



Australian Government
Department of Home Affairs



Department of Home Affairs' submission to the Inquiry into the contract management frameworks operated by Commonwealth entities, regarding the Adult Migrant English Program

Joint Committee of Public Accounts and Audit

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Table of Contents

Department of Home Affairs' submission to the Inquiry into the contract management frameworks operated by Commonwealth entities, regarding the Adult Migrant English Program	3
AMEP Background	3
Current AMEP contracts	3
Legislative reform	4
The impact of the COVID-19 pandemic on AMEP delivery	4
Auditor-General Report	4
Governance arrangements, policies and guidelines	5
Expertise	6
Performance measures	7
Record-keeping	8

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Thank you for the invitation to make a submission to the Joint Committee of Public Accounts and Audit Inquiry into the contract management frameworks operated by Commonwealth entities (the Inquiry).

The Department of Home Affairs (the department) is committed to conducting contract management activities that are consistent with the *Public Governance Performance and Accountability Act 2013* (PGPA Act), the Commonwealth Procurement Rules (CPRs) and the Department of Finance's *Australian Government Contract Management Guide*.

The department's Chief Operating Officer Group (COO Group) provides procurement and contract management support across the department (including the Australian Border Force). From a procurement framework perspective, the department has a Contract Management Framework which encourages best practise for managing contracts, including a Contract Management Manual. Since transfer of the Adult Migrant English Program (AMEP) to the department, the department has implemented a range of practices to ensure management of the AMEP contracts is consistent with the departmental framework. Further detail on these measures is provided in this submission.

The department notes that while the title of the Inquiry refers to the contract management frameworks operated by Commonwealth entities, the Terms of Reference refer specifically to the *Auditor-General Report No. 37 2023–24 Administration of the AMEP contracts*. The department has therefore prepared this submission in relation to contract management of the AMEP.

AMEP Background

Australia has a long and proud record of teaching English to migrants and refugees. It was the first—and, for many years, only—country to provide newcomers with fully-funded English-language lessons. The AMEP was established in 1948 and has been the flagship program amongst a range of government services aimed at assisting new migrants and humanitarian entrants to learn English language and literacy skills to enable them to participate socially and economically in Australia.

Around 50,000 to 60,000 eligible migrants and humanitarian entrants access the program each year. The AMEP is delivered at around 300 locations across Australia in major cities as well as rural and regional areas. The program offers different attendance options such as full time, part-time, evening and weekend classes. There are also a range of delivery types, including face-to-face, online and virtual classes. In locations with no AMEP site, a distance learning option is available. Free childcare is available to AMEP clients with children under school age to assist with class attendance.

Current AMEP contracts

In 2016, the then Department of Education and Training conducted an open approach to the market which established the Panel for the provision of services in: the AMEP, the Skills for Education and Employment (SEE) Program, Quality Assurance for AMEP, Quality Assurance for SEE (the Panel).

The AMEP panel arrangement comprises 14 AMEP service providers, including 13 general service providers, one of which is also the Distance Learning provider, and one Quality Assurance provider. Each provider is engaged under a Deed of Standing Officer (referred to as the Agreement). The Agreement commenced on 1 July 2017. Each AMEP Service Provider is formally engaged through a Work Order, executed under the terms and conditions specified within the Agreement. Each Work Order forms a separate legal contract.

On 2 July 2019, Administrative Arrangement Orders due to Machinery of Government (MoG) changes transferred responsibility of the AMEP to the department. Overarching responsibility for the Panel and the

SEE program was initially retained by what has since become the Department of Employment and Workplace Relations (DEWR). A Collaborative Working Agreement between DEWR and the department formalised the administration and management of the AMEP and SEE programs and related Agreements between the departments. On 1 July 2024, responsibility for administration of the Panel was transferred to the department on expiry of the Agreements with SEE providers on 30 June 2024.

The original end date of the Agreement was 30 June 2023. This has been extended twice, initially to 30 June 2024 and then to 31 December 2024, as a result of the change in government in 2022 and subsequent program settings reviews, which impacted the timeframes for planned procurements for future services.

The Australian Government has committed to delivering a new AMEP business model from 1 January 2026 and the department is planning for procurement of services under this new model from 1 January 2026. The department is currently considering options for the delivery of AMEP services until 31 December 2025.

