a publicly available, searchable database of the names of organisations, their registered lobbyists and their clients.⁸ As at 1 February 2018, the Register listed 253 organisations with a total of 566 lobbyists (539 unique lobbyists⁹) and 1813 clients (1735 unique clients).¹⁰

Audit objective and Criteria

8. The objective of the audit was to assess the effectiveness of the Department of the Prime Minister and Cabinet's management of the Australian Government's Register of Lobbyists.

9. To form a conclusion against the audit objective, the following high-level criteria were applied:

- Have sound administration processes been established to update and maintain the Register?
- Has a fit-for-purpose risk-based approach to managing compliance been established?
- Are effective monitoring and reporting arrangements in place?

Conclusion

10. While the Department of the Prime Minister and Cabinet's arrangements to manage the Australian Government's Register of Lobbyists are consistent with the framework agreed by Government, improvements could be made to communications, compliance management and evaluation for the Code and the Register. It would also be timely to review the appropriateness of the current arrangements and Code requirements in supporting the achievement of the objectives established for the Code.

11. PM&C has established appropriate administration arrangements to update and maintain the Register. Limitations of the current database used to support the operation of the Register make it difficult for the department to obtain an appropriate level of assurance over information quality. The planned replacement of the existing database provides an opportunity for the department to strengthen quality assurance processes and to improve the efficiency of administrative processes, for example by reducing existing duplicative and manual processes. Further, the development of a suitable strategy to raise awareness of Code and Register requirements would better support voluntary compliance by lobbyists.

12. PM&C's delivery of a low level of compliance activity reflects the original decision of government. The effectiveness of the department's compliance monitoring approach has been reduced by the lack of strategy around advice to Government representatives of their compliance monitoring responsibilities and PM&C's reliance on reports of non-compliance to drive compliance activities. Further, the approach adopted to manage compliance has not been informed by an assessment of risks. While each allegation of non-compliance the ANAO identified had been assessed, departmental records of assessments were not well maintained or collated to inform

⁸ The Register can be accessed at <www.lobbyists.pmc.gov.au>.

⁹ If a lobbyist is employed by more than one organisation, the Register reports the lobbyist multiple times.

¹⁰ If a client has employed more than one lobbyist, the Register will report the client multiple times.

future compliance activity. Given the regime has been in place for close to a decade, it is timely for the department to consider whether the compliance management arrangements for the Code and Register are appropriate.

13. The department has not established effective performance monitoring and reporting arrangements. Listing lobbyists and their clients on the Register for reference by Government representatives and other stakeholders contributes to the achievement of the Code's objectives. The Register does not, on its own, provide transparency into the integrity of the contact between lobbyists and Government representatives or the matters discussed. Performance monitoring and reporting arrangements should be strengthened to inform internal and external stakeholders about the extent to which policy objectives are being met.

Supporting findings

Administering the Register

14. Registration requirements are effectively communicated to lobbyists if they are aware of the need to register or are registered. A strategy to raise the lobbying community's awareness of the Code would help mitigate the risk of non-compliance by unregistered lobbyists.

15. Outside of mandatory reporting periods, there is scope for PM&C and for registrants to update the Register in a more timely manner. For example, ANAO analysis showed that 39 per cent of new applications were not processed within stated timeframes between July 2016 and August 2017 and lobbyists were not reporting changes within ten days as required by the Code.

16. A quality assurance process has been established by PM&C to manage the integrity of information recorded in the Register of Lobbyists, but due diligence arrangements relating to former Government representatives could be strengthened and the accuracy of information on the Register between bi-annual reporting periods improved.

Managing compliance

17. The department's approach to managing compliance conforms to the approach to compliance monitoring decided by government in 2008. PM&C could not demonstrate that it had undertaken an assessment of compliance risks or provided advice about the ongoing appropriateness of this approach since its implementation.

18. PM&C has not developed a communication plan or strategy to raise Government representatives' awareness of their responsibilities for monitoring lobbyists' compliance with the Code. While the department has taken some steps to raise awareness, such as letters to Secretaries, establishing a more structured approach to the delivery of awareness-raising activities to Government representatives about the Code and their compliance monitoring responsibilities would provide greater assurance that compliance is being monitored as anticipated by the Code.

