



**Australian Council of TESOL Associations**

**Joint Committee of Public Accounts and Audit**

***Inquiry into the Contract Management Frameworks Operated by Commonwealth Entities***

**Public Hearing: Wednesday 4 December 2024, 10:30 – 11am**

**Response to Committee Questions re ACTA Submission No. 14**

from

**Helen Moore, ACTA Vice-President**

#### **THE COMMITTEE'S QUESTIONS**

1. Your submission states that narrow targets and KPIs, including those that rest on assessing English language attainment, 'incentivise gaming the system'.
  - a. Please provide more context on how this may occur.
  - b. To avoid this, what factors should Commonwealth entities consider when setting KPIs for contracts to deliver programs? What additional guidance is required?
2. Your submission states that 'in evaluating the AMEP's performance, a distinction should be made between assessing the performance of the AMEP overall as a Commonwealth-funded program and that of individual providers.'
  - a. Please expand further on this statement. In particular, how would performance standards for the AMEP overall differ to performance standards for individual providers?
3. Recommendation 4 of your submission calls for the inquiry to examine 'how contracts can balance the need for consistency in the management of a given program vis à vis the impact of legitimate policy changes, and arbitrary or undue political interference, on governance, record-keeping and performance measures.'
  - a. Please explain further what is meant by this recommendation.
4. Recommendation 5 of your submission suggests that the inquiry should consider the question of 'what should be done when it becomes clear that all or part of a contract is problematic, dysfunctional or damaging to the program it governs.'
  - a. How can this be determined, and what sign of this occurring should entities be aware of?
5. Your submission refers to aspects of the Auditor-General report, including its analysis and recommendations, as being 'self-referential'. Please expand further on this concept.

1. **Your submission states that narrow targets and KPIs, including those that rest on assessing English language attainment, ‘incentivise gaming the system’.**
  - a. **Please provide more context on how this may occur.**
  - b. **To avoid this, what factors should Commonwealth entities consider when setting KPIs for contracts to deliver programs? What additional guidance is required?**

### 1a. Context

Footnote 32 in ACTA Submission 14 (from ACTA’s anonymous 2019 survey) details how English assessments based on **right/wrong answers and numerous inappropriate and irrelevant assessment indicators** perversely incentivise teachers to fabricate evidence to meet audit requirements (repeated here, for your convenience):

*Evidence gathering for the oral communication learning area (speaking: .07) is particularly painstaking and problematic. Teachers are required to record and then transcribe their conversations with each learner, so that parts of these conversations can be used as evidence for a range of performance features. As an example, at 3.07 level (for students studying in CSWE 3), there are 14 performance features requiring specific evidence, that is, words, phrases and sentences containing a variety of linguistic features from the conversation, including notes on nonverbal feedback. Such evidence gathering is impossible with a classroom of 15-20 students. So teachers have reported that they resort to writing up whole or parts of conversations that actually didn't take place, just to be able to provide evidence. This 'evidence' is a fiction. Also, manufacturing of evidence often happens because, having done the hard work of transcribing, the teacher may discover that the learner has not in fact met 80% of the performance features, perhaps because they didn't use any idioms in their conversation, so they cannot meet that indicator. So the teacher cannot use any of that transcription for reporting unless they invent something. Because there is no time to collect and transcribe more evidence, the teacher may decide to invent evidence, even if it is just for one or two performance indicators. So the teacher writes that the learner said, for example, 'I was flat out last weekend', even if he/she didn't say that, just to tick the box for 'uses some common idioms'.<sup>1</sup>*

Further examples are:

- *Because of a need to gather evidence to meet the indicators and performance features, it is essential to have contrived assessment practices. It is essential that when doing an assessment you want to claim indicators for, that everyone pass and everyone be coached thru the answers. If one didn't do this, you would never have enough evidence.*
- *We answer all together to save time and ensure students meet the indicators.*
- *Individual assessments in particular usually have nothing to do with what you are teaching and are a complete disruption to the students' learning. They do not prove anything as they are "supported" in the assessment and often helped to "fill in every gap"!*
- *It is counterproductive because too much time is taken up with trying to do assessment tasks for the sake of ticking a box for KPIs. Although assessment tasks can be useful in delivering a topic, too much is left out of really teaching what is required to be able to say with confidence that a student has progressed from one indicator to the next.*

**More broadly, the context for gaming KPIs is as follows.**

1. The AMEP is an educational program delivered by professional teachers. Like other professionals, AMEP teachers are likely to disengage from compliance that they see as

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<sup>1</sup> See point 2 and footnote 2 below.

unreasonable, unfair and/or diverting them from their core task of addressing their students' learning needs.