Legislative reform

The AMEP is legislated under the *Immigration (Education) Act 1971* ('the Act'). In April 2021, the Australian Government introduced legislative changes to increase access to the AMEP. The changes:

- removed the previous 510 hour limit on free English tuition
- extended the eligibility threshold (and exit point from the program) from functional to vocational English and
- removed the time limits for enrolling, commencing and completing English tuition for eligible visa holders who were in Australia on or before 1 October 2020.

This was the most significant reform to the program in many years. These changes mean that more migrants can now access free English tuition for longer and until they reach a higher level of proficiency.

The impact of the COVID-19 pandemic on AMEP delivery

The COVID-19 pandemic had a significant impact on the delivery of the AMEP and required complex operational decisions to be made quickly, particularly noting the AMEP was traditionally delivered via face-to-face tuition.

The extent and speed of change for delivery in response to COVID-19 impacted the department, service providers, teachers and AMEP clients (many of whom had low literacy skills - both language and digital - with limited access to technology). The socio-economic challenges faced by people in Australia with limited or no English language skills are well documented and the AMEP prioritised the ongoing engagement of AMEP clients during this period.

The department issued exceptional circumstance work orders under the Agreement to support the ongoing delivery of this critical government program in a rapidly changing operating environment. The department also used the Quality Assurance Agreement to support the sudden change in the modes of program delivery.

Despite the challenges of COVID-19, many positives were reported in the AMEP, such as increased innovative practices, knowledge sharing, delivery flexibility and renewed investment in learning resources.

Auditor-General Report

The Australian National Audit Office (ANAO) tabled *Report No. 37 of 2023-24 'Administration of the AMEP Contracts'* on 13 June 2024.

The department acknowledges there are opportunities for improvement in the management of the AMEP Agreements and has agreed to the recommendations made by the ANAO. Since the July 2019 Machinery of Government Administrative Orders, transferring the administration of the AMEP from the then Department of Education and Training, the department has sought to strengthen processes, procedures and the technology that support the management of the Agreements. Several of the ANAO Audit Report recommendations have previously been identified by the department as opportunities for improvement in the design of the future contract/s.

The department has already undertaken a range of actions to address the recommendations in the ANAO Report. These include:

- completion of updates to the contract variation register, to ensure that all variations undertaken prior to Machinery of Government changes which the department has become aware of, have been recorded (recommendation 1 refers);
- improvements made to the governance arrangements for Innovative Projects. The 2023-24 round of Innovative Projects addressed many of the issues raised by the ANAO in its report and this approach will form the basis for any future rounds under the current Agreement (recommendation 3 refers);
- endorsement of the Transition Out Project Plan for the current contracts by the AMEP Reform Program Steering Committee, noting that this is a live document and will continue to be regularly reviewed and updated over the life of the transition project (recommendation 5 refers);
- a refocus of the work of the Quality Assurance (QA) provider through the provider's 2024-25 Annual Plan (recommendation 8 and 10 refers); and
- the completion of service provider risk assessments for QA activity planning for the 2024-25 program year (recommendation 9 refers).

To strengthen its management of general service contracts, the department is:

- enhancing financial reporting processes, to ensure greater detail, data completeness and accuracy;
- implementing a new data reconciliation process;
- establishing a Probity Plan for the management of the existing and future AMEP contracts (recommendation 4 refers); and
- considering a process to analyse and review complaints data more stringently through the annual reporting mechanism set out in the Agreements (recommendation 7 refers).

The department is responding to key issues in the ANAO Report in its preparation for new contracts:

- a new Performance Management Framework has been developed for future contract arrangements, that will be underpinned by the introduction of AMEP Quality Guidelines and Standards, to ensure AMEP services are of high quality and client outcomes are optimised (recommendation 10 refers);
- this performance framework includes revised key performance indicators, including a measure for English language outcomes, that have been developed through extensive consultation (recommendation 6 refers); and
- developing a new IT system to support future contract arrangements.

The department does not agree with the ANAO findings that the design and administration of the current Agreements have not been effective, nor that the contractual arrangements in place are not appropriate. These arrangements have effectively delivered English language tuition to eligible migrants and humanitarian entrants throughout the Agreement term, including during the period of unprecedented disruption due to the impact of the COVID-19 pandemic. The arrangements established by the department have supported eligible migrants and humanitarian entrants to improve their English language skills and settle into Australia throughout the contract cycle. These arrangements are discussed below.

