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Australian War Memorial

Submission to the Joint Committee of
Public Accounts and Audit

Inquiry into the Contract Management
Frameworks Operated by Commonwealth
Entities

August 2024

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Introduction

The Memorial welcomes the opportunity to make a submission to the Joint Committee of Public Accounts and Audit (the Committee) inquiry into the contract management frameworks operated by Commonwealth entities.

The Committee has identified that the recent Auditor-General Report No. 21 2023–24 Management of the Australian War Memorial's Development Project is of particular interest in regard to its inquiry.

Executive Summary

Australian National Audit Office – Performance Audit - Management of Australian War Memorial's Development Project

The Performance Audit found the Memorial to be largely effective in its management of a relatively high value and complex project in an area, construction, where the Memorial did not have a depth of in house expertise.

The Performance Audit found no evidence of corruption or conflict of interest or failures in probity and concluded that all procurement activities were conducted through open and competitive processes and were successfully delivering 'value for money' outcomes for taxpayers.

The Performance Audit found there were deficiencies in record keeping, management of conflicts of interest, documenting value for money assessments and in the quality of advice to the minister.

The Performance Audit made five recommendations to the Memorial to improve policies, record keeping, probity, conflicts of interest and contract management. The Memorial accepted all five recommendations and has implemented management actions to address them.

Opportunities for improvement

The Memorial has identified the following opportunities for improvement that would benefit the broader public sector:

- Increased professionalism of APS staff to manage contracts in house as part of the APS Commissioning Framework, including messaging from the top, accountability, guidance and staff development and resourcing.
- Strong messaging across the APS about delegates' accountability for probity, sound process, achieving, maintaining and demonstrating value for money.
- Deliver further improved guidance, including factsheets, on discrete areas such as what records to keep and what is less essential.
- Supporting an internal function in agencies to bolster the second line of defence, internal functions that oversee or specialise in contract risk management.

- Consider development and deployment of a whole of government procurement and contract management automation solution.
- Fostering an APS culture of sharing lessons learned and skilled contract managers across APS agencies.

Australian National Audit Office – Performance Audit - Management of Australian War Memorial's Development Project

The Report examined three audit criteria closely aligned to that of the Committee's inquiry:

- a. Has the Memorial established effective procurement and project management frameworks?
- b. Were procurement activities conducted in accordance with Commonwealth Procurement Rules?
- c. Has the Memorial established effective contract management arrangements to support project delivery?

Outcomes of the Report

As the Report itself highlighted, the Memorial's Development Project (the Project) is a project of national significance. The project entails significant construction in an area where the Memorial did not have a depth of in-house expertise. The Report also noted project delivery has faced the unique challenge of keeping the Memorial open as the centre of national commemoration and that it has had to adapt to the simultaneous impacts of COVID-19 and record high construction inflation.

The Memorial therefore welcomed the primary findings of the Report that it has established 'largely effective' frameworks for project management, procurement and contract management within that context. The frameworks were supported by engagement of staff with construction industry expertise and contracted third-party contractor managers to work in partnership with Memorial staff.

The Report made five recommendations to the Memorial to improve policies, record keeping, probity, conflicts of interest and contract management.

The Memorial has accepted and addressed the five recommendations.

Recommendation No.1

Recommendation No.1 related to policy documentation and strengthening of 'Accountable Authority Instructions (AAIs)' consistent with RMG206 Model AAIs for corporate Commonwealth entities and ensuring that it documents any of its powers that have been delegated'.

This recommendation was actioned in March 2024 when, at Meeting No.184, the Council of the Australian War Memorial formally delegated authority to issue AAIs to the Director, Australian War Memorial.

Recommendation No.2

Recommendation No.2 was that the Memorial update its records management policies to include current electronic record keeping systems, including several being used for the Development Project, and that it implement Quality Assurance measures to ensure implementation of same.

This recommendation was actioned in May 2024 when the Memorial's Director approved the adoption of a revised Information Management policy. This updated directive establishes approved

electronic document and records management systems (EDMS) and lays out the requirements for transfer of records from other systems into the approved EDMS.

Recommendation No. 3

Recommendation No.3 related to strengthening of probity controls relating to procurement activity including processes for managing conflicts of interest and the level of engagement with probity advisors for higher value or higher risk procurements.

This recommendation has been completed through the following key actions:

- I. Implementation of an updated Memorial wide Conflict of Interest policy;
- II. Update of Memorial procurement documentation (non-Project and Project) to better identify and document required probity controls and processes including required review by the Memorial's procurement team for probity advice on major processes;
- III. A procurement process and probity 'roadshow' for all staff presented by the Memorial's internal Procurement Team;
- IV. As the Development Project presents the highest risk in this area it is further supported by:
 - a. Update of the 2023 Development Project specific *Probity Management Plan*; and
 - b. Implementation of new Development Project specific probity Key Performance Indicators (KPIs) that are reported quarterly to the Memorial Development Committee (MDC) of Council.