2. Curriculum accrediting authorities mandate that answers to assessment questions in the AMEP common curriculum must be marked right/wrong against pre-specified correct responses.<sup>2</sup> This is unsuitable and unfair in assessing language learning and can lead to teachers assisting students to produce what is pre-specified as correct.
3. The dominance of assessment in the AMEP, which is driven by KPIs and occurs almost non-stop. Teachers resort to “teaching to the test” because they have insufficient time to consolidate student learning through practice and revision activities.
4. KPIs not only measure performance but also incorporate *judgements* about performance. In the AMEP, they measure student performance in relation to achievements required within a given timeframe. Not achieving a KPI entails adverse judgements on students as failing and/or teachers as under-performing, and “triggers remedies” against the provider.<sup>3</sup> This is unjustified because (i) the required English gains are not evidence-based (and in the AMEP never have been), and (ii) many different factors that should *not* attract adverse judgements on students or teachers can affect a learner's achievement of an indicator.<sup>4</sup> Teachers take pride in assessing their students' proficiency objectively and reporting English gains accurately but they are alienated from requirements that unfairly affect their students or themselves.
5. KPIs measure isolated specifics. They cannot encompass the essentials of an effective educational program. Teachers, managers and their employers know that specifics can always be manipulated and, for different reasons, some may do this.
6. Most AMEP teachers are employed on short-term contracts or as casual workers. Fear of losing their jobs makes them vulnerable to employer pressure to achieve KPIs. For a description of how this happens, see Submission 1 (Lester) to this Inquiry.
7. Beyond English assessments, gaming is incited when file-auditing is seen as ineffective and wasting time and taxpayers' money. For examples, see Exhibit 6 from ACTA Submission 14 (re-attached here as Attachment A for your convenience). What such “nit-picking” achieves is unclear.
8. The more extensive, heavy-handed and focussed on minutiae auditing becomes, the more it incites alienation, resistance and gaming. ***For this reason, ACTA is absolutely opposed to the Auditor-General's Recommendation 6.***<sup>5</sup> See answer to question 5.

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<sup>2</sup> The AMEP curriculum is accredited by the Victorian Registration and Qualifications Authority (VRQA). Accreditation requirements are competency-focussed and generic for all VET credentials from trades to academic courses. This problem will not be solved without reforming curriculum accreditation requirements.

<sup>3</sup> Department of Home Affairs. 2024. Request for Tender (RTF) for the Provision of the Adult Migrant English Program (AMEP) Home Affairs/2165/RTF Attachment A: Statement of Requirement Para.4.20.4, p. 59.

<sup>4</sup> These factors may relate to the learner (age, educational background, illness, effects of torture and trauma, carer responsibilities, etc) or other factors that impair teaching, including the features of the AMEP contract itself such as those documented in ACTA Submission 14, sections 4.2 and 4.4. Also see 1a above for examples of required “gains” that are not, in fact, gains.

<sup>5</sup> Viz.:

*The Department of Home Affairs establish a comprehensive suite of performance indicators and targets in the service provider contracts for the Adult Migrant English Program, require that service providers report performance against the indicators and targets and take appropriate contract management action where performance is below requirements.*

See ACTA Submission 14, pp. 51-53; also Submissions 7 (p. 7), 9 (p. 5) and 10 (last page).

## 1b. Factors to be considered in setting KPIs.

1. Generalisations re “Commonwealth entities” and “KPIs for contracts to deliver programs” may not apply to the AMEP (see also answer to Question 5). Rather, in setting KPIs for contracts to deliver programs, entities should apply the questions posed by Deputy Auditor-General Mellor in the 13<sup>th</sup> November Inquiry hearing: *“Do the KPIs actually take you to the policy intent of the program?... is our procurement approach and the way we're administering the contracts and driving performance in the contracts actually leading to the policy outcome?”*<sup>6</sup>

In the case of the 2017-2020 contract, the KPIs were not aligned with the AMEP’s goals of delivering quality English Language tuition to adult migrants. Rather, they sought to achieve the Department of Education and Training’s internally focussed goal of aligning the procurement and management of the AMEP with its labour market programs: see Auditor-General’s report section 2.8<sup>7</sup> and ACTA Submission 14, section 4.1.

2. In determining a procurement approach and how drive performance to achieve program goals, entities must take account of the professional understandings which underpin effective programs.

In setting the AMEP’s 2017-2020 KPIs, crucial issues regarding curriculum and assessment for English language learners were disregarded, which made the KPIs impossible to implement. See ACTA Submission 14, sections 4.2 and 4.4; also Submissions 1, 7, 8, 9 and 10.

3. “Guidance” will not prevent gaming KPIs, because it will not address its causes.
4. In regard to the AMEP (and other educational programs), KPIs that can be gamed are unnecessary when professionally developed Standards are used to provide a detailed but holistic evaluation of provider performance. Teachers willingly embrace professional Standards that promote good practice and hold their employers to account. The 2009 NEAS Standards are an example of a Standards-based approach that addressed the AMEP’s policy intent, were accepted and respected by teachers, and were commended by the AMEP review that preceded the 2017 contract: see ACTA Submission 14, section 4.5, Supplementary Submission 014.2 (*Response to Questions asked by Mr Mitchel*) and Submission 5 to the Inquiry (Corbel) re professional trust.
5. In regard to the AMEP, evidence-based benchmarks for English gains that are not susceptible to contamination by incentives to falsify the evidence should be developed to monitor English language learning and quality provision in the AMEP. See answers to questions asked by Mr Mitchell (ACTA Submission Supplement 014.2) and Recommendations 17 and 18 in ACTA Submission 14.
6. KPIs may have a place in the AMEP in setting minimal requirements for timely reporting but only if reporting requirements are proportional<sup>8</sup> and supported by an efficient and effective data management system.