The department's full response to the Report is included in the tabled version of the Report.

Governance arrangements, policies and guidelines

The department's Contract Management Framework (CMF) provides an overarching consistent approach to contract management. The CMF supports the appropriate governance, capability, risk and financial management mechanisms to ensure contracts are managed effectively and efficiently. The department's Contract Management Manual and Contract Management Plan offer practical guidance to contract managers to effectively manage their commercial contracts.

The CMF supports a tailored approach whereby Contract Management is tailored to the size, complexity, nature and risk of each contract and each contract is managed in accordance with its terms and conditions.

The department's High Risk High Value (HRHV) governance approach is consistent with this principle. For significantly complex or strategic HRHV contracts, additional governance requirements apply.

Contracts that are determined to be HRHV are subject to more rigorous scrutiny, project assurance checks, approval processes and the Senior Executive Service Steering Committee. This will apply to the upcoming AMEP procurement and ensuing contracts.

In accordance with the CMF, the governance arrangements in place for the current AMEP Agreements include:

- creation and maintenance of contract and support documents, such as:
 - master copy of the Agreement
 - master file which tracks all fee information
 - contract variation register
 - Service Provider Instructions (SPIs), which provide additional detail on AMEP processes and delivery arrangements for service providers
 - regular issuance of Administrative Advices and Communiqués which support the SPIs
- creation and maintenance of processes to support management of the contracts, such as:
 - an operations and processes guide to assist contract managers to ensure service provider compliance with the Agreement
 - assessment of planning and reporting requirements for service providers as set out in the Agreements
 - regular individual contract management meetings with service providers, covering contractual and program support, performance management, issues management, risk management and general administrative issues
 - AMEP Finance Manual for internal use
 - AMEP Records Management System (ARMS) User Guides for support staff and service providers
- creation and maintenance of appropriate communication channels, such as:
 - monthly individual and bi-monthly national service provider meetings
 - regular internal AMEP Program Management and AMEP Quality Assurance meetings which bring together staff to address emerging issues that cut across the work of the various teams
 - regular individual, team and section meetings at assorted levels to support the delivery of the program and provide an escalation framework as appropriate.

Expertise

The department provides delegates and contract managers with a clear and standardised approach to managing and administering contracts for goods and/or services through the Procurement and Contract Management Learning Framework (the Framework). The AMEP contracts have been managed in accordance with this Framework, which supports staff holding contract management responsibilities to gain the knowledge and skills necessary to perform their duties. This is supported by the department's Procurement and Contract Management Learning Curriculum which aims to facilitate the development of staff capabilities, skills and attributes needed to adapt to changing and challenging work environments.

The CMF includes a Procurement and Contract Management Learning Framework, which supports staff holding contract management responsibilities to gain the knowledge and skills necessary to perform their duties.

Management of the AMEP Agreements is undertaken in accordance with the department's CMF, including:

- development and maintenance of an AMEP Contract Management Plan
- development and maintenance of an AMEP Risk Management Plan

- the establishment of clear contract administration arrangements and communication channels with AMEP service providers
- the establishment and staffing of contract management and other support roles with clear lines of responsibility
- support of specialist training for staff such as:
 - attendance at the department's Contract Management 101 course (all staff)
 - support to undertake qualifications such as a Certificate IV or a Diploma in Procurement and Contract Management
 - referral to the department's professional development pathway for Contract Managers
- use of specialist advisers, both internal and external, as required to ensure contract management activities are sound and conform to Commonwealth legislation e.g. the department's Procurement and Contract Support Branch provides overarching support in building contract management capability
- participation in departmental contract assurance exercises.

Performance measures

The department considers performance measures in context of the size, risk and complexity during the procurement process. Officials undertake an assessment of risk to determine the best means to manage arrangements and to ensure performance indicators and targets are measurable, reasonable and achievable.

The department recognises the importance of appropriate key performance indicators (KPIs) to measure performance and ensure contractual arrangements in place are providing value for money to the Commonwealth. The *Auditor-General's Report on the Administration of AMEP contracts* outlined this as an area for focus and this had previously been identified by the department as an area for improvement in the design of the future contract/s.

