

Joint Committee of Public Accounts and Audit
Inquiry into the contract management frameworks operated by Commonwealth entities
13 November 2024
Answers to questions on notice from the Veterans' Affairs portfolio

IQ24-000017

Question 1

Topic: Implementing audit recommendations

(Written Question on Notice)

The Committee asked:

1. The five audit recommendations were all agreed to by the Australian War Memorial (AWM).
 - a. How is AWM tracking with implementation of the ANAO's recommendations and are there any further enhancements that have been made since the audit report?
 - b. How have any improvements been embedded in practice?
 - c. By what mechanisms might the 'Opportunities for Improvement' that AWM has indicated in its submission be considered across the wider public sector?

Answer

- a. Implementation of management responses to the five Australian National Audit Office (ANAO) recommendations was finalised in May 2024, shortly after the audit report was tabled in Parliament.

Implementation of these recommendations was tracked through a range of mechanisms, such as:

- A coordinator responsible for oversight and reporting on progress.
- Regular reports to the Australian War Memorial's (the Memorial) Corporate Management Group, comprising the Director and Memorial's four senior executive service (SES) officers. This committee meets weekly.
- Reports to the Memorial Development Committee, comprised of AWM Council members and independent experts. This committee was established by the Australian War Memorial Council to oversee the Development Project and meets quarterly.
- Tracking outstanding audit actions through a standing agenda item, by the Memorial's Finance, Audit and Compliance committee, which meets quarterly.
- Reporting to the Minister advising the approach being taken to address the recommendations and confirmation when they had been addressed.

There were also a number of additional measures implemented including:

- Internal roadshows conducted from December 2023 to March 2024. Delegates were reminded of their responsibilities for compliance, including to base their decisions on evidence and to keep appropriate records. The roadshows included meeting with the Memorial's section staff to discuss recommendations.

- Additional processes to ensure the Memorial’s Procurement Team review documentation prior to seeking a delegate approval to ensure all the relevant compliance activities have taken place.
 - Procurement templates have been amended to require conflicts of interest declarations for all procurements and a subsequent process to centrally file conflicts of interest declarations relating to the procurement.
 - The approval to proceed procurement template has been renamed “Procurement Plan” to avoid confusion with the spending proposal procurement template. The spending proposal template has been amended to include both Memorial Budget Team and Procurement Team reviews prior to seeking a delegate approval. The structure of the spending proposal template has also been improved to streamline and make it easy for users to ensure that the correct documentation is completed and filed.
 - The roadshows, mentioned above, have been followed up with specific sessions with the key delegates.
 - ‘All staff’ communications to remind staff of key content from the procurement roadshows, changes to templates, probity guidance and responsibilities and case studies based on the procurement internal audit.
- b. A total of eight changes have been embedded in practice. This includes all five changes arising from the ANAO recommendations and three resultant changes, the AWM also increased communications, provided changes to process and changes to templates, as outlined above in the additional measures implemented.
- c. The inquiry process including publishing submissions and the hearings, demonstrated the success of the Development Projects processes and procedures but also raised the profile of opportunities for improvement as outlined in the Memorial’s submission.

The committee’s report could assist with further promotion of the positives identified in the report, as well as opportunities for improvement. This could be done by linking specific opportunities for improvement to issues surfaced by the inquiry where opportunities would assist to mitigate the issues. This would give more weight to the ideas by linking them as solutions to a problem rather than solutions looking for a problem.

In some cases the opportunities for improvement would require changes to frameworks or the way in which projects are funded. Changes in these areas incur costs, to justify this the change must linked to the benefit, resolution of issues identified by the inquiry.

The Memorial Development Project’s plans, processes and procedures, have evolved and improved over the years of this project’s progress. These could be maintained and used as a starting template for future small Department major building projects.