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<sup>6</sup> Proof Committee Hansard, Joint Committee of Public Accounts and Audit Inquiry into the contract management frameworks operated by Commonwealth entities (Public) Wednesday, 13 November 2024, p. 27.

<sup>7</sup> Section 2.8 (p. 24):

*The contracts resulted from a combined procurement process for the AMEP and Skills for Education and Employment Program (SEE) programs.*

A footnote elaborates:

*The quality assurance provider for AMEP is also the quality assurance provider for the SEE program. Of the 13 general service providers awarded a contract for AMEP, 12 were also awarded a contract for the SEE program. In April 2023, one of the AMEP and SEE providers ceased delivery of SEE services. As at January 2024, 11 of the 13 current AMEP general service providers, are also SEE general service providers.*

<sup>8</sup> Key Finding 25 of the 2015 ACIL Allen Review of the AMEP was that:

**2. Your submission states that ‘in evaluating the AMEP’s performance, a distinction should be made between assessing the performance of the AMEP overall as a Commonwealth-funded program and that of individual providers.’**

**a. Please expand further on this statement. In particular, how would performance standards for the AMEP overall differ to performance standards for individual providers?**

***What would be reported?***

Evaluating the AMEP’s performance overall would include reporting on the results of Standards-based evaluations of individual providers (see ACTA Recommendation 18) but would go further. For example, it would map overall Program outcomes and expenditures in relation to evidence-based benchmarks (see ACTA Recommendation 17). It would include external sources of feedback (see answer to Question 4) and evaluations of the Department’s performance in managing the AMEP. Most importantly, mapping outcomes and performance consistently from one contract to the next would allow evaluations of the AMEP’s performance over the long term, which is currently not possible. Please see Table 1 below for further details.

***Why evaluate the AMEP overall?***

The reasons for evaluating the AMEP’s overall include the following.

1. Although the AMEP has been in existence since 1948, its overall performance *as a Commonwealth program* has never been consistently evaluated.<sup>9</sup> We have no agreed evidence-based benchmarks for determining whether (or not) the AMEP is performing well. See ACTA Submission 14, Recommendation 17 for suggested criteria in developing benchmarks.
2. Consequently, it is impossible to evaluate the effectiveness of contracts from one contract period to the next.
3. KPI indicators applied to individual provider performance do not allow for external factors such as changes in the labour market and the composition of the migrant intake. These factors crucially affect key AMEP outcomes, notably: participation, retention and the rate and extent of English attainment. An evaluation of AMEP overall could (and should) take account of these factors and their impact on outcomes. We would then have a context for evaluating individual provider performances and the AMEP from one contract to the next.
4. While the AMEP is often commended (e.g. at anniversaries of its founding; in introductions to reports), it can also attract criticism. Such criticism is likely to affect policy.<sup>10</sup> Policy for the AMEP

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*AMEP service providers find the formal AMEP reporting requirements onerous and question the utility of providing six reports to the Department each year. There may be scope to reduce the administrative burden for AMEP service providers and the Department by reviewing the number and nature of reports providers are required to submit each year.*

<sup>9</sup> Reviews of the AMEP have been undertaken periodically but their focus has not been consistent.

For an outline of the AMEP’s history, including reviews, see Social Compass. August 2019. Evaluation of the Adult Migrant English Program New Business Model | for the Department of Home Affairs, section 1.2, p. 1. [Evaluation of the Adult Migrant English Program New Business Model](#).

<sup>10</sup> For recent examples of misinformed criticism, see:

Australian Government, 2019. *Investing in Refugees, Investing in Australia: the findings of a review into Integration, Employment and Settlement Outcomes for Refugees and Humanitarian Entrants in Australia*, prepared by Peter Shergold, Kerrin Benson and Margaret Piper.

Scanlon Foundation, *Australia’s English Problem: How to renew our once celebrated AMEP* (2019).

For policy responses to misguided criticism, see:

[Interview with Tom Connell, AM Agenda, Sky News](#) and [Interview with Virginia Trioli, Mornings, ABC Radio](#)

should be protected from criticisms that are misinformed and/or unverifiable. Rigorous and consistent evaluations of the Program as a whole and over time are essential in evaluating criticism of the AMEP and responding to it appropriately.

5. Assessing the AMEP's performance overall is the only way to answer **two questions asked by Deputy Auditor-General Mellor** the 13<sup>th</sup> November hearing:

- *Are you measuring whether or not the procurement mechanism is delivering the AMEP's policy intent?*
- *Is the procurement approach, contract administration and how we're driving performance in the contracts actually leading to the policy outcome?*

There is **no measure or evidence** (at least in the public domain) to support the current method of contracting for the AMEP, including the use of KPIs in general or specific KPIs used in different contracts.<sup>11</sup>

See also ACTA Supplementary Submission 014.1 (Statement tabled in the 4 December hearing), section 3.

For extensive evidence regarding the waste, lack of accountability and adverse impact on efficiency and effectiveness inherent in the current method of contracting, see ACTA Submission 14 section 5 and Submissions 1, 5, 7, 8, 9 and 10 to this Inquiry.