19. It was not clear from the department's records how many alleged instances of non-compliance had been reported since 2013. For each of the 11 instances of alleged non-compliance identified by the ANAO, the department had conducted an assessment and taken steps to address the alleged non-compliance. The department did not remove or suspend any these 11 registrants or use this information to inform future compliance activity.

Performance monitoring and reporting

20. PM&C has not established a framework to measure and report outcomes from the operation of the Code to inform a view on whether the policy objectives of the regime are met.

21. The key reporting mechanism is the Register of Lobbyists. On its own, the Register does not inform stakeholders of the extent to which all policy objectives established for the Code have been

achieved. The range of information reported by other jurisdictions about the actions and impact of their regimes to regulate lobbying indicates that information provided to stakeholders of the Australian Government's Code could be improved.

22. PM&C has not developed an evaluation plan/strategy to assess whether policy objectives have been met and to identify key learnings to inform advice to government on potential refinements to current policy settings. Parliamentary inquiries and an internal audit that the department has relied on for insights into the extent the policy objectives have been met have been focused on the operation of the Register as a mechanism for providing transparency to Government representatives rather than an evaluation of the success of the Code in achieving all its policy objectives.

Recommendation

Recommendation no. 1
Paragraph 4.15 The Department of the Prime Minister and Cabinet review the appropriateness of the current arrangements and Code requirements in supporting the achievement of the objectives established for the Code. To better support the ongoing regulation of lobbyists, PM&C should:

- (a) implement a strategy to raise lobbyists' and Government representatives' awareness of the Code and their responsibilities;
- (b) assess risks to compliance with the Code and provide advice on the ongoing sufficiency of the current compliance management framework; and
- (c) develop a set of performance measures and establish an evaluation framework to inform stakeholders about the extent to which outcomes and broader policy objectives are being achieved.

Department of the Prime Minister and Cabinet's response: *Agreed in part*

Summary of the Department of the Prime Minister and Cabinet's response

23. The proposed audit report was provided to the Department of the Prime Minister and Cabinet. A formal response was received and the following summary was provided.

The Department of the Prime Minister and Cabinet (PM&C) welcomes the overarching finding that the arrangements to manage the Register of Lobbyists are consistent with the framework agreed by the Government. The audit also recognises that PM&C's delivery of compliance monitoring is consistent with the level of compliance sought by the Government when establishing the Register.

The Lobbying Code of Conduct, as established in 2008 and continued by successive Governments, is an administrative initiative, not a regulatory regime. The Code establishes a publicly available Register of third-party lobbyists and their clients, so that Ministers, their staff and government officials can establish whose interests are being represented by a given lobbyist. Unlike some other Australian jurisdictions, the Australian Government Register of Lobbyists and the associated Code are not enshrined in legislation.

PM&C appreciates the suggestions of further enhancements to the administrative approach and agrees in part to the single recommendation of the audit report, noting the multi-part approach taken. Importantly though, some elements of the recommendation are better suited to a legislatively-based regime that regulates all lobbyists, i.e not just those employed by third-parties. As such, PM&C will consider how best to implement the recommendation sub-points consistent with the spirit and intent of the policy objectives of the Register of Lobbyists as an administrative scheme.

PM&C has allocated resources to modernise the IT system which underpins the Register. PM&C agrees with, and is intending to implement, a strategy to raise lobbyists' and Government representatives' awareness of the Code and their responsibilities, following the completion of the IT system redevelopment. PM&C will also develop a set of performance measures and establish an evaluation framework as part of the redeveloped system, to better inform stakeholders.

Key learnings

24. Below is a summary of key learnings and areas for improvement identified in this audit report that may be considered by other Commonwealth entities when designing and implementing a regulatory framework.

Government and risk management

- Entities should establish a risk-based approach to inform compliance monitoring and management functions.

Performance and impact management

- Entities should develop early in the program design phase a set of performance measures that inform stakeholders about the extent to which objectives have been met.
- Entities should develop early in the program design phase fit-for-purpose evaluation strategies to regularly review the appropriateness of settings for long-term functions.
- Entities should undertake timely reviews of long-running programs/activities to ensure they remain appropriately calibrated to achieve their intended policy outcomes in the most effective and efficient manner.