Recommendation No.4

Recommendation No.4 revolved around improvements to creation and maintenance of documentation demonstrating how procurements deliver 'value for money' (VFM) including where executed contract values vary from tender recommendations, for limited tenders/procurements or contract variations, and to the Minister for Veterans' Affairs.

These items have been closed through the following measures:

- I. Update of the Development Project Cost Management Plan to Revision 12 including updates/clarifications to management of changes in value from tender evaluation to contract and VFM documentation. These changes are supported by improvements to 'Appendix C Commitment form' and 'Appendix D VFM Assessment Form'.
- II. Changes to process/documentation to require all major Memorial procurements to be reviewed by the internal Procurement Team prior to delegate approval (includes Development Project and non-Project procurement) including appropriate demonstration of VFM outcomes; and
- III. Inclusion of additional VFM detail in submissions to the Minister for contracts over \$1m.

Recommendation No.5

Recommendation No.5 required the specific review of the Development Project Construction Management Plan to ensure its alignment with the better practice principles of the Australian Government Contract Management Guide.

The Memorial actioned this recommendation in April 2024 with the approval of Construction Management Plan (CMP) Revision C3. This was supported by approval of an updated Development Project Roles and Responsibilities Matrix in May 2024 which formalised the changes arising from the CMP updates.

Opportunities for improvement?

The issues that give rise to opportunities are identified through the lens of the Memorial's operations. The recommendations are intended to be useful APS wide.

Capability

Development of general contract management skills in the Memorial's business areas has not experienced the same level of skills uplift as contemporary functions. For example procurement skills, which have been recognised as a professional qualification over the last ten years across the public sector.

Contract management skills are readily available in the market through third party providers. In contrast other specialist skills necessary for the Memorial to achieve its purpose are less common, such as people with the capability to preserve and curate the National Collection and to support commemoration.

ASL restrictions and funding pressures drove the outsourcing of more generalist skills such as contract management, reducing in-house capability and capacity over time. It could be argued that skills deficiencies in these areas are less keenly felt because of their supporting nature.

Recommendation

Increased professionalism of APS staff to manage contracts in house as part of the APS Commissioning Framework, including messaging from the top, accountability, guidance and staff development and resourcing.

Managing performance

Managers and their senior executive service officers are accountable for their team's performance, in areas such as the:

- preservation of objects in the National Collection,
- conduct of a major commemorations like the ANZAC Day Dawn Service,
- professional upkeep of the Memorial's buildings and grounds, and
- curation of exhibits.

Work in these areas is high profile with their outcomes directly observable by stakeholders. This drives performance, with the quality of the forward facing outcomes closely scrutinised. It is also an area where the Memorial makes its reputation. A failure in these high profile areas is not tolerated and if it occurs, is quickly rectified.

Key aspects of contract management, such as probity, process and value for money are not as high profile. They are back of house functions. The lack of profile can lead to a lower sense of urgency in uplifting these skills and higher tolerance for error.

ANAO performance audits have highlighted deficiencies in contract management, identifying the problem. However, identifying the problem does not address or resource the capability to oversee and support staff to understand the importance of contract risk management.

Recommendation

Strong messaging across the APS about delegates' accountability for probity, sound process, and achieving, maintaining and demonstrating value for money.

Supporting an internal function in agencies to bolster the second line of defence; internal functions that oversee or specialise in contract risk management.

Records management.

The Performance Audit's fieldwork considered more than 4 Terabytes of data including hundreds of thousands of documents, emails, drawings, procurement and contract materials. Memorial staff responded to 191 formal Requests of Information in support of this fieldwork. There was no shortage of records in relation to the Development Project. There were trends, in the audit findings, relating to records management where deliberations were made but not adequately documented including value for money considerations after an initial decision and conflicts of interest.

Procurement and contract management is a complex area with extensive documentation. For example the Memorial's Accountable Authority instructions total over 40 pages and the Commonwealth Procurement Rules are over 30 pages. These documents have broad scope and provide the necessary detail and structure for this broad scope. For the end user they are dense documents and do not concisely answer the question about what to document and when.

The Department of Finance is in the process of updating its guidance and some resources are available locally. This is an area where further work would be welcomed.

Automation could also help with records management, prompting staff to make records of decisions at key points in procurement and contract management. A whole of APS solution similar to Parliamentary Document Management System (PDMS) would be welcome, noting this would be a longer term solution.

Recommendation

Deliver further improved guidance and factsheets on discrete areas such as what records to keep and what is less essential.

Supporting an internal function in agencies to bolster the second line of defence; internal functions that oversee or specialise in contract risk management.

Consider development and deployment of a whole of government procurement and contract management automation solution.

Sharing resources and experience

The Memorial is a small agency with limited resources. This limits its capacity to manage peaks in workloads requiring specialist skills. It also limits the pool of experience it has in contract management.

Greater mobility of staff with project and contract management skills could support agencies during the implementation of complex projects and peak periods of work. They could work alongside

existing staff to help mentor and educate and build capability for the longer term. This would contribute to the outcomes of the APS Commissioning framework and address some of the recommendations from the recent Auditor-General's reviews.

Recommendation

Fostering an APS culture of sharing lessons learned and skilled contract managers across APS agencies.