Assessing the AMEP's performance overall would be along the following lines: please see next page.

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[AMEP Reform Discussion Paper 11 May](#)

Less recently, see: <https://www.abc.net.au/news/2018-03-07/english-language-tests-need-to-be-tougher-government-warns/95>

<sup>11</sup> The only evidence that exists does not support this model: the 2001 Auditor's report found no significant cost savings with the switch to competitive contracting. The Auditor-General (2001). *Management of the Adult Migrant English Program Contracts*. Audit Report No.40 2000–2001, Performance Audit. Australian National Audit Office 2001, pp.44-45. These findings are cited in footnote 64 (p. 35) in ACTA Submission 14.

**Table 1: Evaluating the AMEP overall**

Assessing what? (examples)	Data (examples)	Examples of questions answered
<p>1. The whole Program’s <b>performance against agreed criteria</b>, for example as listed in ACTA Recommendation 17 (participation &amp; retention; English language attainment; program quality as measured through all providers’ performance against agreed Standards; student satisfaction; the quality of evidence re all other factors; possibly employment outcomes).<sup>12</sup></p> <p>2. Teacher <b>feedback on their experience</b> in the AMEP (see answer to Question 4).</p> <p>3. The Program’s performance (as per 1) <b>in relation to expenditure</b>.</p> <p>4. Departmental costs entailed in <b>preparing the AMEP RTO and assessing provider tenders</b>.</p> <p>5. Provider costs in <b>preparing tenders and in transitioning in and/or out</b>.</p> <p>6. <b>Efficiency &amp; effectiveness of departmental administration of the AMEP</b></p>	<ul style="list-style-type: none"> <li>• Performance data from all providers’ as per column 1.</li> <li>• Results from anonymous teacher surveys.</li> <li>• Data on teacher qualifications, resignations &amp; retirements.</li> <li>• Reports from independent expert advisory body (see answer to Questions 4)</li> <li>• Expenditure re key items in relation to performance data.</li> <li>• Performance data from one contract period to the next.</li> <li>• <b>Expenditure from one contract to the next</b> in relation to performance outcomes.</li> <li>• <b>Concurrent external factors</b> and data relevant to outcomes, e.g. un-/ employment/ labour market, immigration intakes, composition of intakes re key factors, e.g. age, previous education, experience of torture/trauma.</li> <li>• <b>IT efficiency &amp; effectiveness</b></li> <li>• Efficiency, proportionality &amp; effectiveness of various <b>Departmental requirements</b>.</li> <li>• Departmental procedures for gaining <b>independent advice and feedback</b> from providers and teachers, and responses to same.</li> </ul>	<p>1. How does an <b>individual provider’s performance relate to the overall AMEP performance?</b></p> <p>2. How has the AMEP performed <b>from one contract to the next?</b> Is the AMEP improving over time (or not)?</p> <p>3. Does individual provider <b>high performance against Standards correlate with higher / lower expenditure</b> (overall and re specific items).</p> <p>4. What <b>costs are attached to competitive contracting?</b></p> <p>5. If ACTA’s Recommendation 18 were adopted, <b>what cost savings occur?</b></p> <p>6. <b>What is the staffing profile of the AMEP</b> (e.g. morale, qualification levels, resignations &amp; retirements).</p> <p><b>Sub-questions:</b></p> <p>7. Do different <b>contract specifications correlate with different performance outcomes?</b></p> <p>8. What is the effect of changing providers on student <b>participation/retention?</b></p>

<sup>12</sup> Assessing post-AMEP outcomes is problematic because it is difficult to obtain consistent data on students after they exit the Program. This assessment also needs to take account of whether exiting students are on pathways or have achieved outcomes commensurate with their skills & qualifications.

Studies have been done in the past, notably:

Yates, L., Terraschke, A., Zielinski, B., Pryor, E., Wang, J., Major, G., Radhakrishnan, M., Middleton, H., Chisari, M., & Williams Tetteh, V. (2015). *Adult Migrant English Program (AMEP) Longitudinal study 2011 – 2014: final report*. Macquarie University. [Adult Migrant English Program \(AMEP\) Longitudinal study 2011 – 2014: final report - Macquarie University](#)  
[Research: Benefits of study with AMEP](#)

**3. Recommendation 4 of your submission calls for the inquiry to examine ‘how contracts can balance the need for consistency in the management of a given program vis à vis the impact of legitimate policy changes, and arbitrary or undue political interference, on governance, record-keeping and performance measures.’**

**a. Please explain further what is meant by this recommendation.**

This recommendation responds to the Auditor General’s criticisms regarding variations to the AMEP contract and the delays in publishing the Request for Tender.

In ACTA’s view, the Auditor-General has unfairly ignored the significance and impact of having seven different Ministers responsible for the AMEP with various priorities between 2015 (when the draft RTF for the 2017-20 contract was circulated for consultation) and 2024, including the portfolio move from the Education to Immigration in mid-2019.<sup>13</sup> In this period, policies – and proposed policies – for the AMEP changed, sometimes dramatically and not only because of the change of government.