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IQ24-000018

Question 2

Topic: Contract variations
(Written Question on Notice)

The Committee asked:

2. The ANAO audit found that records of contract variations had not been consistently supported by value for money assessments and that Ministerial briefs lacked transparency, accuracy, and the rationale for statements about these assessments.
 - a. Can AWM further elaborate on any new processes it has adopted for assessing and documenting value for money in contract variations and how they will be implemented going forward?
 - b. How do Ministerial briefs differ from before in this respect and has this altered the engagement and/or responses from the Minister in relation to the Development Project?

Answer

- a. The Australian National Audit Office (ANAO) found *'there are appropriate systems to monitor contractor performance and performance has been managed to achieve value for money and deliver the Development Project objectives'*.

In line with the ANAO's recommendations the Australian War Memorial (the Memorial) implemented additional controls through an update to the *Development Project Cost Management Plan* in May 2024 to ensure value for money (VFM) is more clearly assessed and documented, including where contract values change or scope is varied, to better inform and record delegate decisions.

Under these changes, for example, to vary a contract over \$1 million a variation assessment is conducted which examines the history of the contract, the requirement(s) of the proposed variation, the procurement cost(s) and value for money matters. Key to the VFM assessment is a clear summary of how the proposed procurement would provide VFM when considered against the 'Four E's' of the Commonwealth Procurement Rules – efficiency, effectiveness, economy and ethics. This provides the delegate with detailed and specific assurance that VFM has been assessed when they are considering the proposed procurement.

- b. The Memorial is providing additional information relating to value for money in high value contract approval requests to the Minister for Veterans' Affairs within the requirements of the Minister's office for briefs and submissions.

Typically this involves providing a brief dot point summary in a Ministerial Submission as to why the procurement represents a VFM outcome along with relevant procurement assessment documentation (i.e. a Tender Evaluation Report supplied to the Delegate) which is provided as an attachment for detailed review.

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IQ24-000019

Question 3

Topic: Contract management expertise
(Written Question on Notice)

The Committee asked:

3. You state in your submission that there was not ‘a depth of in-house expertise’ in relation to complex construction projects.
 - a. How did AWM overcome this shortfall?
 - b. Did AWM depart from the Australian Government Contract Management Guide to any extent during this project and what were the reasons for this?

Answer

- a. The Australian War Memorial’s (the Memorial) addressed the shortfall by directly engaging personnel with relevant expertise from private enterprise. This was further outlined in the Memorial’s submission.

More specifically the Memorial’s planning identified 15 key functions that had to be delivered by the Project’s ‘Integrated Management Team’ (IMT) to successfully deliver the Development Project construction works.

The table below provides detail on whether the relevant subject matter expertise has been provided by:

- Internal experts: personnel already within the Memorial or broader Australian Public Service recruited to the IMT in public service roles; or
- External experts: personnel recruited from outside the Australian Public Service into the IMT in either public service or consultant roles; or
- A mixed team of internal and external resources.

Key Function	Expertise	Source for IMT Resource(s)
1. Project governance and reporting;	Internal	Existing Memorial resource transferred to Project
2. IMT leadership;	External	Developer, Design and Construction industry expert recruited to APS position as lead
3. Design management;	External	Construction industry design expert recruited to consultant role
4. Procurement;	External	Construction industry procurement expert recruited to consultant role
5. Contract management;	External	Construction industry commercial expert recruited to APS position
6. Statutory approvals;	Mixed – Internal/External	Construction industry expert recruited to consultant role; Existing Memorial resource transferred to Project
7. Budget and cost management and contingency allocation;	External	Construction industry cost control expert recruited to APS position
8. Budget and cost tracking;	Mixed – Internal/External	Construction industry budget management expert recruited to APS position;

		Existing Memorial resource transferred to Project
9. Program and staging management;	External	Construction industry planning expert recruited to consultant role
10. Construction management (of Principal Contractors) and interface functions;	External	Construction industry projects expert recruited to consultant role
11. Risk management;	Internal	Existing Memorial resource transferred to Project
12. Safety and environment management;	Internal	Existing Memorial resource transferred to Project
13. Internal stakeholder management/communications;	Internal	Existing Memorial resource transferred to Project
14. External stakeholder management; and	Internal	Existing APS resource recruited to Project
15. Project close out functions.	Mixed – Internal/External	Construction industry finalisation expert recruited to APS position; Existing Memorial resource transferred to Project