On commencement, the current AMEP Agreement established a performance measurement framework for general service providers with four KPIs:

- KPI1 Participation
 - 90% of eligible clients who complete an initial assessment in the AMEP or are referred to Distance Learning actually commence in the program within 6 months
- KPI2 Attainment (against the Australian Core Skills Framework (ACSF))
 - 80% of clients in the pre-employment and social English streams attain one ACSF indicator per 200 hours of tuition
- KPI3 Data Timeliness
 - 95% of data recorded and reported within the required timeframes
- KPI4 Accurate Assessment
 - 80% of client assessment outcomes are accurate against the ACSF.

Of these KPIs, KPI1 remains in use and there is an alternate process in place in lieu of KPI2. KPIs 3 and 4 are not in use.

The department paused KPIs 2 and 4 in the early stages of the COVID-19 pandemic in 2020, in response to restrictions and to allow service providers to focus on client retention and engagement. During the KPI2 pause, the department trialled the usage of Australian Vocational Education and Training Management Information Statistical Standard (AVETMISS) unit completion data mapped against the ACSF. This approach was consistent with recommendations from the Evaluation of the AMEP New Business Model undertaken by Social Compass in 2019. The trial removed duplication of assessments and was positively received by stakeholders.

This alternate process remains in place in lieu of KPI2 and has ensured the department has retained the ability to monitor and report on student outcomes and service provider performance in this regard. In 2022-23, this data showed that 89% of clients achieved English language progression. The department continues to monitor and address any general service providers who fall below the benchmark. The department shares individual KPI2 data with service providers to support them to identify barriers affecting their performance. KPI4 is no longer applicable with the introduction of the alternate process for KPI2.

KPI3 was predicated on the introduction of a new management information system at the commencement of the new contract arrangements in 2017. The new system did not eventuate and KPI3 was therefore never implemented. The department is progressing work to have a new IT management system in place for the AMEP for the next contracts, from 1 January 2026.

The department has supplemented use of KPIs as a performance measure with comprehensive client surveys undertaken in 2022, 2023 and 2024. The surveys had high response rates and overwhelmingly positive results. In 2024, 90% said they had improved their reading and listening skills, 89% their speaking skills and 85% their writing skills. Full survey results are available on the [department's website](#).

Furthermore, there are a range of obligations set out in the Agreement that are used to assess provider performance, including annual plans that set out strategies and processes for delivering the AMEP, and mid-year and annual reports that measure progress in delivering the program in accordance with the annual plan.

The positive outcomes of the AMEP are supported by research findings, with the finalisation in 2023 of a longitudinal research study analysing the effectiveness of the AMEP. This was the most comprehensive study of participation in the AMEP undertaken in the program's history, analysing over 400,000 client records over a 16 year period. The research found that AMEP participation improved English proficiency of AMEP clients and is associated with improved labour market outcomes, higher outcomes and reduced reliance on income support. Further information on the research study is available on the [department's website](#).

The department has developed a new Performance Management Framework for the future AMEP contract arrangements, underpinned by the introduction of AMEP Quality Guidelines and Standards. This will ensure AMEP services are high quality and client outcomes are optimised. This performance framework includes revised KPIs which have taken into account feedback received from sector stakeholders, as well as the need for departmental assurance around key contractual requirements. It will include measures for participation, learning outcomes, pathway guidance, data timeliness and service quality.

Record-keeping

The department maintains appropriate processes and systems to support best practice and meet legislative requirements, including the *Archives Act 1983* and the Public Governance, Performance and Accountability Framework. This includes a Procurement and Contract Management Records Guide to support the creation, maintenance, storage and disposal of records easy retrieval for key documents for assurance and audit activities. The department regularly undertakes contract management assurance activities to support best practise record keeping. The department's record keeping framework is fit for purpose, considering the profile of contracts managed by the department, and supports contract management best practise.

The AMEP Agreement and associated Service Provider Instructions (SPIs) set out record keeping obligations and standards for AMEP service providers, in accordance with relevant legislation. AMEP service providers must maintain client records in the departmental system, ARMS, and maintain other client records as per the Agreement and SPIs. AMEP service providers must enter data into ARMS in accordance with timeframes set out in the Agreement and SPIs.

These records form part of the quality assurance activities undertaken by the AMEP Quality Assurance provider to provide a level of assurance around the quality and accuracy of the records.