ACTA Recommendation 4 also seeks to draw the Inquiry’s attention to the fact that protocol has prevented Home Affairs officials from providing the Auditor-General and the Inquiry with information on the contribution of these changes to matters criticised in the report. They cannot provide information that could be interpreted as criticism of their Ministers or DET.<sup>14</sup> Nor can they advise the Inquiry on how public servants and policies might address these issues.

The Recommendation reflects ACTA’s hope that the effect of these changes will be fully acknowledged in the Inquiry’s findings and that Home Affairs’ efforts to respond will be duly credited.

Recommendation 4 also respectfully requests the Committee to utilise their particular experiences and expertise as politicians and Ministers in providing insights into and advice on managing these kinds of pressures on contract management.

In regard to how balance might be achieved, see the answers to Question 2 above regarding the need for consistent, evidence-based evaluations of the AMEP overall from one contract to the next.

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<sup>13</sup> Responsible Ministers:

**In Education** 2016-2019: Birmingham and Andrews. **In Immigration** 2019-2024: Coleman, Tudge, Hawke, Giles and Burke.

AMEP portfolio moves were as follows:

2013: AMEP transferred from the Department of Immigration and Border Protection to the Department of Industry.

2014: AMEP transferred to the Department of Education and Training.

2019: AMEP transferred to Department of Home Affairs.

Social Compass. August 2019. Evaluation of the Adult Migrant English Program New Business Model | for the Department of Home Affairs, p. 1. [Evaluation of the Adult Migrant English Program New Business Model](#)

<sup>14</sup> We wonder, for example, if this difficulty was the reason why the Auditor had to use its section 33 powers to obtain records from “another department”, which we assume must be the then-Department of Education & Training. Inquiry Hansard 13 November, pp. 28-29.



**4. Recommendation 5 of your submission suggests that the inquiry should consider the question of ‘what should be done when it becomes clear that all or part of a contract is problematic, dysfunctional or damaging to the program it governs.’**

**a. How can this be determined, and what sign of this occurring should entities be aware of?**

**Determining that contract is problematic, dysfunctional or damaging**

The signs that a contract is problematic include the following.

- (i) Evidence of difficulties in implementing the contract by *those delivering it* – in the AMEP case, teachers and AMEP managers;<sup>15</sup> most acutely, mass resignations and retirements by these personnel.<sup>16</sup>
- (ii) Withdrawals from the contracted program and/or avoidance of compliance requirements by *its intended beneficiaries* – in the AMEP case, students.<sup>17</sup>
- (iii) Problems, repeated errors and disproportionate workloads in using *technical infrastructure* to report program outcomes.<sup>18</sup>
- (iv) Multiple reports from *external sources* that the contracted program is not functioning well.<sup>19</sup>

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<sup>15</sup> A distinction must be made between AMEP managers and teachers and their employers. See answer to Question 1, point 6 (p. 3).

<sup>16</sup> See ACTA Submission 14, section 4.4.6; Submissions to the Inquiry 1 (p. 2), Submission 9 (p. 3)

Re teacher stress:

*I have been an Educational Manager for nearly 20 years, and I have never seen a work group so stressed, exhausted and despairing to the extent that some would sit sobbing at their desks and others would be found crying loudly in the stairwells.* Submission 7, p. 3.

<sup>17</sup> See ACTA Submission 14, footnote 44; Submission 7 (p. 3), Submission 8 (p. 2), Submission 9 (p.3), Submission 10 (p. 2, 3)

<sup>18</sup> Initially, because the IT system had not been configured to match the new contract, it required manual entry onto Excel sheets of the data for approximately 23,708 individual students. Answer to Senate Estimates Question 19/306.

ACTA received the following report from an AMEP provider:

*The supplementary spreadsheets relate to the changes created by the new business model, whereby they are seeking to cut costs and save money on increments (such as the absence adjustments which counts the individual student's absence minutes).*

*Most of the spread sheets are costly for both the Department and us to administer for no great benefit.*

*The instructions for doing the corrections are on their templates, but if you follow the instructions they are inconsistent and only work in some cases. In other cases, the corrections have to be done differently. Every provider would be facing the same issues.*

*There are three separate tasks that providers must perform. The Department sends back error reports which providers then have to fix. All this takes incredible time and cost – so it is cost shifting to providers but it also takes the Department's time because the system doesn't work very well and they have to monitor it and provide feedback to providers. They have to administer this monster but our customer service officers and our data lead often have to re-enter things several times as it doesn't work properly. Then they ask questions about data errors that are due to their system not working, which we then have to waste further time on providing answers to, often for a second time.*

See also Submission 7, pp. 1-2; Submission 8, Submission 9 (pp. 2-5), Submission 10.

<sup>19</sup> From mid-2016 onwards, ACTA submissions, reports and letters to Ministers included the following (in chronological order):

2016 August <https://tesol.org.au/wp-content/uploads/2019/01/ACTA-submission-on-draft-RFT-for-the-AMEP-final.pdf>

2017 May ACTA Submission 108 to the Joint Standing Committee on Migration *Inquiry Into Migrant Settlement Outcomes*.

2018 May [Problems-in-the-AMEP-SEE-Program-25-May-2018-an-ACTA-Background-Paper.pdf](#); also sent with covering letter to Senator Birmingham.