Table 1 Source of expertise for Integrated Management Team

- b. The Memorial’s approach to contract management is specifically documented in several of its management plans including the Construction Management Plan which states:

‘This plan, together with other project management documentation (primarily the Project Risk Management Plan) is intended to ensure the Project is aligned with the guidance on ‘effective contract management at practitioner level for Commonwealth entities’ issued under the Australian Government Contract Management Guide (AG-CMG) at a program level.

Note that AG-CMG practice is therefore followed at a program level and not implemented contract by contract due to the scale, complexity and inter-related nature of the works.”

As per the extract above, the Memorial made a specific decision not to manage individual contracts in line with the AG-CMG due to the scale and complexity of the Project. Further, with more than 300 contracts related to the Project, the administrative burden of managing each contract as described by the AG-CMG would have been impracticable given the small size of the Integrated Management Team.

The Memorial selected an industry aligned management process with overarching Project and Construction Management Plans and detailed Contractually enforceable obligations agreed between the Principal (the Memorial) and the Contractor (the service supplier) for the management of the Works Under Contract.

The audit report notes the key Australian National Audit Office (ANAO) finding that the Memorial’s contract management has been *‘largely effective’* and that the ANAO assessed the Memorial’s use of program level contract management as follows:

‘Contract management processes at the whole of Project level are largely aligned to the better practice principles of the Contract Management Guide.’ (p.57 Auditor-General Report No.21 2023-24 Management of the Australian War Memorial’s Development Project).

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IQ24-000020

Question 4

Topic: Contract performance management

(Written Question on Notice)

The Committee asked:

4. The ANAO found that your Development Project contracts included clearly documented requirements for delivery and that had performance measures and a means to assess performance were in place.
 - a. How did you develop your approach to performance management?
 - b. What are the most valuable lessons learned through this process?

Answer

- a. At the outset of the Development Project, the Australian War Memorial (the Memorial) developed a clear set of management plans that outlined how the Project would be managed, procured, delivered and operationalised.

This included establishment of four clear Project priorities being, in order: safety, quality, maximisation of built outcomes and time. The impact of each priority on contract requirements was clearly articulated against in one of the key management plans – the *Contracting and Procurement Strategy* (CPS). For example, the importance of quality as an objective meant that:

'Quality is best delivered by the maximum level of detail being included in the design and the maximum level of consultant oversight through the construction phase. This would be best delivered through fully documented design and construct only where possible. A managing contractor, depending on the specific structure would enable a degree of control, whereas the design and construct only requires the contractor to meet the briefed requirements and affords the Memorial only a low level of control over quality without significant cost and potential contract dispute. The design and construct option would not only result in a reduction in control of quality, but also lose some control over the allocation of funds to areas of highest focus for the Memorial.'

This, together with similar consideration of the other priorities, informed the decision on the overall construction contracting strategy selected by the Memorial to undertake fully documented, lump sum construction contracts rather than the more typical government approach of using a managing contractor.

Similar analysis of the impact of the core project priorities was also carried out to better inform project deliverables in other areas. This included, for example, the key contract milestones required of design and other consultants but also the establishment of clear criteria for the Project programmes, delivery milestones, staging and logistics plans, and even areas such as stakeholder management and exhibition design to inform a co-ordinated whole of project approach to delivering a successful outcome.

Contracts are developed with clear performance parameters and check points. Design contracts have peer review and budget check gates at 30 per cent, 80 per cent and 100 per cent Detail Design stages. Construction Contracts have Monthly Project Control Group meetings and reports that measure progress as well as scheduled submission requirements for programme status and interface milestones.