2019 Jan. [598 ACTA submission to the VET Review - January 2019.pdf](#)

2019 March ACTA Forums to Discuss Issues regarding the Evaluation of the AMEP New Business Model at [Advocacy – Australian Council of TESOL Associations](#)

With the 2017-2020 AMEP contract, these signs were clear from the outset<sup>20</sup> and subsequently intensified.

### ***Why were these signs disregarded?***

Acknowledging these signs would have required DET to recognise that the contract they designed did not align with the AMEP's goal of providing quality English tuition to adult migrants. Their policy priority was different. It was directed to the internal priority of incorporating the AMEP within their suite of labour market programs.<sup>21</sup> See section 1b, point 1 above and ACTA Submission 14, section 4.1.

When Home Affairs resumed responsibility for the AMEP, they attempted to align the Program with its policy goals. The contractual variations and other issues noted in the Auditor's report originated from the newly established and initially understaffed AMEP team addressing the effects of a misaligned contract. See also answer to Question 3.

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2019 April [623 ACTA submission to the AMEP Evaluation final.pdf](#)

2019 Dec [ACTA-Response-to-Home-Affairs-Improving-the-AMEP-December-2019.pdf](#)

2020 May Senate Select Committee on COVID 19 [Sub379 Australian-Council-of-TESOL-Associations.pdf](#)

2020 June [ACTA-Letter-to-Acting-Immigration-Minister-Tudge.pdf](#)

2020 July [ACTA-Briefing-Paper-for-Meeting-with-Alison-Larkins-23-07-2020.pdf](#)

2020 Nov. English for Adult Migrants – A Forum with Alison Larkins, Commonwealth Co-Ordinator General for Migrant Services at <https://tesol.org.au/advocacy/#advocacy>

2021 March “Listening to AMEP Teachers” A Forum with the dept of Home Affairs Team

2021 March ACTA Submission No. 85 to the Parliament Inquiry into the Importance of Adult Literacy [Submissions – Parliament of Australia](#)

[2021-July-ACTA-Answers-to-Questions-in-the-AMEP-Reform-Discussion-Paper-Submission-Form.pdf](#)

2021 July [Towards-a-Payment-Model-to-Incentivise-Authentic-Outcomes-from-the-AMEP.pdf](#)

2021 Dec. [2021-December-Letter-re-proposed-AMEP-payment-model.pdf](#)

2022 June [2022-June-Action-Plan-for-the-Adult-Migrant-English-Program.pdf](#)

2023 Jan [Proposal-for-an-AMEP-Advisory-Body-2023-Jan.pdf](#)

2023 Jan [2023-January-Submission-Key-Issues-in-Determining-Future-Settings-for-the-AMEP.pdf](#)

2023 Feb [ACTA-Feedback-on-the-ACER-Review-of-the-ACSF-and-DLSF-and-relevant-assessment-tools.pdf](#)

#### **On file (not in the public domain):**

12 March 2018 Letter to Ms Peta Martyn, Australian National Audit Office.

19 February 2019 Agenda & Notes from meeting with Ms Lisa Scott, Office of the Hon. Alan Tudge.

13 February 2019: letters to Dan Tehan and Michaelia Cash re the ACTA submission to the VET Review.

5 December 2019 Letter to Immigration Minister Coleman.

#### **Feedback from other sources included:**

MYAN 2020 *How can the AMEP better support English language learning for young people? Discussion Paper?* [2020-How-can-the-AMEP-better-support-English-language-learning-for-young-people.pdf](#)

Settlement Council of Australia. Submission to the Inquiry into the Importance of Adult Literacy. 2021.

**Recommendation 1:** *Review the assessment framework used in the AMEP with a view to reducing the proportion of time devoted to assessment to meet accountability requirements, allowing a greater focus on teaching, and more appropriate attention to the English language learning needs of AMEP students. (p. 3)*

<https://scoa.org.au/wp-content/uploads/2021/03/SCoA-Submission-Adult-Literacy-Inquiry.pdf>

See also Settlement Council of Australia 2020 [Maximising AMEP and English Language Learning Consultation Report - Settlement Council of Australia \(scoa.org.au\)](#)

*The overemphasis on assessment has inhibited learning, making it more academic, and less focused on effective settlement. Much of the class time is spent preparing for and conducting assessments, at the expense of actually teaching English. AMEP outcomes could be better measured using a broader set of social and economic participation indicators, including the social benefits of belonging to a language learning community - such as building networks and social capital. (p. 3)*

<sup>20</sup> See ACTA submission 14, Exhibit 2: *Report to ACTA on the 2017 Managers Meeting*.

<sup>21</sup> As DEWR's subsequent reviews and changes to the SEE and Foundation Skills Programs indicate, DET's labour market programs were also problematic.

### What can be learned from this experience?

1. When substantive problems emerge in implementing a contract, the following questions should be asked:
  - a. what is the fundamental policy intent of the contracted program?
  - b. is the contract serving this intent?
  - c. what problems are emerging in implementing the contract and to what extent are they undermining the intended program outcomes?
2. Detecting that a contract may be problematic, dysfunctional or damaging to the program it governs will generally require feedback loops that are **independent of and external to the hierarchy governing the program.**
3. In the AMEP, future feedback loops should include:
  - a. annual anonymous surveys of provider staff about their morale and satisfaction with the Program
  - b. requirements for providers to report on teacher morale, resignations and retirements, including reasons given <sup>22</sup>
  - c. consistent, evidence-based performance benchmarks, especially re student withdrawals – see answer to Question 2
  - d. an external, independent, expert AMEP Advisory Panel – see ACTA submission 14, Exhibit 7
  - e. annual reports on the AMEP’s overall performance (see answer to Question 2), including data re staff morale, teacher resignations and retirements, and reports from an independent expert advisory body.
  - f. easy access to (e) in the public domain.

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<sup>22</sup> To ACTA’s knowledge, these data are not collected by the Department on the grounds that it is a matter for provider employers. This absolves the Department from accountability for a key constituent in program quality.

## 5. Your submission refers to aspects of the Auditor-General’s report, including its analysis and recommendations, as being ‘self-referential’. Please expand further on this concept.

Aspects of the Auditor-General’s report are described in the ACTA submission as “self-referential” for two main reasons.

### 5.1 Failure to define evaluative terms and to apply them to the AMEP’s policy goals

The report describes its objective and evaluative criteria as follows:

*1.11 The objective of the audit was to assess whether the design and administration of AMEP is effective.*

*1.12 To form a conclusion against the objective, the following high-level criteria were applied:*

- Are appropriate contractual arrangements in place?*
- Are the service provider contracts appropriately managed?*
- Are contracted quality assurance services being delivered to an appropriate standard?*

The report also finds that:

*2.22 Home Affairs’ records of each of the decisions to vary the contracts do not clearly record that value for money was considered and therefore do not demonstrate that each of the variations has been appropriate.*

Interpretation of key evaluative terms – *effective*, *appropriate* and *value for money* – is assumed to be self-evident.

Further, these criteria are applied generically to the contract’s operation. The report gives no consideration to the relationship between contract itself and the AMEP’s “policy intent” (to use Deputy Auditor-General Mellor’s terminology), namely delivery of quality English language tuition to adult migrants.

The report’s failures should not be excused on the grounds that it is technical and/or for expert consumption only. Describing the application of these criteria in the context of the AMEP’s goals would have permitted consideration of the reasons for many of the contract variations.

See ACTA Submission 14, sections 4.4.7 (pp. 26-27) and 4.5 (pp. 27-32) for interpretations of *appropriateness*, *effectiveness* and *value for money* as they applied to the AMEP’s delivery of English tuition to adult migrants under the 2017-2020 contract. In context, this interpretation shows that the KPIs required inappropriate assessments of English language learners, entailed impossible workloads, were not supported by the IT system and created unacceptable stress on teachers and managers. Applying *value for money* to the core decision to abandon the AMEP’s common curriculum shows that it entailed replacing an effective IT system with one that had to be developed (and never was), retraining teachers, developing a new assessment task bank, and discontinuing previous QA arrangements (both procedures and the provider, which had been specifically commended in the preceding ACIL Allen AMEP review). Not only was the contract monumentally wasteful and inefficient, it undermined the quality of previous AMEP provision.<sup>23</sup>

In focussing on contract management technicalities, the Auditor-General’s report identifies the symptoms of the crisis in the AMEP but fails to diagnose their cause. It is self-referential in seeing these technicalities as ends in themselves and failing to consider how their operation undermined the AMEP’s substantive goals. Recommendation 6 is self-referential in proposing that intensifying

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<sup>23</sup> For a full description of what the 2017-2020 contract wastefully discarded, see ACIL Allen Review of the preceding contract, section 6.2 in Chapter 6 (“Efficiency and Performance Management”) of the at [amep-evaluation-report.pdf](#)

contractual technicalities (through more detailed KPIs and indicators) will remedy the problems identified. In failing to consider the substantive elements that constitute effective English language tuition in the AMEP, this Recommendation will reinstate key elements that caused these problems. See our answer to Question 1 above, ACTA Submission 14, Appendix B, pp. 51-53 and Supplementary Submission 014.02: *Response to Questions Asked by Mr Mitchell*.<sup>24</sup> This Recommendation also directly contradicts Recommendation 3 in the ACIL Allen Review of the previous AMEP contract.<sup>25</sup>

## 5.2 Omission of evidence that the AMEP contract was failing

Two constitutive elements of a government program are:

- (i) those who deliver the program
- (ii) those who are served by the program.

Large-scale withdrawals of both teachers and students from the AMEP under the 2017-2020 contract are *prima facie* evidence that the Program was not meeting its goals. The Auditor-General's report was "self-referential" in not investigating or admitting this key evidence.

The report proposes the following "key message" from the AMEP audit:

***Contract variations should be undertaken through the process set out in the contract. The reasons for any variation should be clearly documented. Variations should not be used to address poor performance or serious underlying problems. The effect on original timeframes, deliverables and value for money should be assessed to form a judgment whether any proposed variations represent value for money having regard to the procurement process that resulted in the contract being entered into.*** (para. 29, pp. 15-16; my emphasis)

This statement is self-referential in assuming that a contract is sound in the first place, that the initial "procurement process" has ensured "value for money", and in excluding consideration of how "poor performance" and "serious underlying problems" might be addressed. It is open to the absurd interpretation that implementing the AMEP contract was more important than fixing the damage it was doing.