Performance management of actual outcomes requires clear planning and the appropriate identification and allocation of responsibilities. The Memorial achieves this through Project specific controls (refer **Attachment A**) that align with specific contract requirements and ensure that contract deliverables, and therefore Project objectives, are delivered successfully.

These controls ensure that once a contract is signed that the Memorial Council and Executive can transparently track progress against defined milestones, receive updates on risks and opportunities, and otherwise effectively oversee and guide the Project. The controls also provide the staff managing these contracts on a day-to-day basis a coherent and clear framework for how to achieve outcomes and provide management with appropriate delegation and oversight of cost, time and risk matters.

- b. There are several important lessons to point out in relation to the Memorial's success in relation to performance management.

Through the Two Stage Capital Works Approval Process the Memorial clearly identified risks relating to the Project including the need to identify and recruit suitable experience from industry and to develop Project specific governance frameworks to deliver the Project.

This required the Memorial to acknowledge that, as a small agency whose core business is not major infrastructure project delivery, it did not have the expertise or systems required for success at that point in time.

The key lesson is that pre-approval planning processes, and high quality risk management in general, can be critical in establishing the pre-conditions for success. This self-evaluation was fundamental in setting up a framework that could be developed to suit the exact project needs rather than forcing our project into a pre-existing set of business constraints.

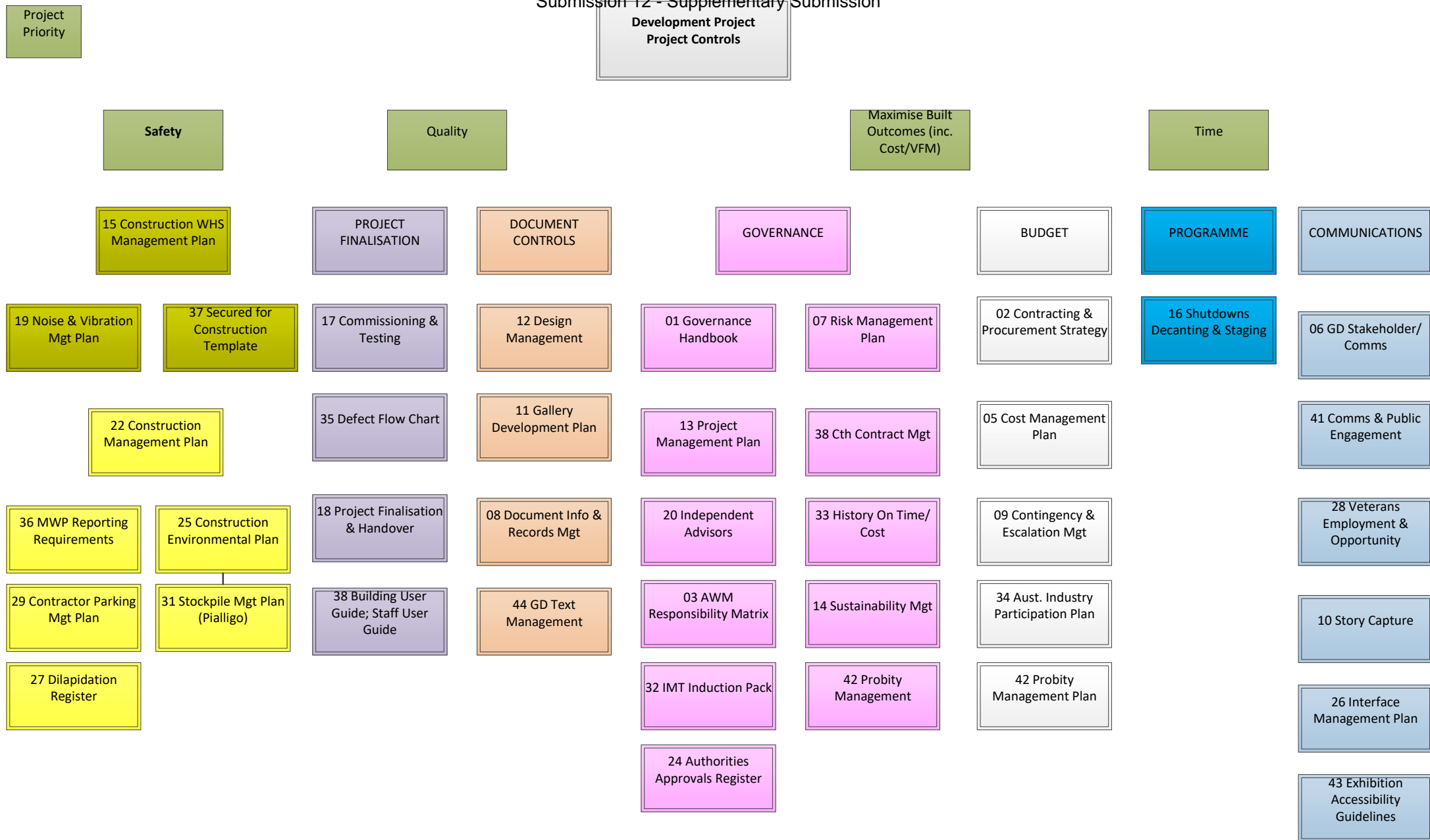
The second key lesson here is that development and implementation of a successful whole of project approach required significant construction industry specific expertise and experience. This experience had to be engaged across several key disciplines (refer IQ-24-000019 Contract Management Expertise) as the Memorial specifically, and public service generally, lacked the required knowledge and skills. Note that in several of the key disciplines the Memorial had Australian Public Service (APS) resources with the relevant skills and employed those where possible. The Memorial has also taken the opportunity to conduct both formal and informal training involving the external experts brought in for some disciplines to transfer skills to APS team members for future internal use.

The third key lesson is that project controls, as outlined in **Attachment A**, must be developed, documented and put into practice to ensure positive outcomes. Without effective project controls, tailored to meet the specific challenges of a project, in place success is unlikely.

The Memorial notes that its success in this regard has recently been recognised both by Government, through the Department of Finance's 2024 Gold Award for Encouraging Environmental Sustainability through Procurement, and industry through the 2024 Asia-Pacific Project Controls Expo 'Transformation Project of the Year' awards.

The Memorial has also been open with sharing the tools and expertise it has developed through the Project with other Government departments and agencies. In addition to presentations at conferences, members of the Project team have provided dedicated project controls briefings and site tours to areas such as the Department of Finance Sovereign Capability & Supply Chains Division team, Department of Foreign Affairs and Trade Overseas Property Group and Australian Defence Force Academy engineering cadet classes.

Inquiry into the contract management frameworks operated by Commonwealth entities
 Submission 12 - Supplementary Submission



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Safety Meetings

- Safety Working Group
- IMT Weekly
- WHS Committee
- HC PCGs

Safety Processes

- Site Walks
- Checklist(s)
- Safety Notices
- Site Diaries
- Audits

Quality Meetings

- IMT Weekly
- HC PCGs
- PSC

Quality Processes

- Site Walks
- ITPs
- Consultant sign offs
- Defects/HOBO
- Commissioning process/ records
- Certification
- Site Diaries
- Audits
- Performance reviews/ reports for HC/ consultants

VFM Meetings

- IMT Weekly
- HC PCGs
- PSC
- Cost Control

VFM Processes

- QS reviews for varies, major claims
- QS design cost plans
- IMT reviews
- Consultant sign offs
- Audits
- CPR aligned procurement
- Contracted deliverables
- VFM form for all varies, contingency allocation
- Scope/Budget tied via cost control tools

Time Meetings

- IMT Weekly
- HC PCGs
- PSC

Time Processes

- IMT reviews of HC program
- External consultant programme reviews
- Consultant sign offs
- Audits
- Contracted milestone dates/ deliverables
- Monthly critical path reviews/mark ups