In short, the Auditor-General's report is self-referential because its technical contracting concepts excluded the real-world impact on the people served by the AMEP and the teachers committed to serving them.

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<sup>24</sup> See also the conclusion to Submission 9:

*... narrowly focused audit criteria ruined the current program, necessitating mid-term shifts in direction in order to get the actual program back on track. To ignore this and instead just focus on how the program did not measure or meet its original audit criteria just states the obvious and paints the program in a poor light. Yes, it was poor, but not because it never measured its original KPIs and measurables. It was poor because of the original KPIs and measurables. These mistakes should not be repeated.*

<sup>25</sup> Recommendation 3:

*There may be scope to reduce the administrative burden for the AMEP service providers and the Department by reviewing the number and nature of reports that service providers are required to submit each year. It is more common practice for programmes to require reporting four times a year — an annual report, a half yearly report and two quarterly reports. The Australian Government should reduce the administrative burden on the AMEP service providers to the extent possible by rationalising the programme's reporting requirements.*

Also Key Finding 26:

*While AMEP KPIs are extensive, some AMEP service providers consider them too numerous and focused on formal assessment. AMEP service providers also contend that settlement outcomes should be better captured in the KPIs.*

ACIL Allen 22 May 2015. Final report to the Department of Education & Training | AMEP Evaluation, pp. xi, 80. [amep-evaluation-report.pdf](#)

## ATTACHMENT A

### From ACTA Submission 14, Attachment 1 *resubmitted for your convenience*

#### Exhibit 6: Continuing problems with file verifications and other QA matters

##### **Notes from an AMEP Manager 2024**

*These notes were sent to the ACTA Vice-President and are reprinted  
with the sender's permission*

It's only fairly recently under Home Affairs, that responsibility for the assessment of suitable qualifications for delivery of the AMEP was taken from LWA and returned to the Department of Home Affairs.

While the AMEP was with the Department of Education and Training, LWA would, without consultation, tell us when a 1, 2 day or all day, Professional Development session would be delivered. This totally disregarded the fact that we are paid on client attendance and cancelling 2 days of classes came at a significant financial cost to the provider.

This changed with the move to DoHA when they became more sensitive to the circumstances of providers.

However, in our experience at least, LWA file verification audits are still nit-picky. We are picked up on matters that were never documented or distributed as requirements to be included in student files.

For example, where there are more than 20 people (in Pre-Employment Stream) or 25 people (in Social English Stream), we deploy an additional teacher to the class. We were picked up in the last round of file verifications because the two teachers in the class never signed the roll. Further, we were never advised of that both teachers should sign.

In other cases, we might be picked up because a teacher may have signed but not dated one of the pages attached to a student's assessment or they may have omitted to sign a page.

However, part of the reason for the mountain of paperwork that is required to accompany a student's assessment is the result of ASQA requirements. Compliance shouldn't really fall under the auspices of LWA. Complicating this is the fact providers in some states do not have ASQA as their regulating body.

We were also picked up on timetables not having the stream (Pre Employment or Social) written on the them when this is recorded elsewhere.

For SLPET students, they want unreasonable information. For example, when enrolling into the AMEP, a student might say they would like to become an accountant and this is included on their Pathways Guidance document. That might be the case but they also might want to do one of the Hospitality Stream SLPET courses to enable them to get weekend work in a restaurant or major hotel. LWA expects us to have all of this documented. This is unreasonable to expect of teachers. They have better things to do than

to complete paperwork to satisfy LWA audits. It takes away from preparing and delivering, relevant and engaging classes and marking students work.

The current system ties learner progression prior to SLPET solely to curriculum unit assessment outcomes. This discriminates against part time and evening students who will not have achieved the volume of learning to complete a curriculum unit (the units we deliver mostly require 120 nominal hours). Some of these students want to enter a SLPET course on a full-time basis and they have shown through regular attendance and their teacher's judgment that they have progressed sufficiently to undertake a SLPET course.

We have staff who participate in the CSWE validation of assessment task sessions with providers from around the country. LWA had no clue about CSWE but are always talking about ACSF not CSWE. However, in the last meeting in July, 2024, LWA asked whether the focus should be the curriculum or ACSF and it was 50-50 split of opinion. This was peculiar as surely the major requirement is delivery of units from a curriculum, not on ACSF requirements and focussing on the ACSF is not validation of assessment tasks for CSWE units.

In a meeting in February 2024 staff did validations face to face in Melbourne and LWA asked about AMEP on-line and providers were wary of divulging too much information. This was because the LWA AMEP online doesn't cover all of underpinning skills and knowledge in addition to the elements. Consequently, they are of no use to providers regulated by ASQA. The online units we have developed cover all of the elements and all of the underpinning skills and knowledge as required by ASQA.

In a more general sense, LWA have moved away from delivering PD but are expecting providers to deliver/engage in PD through the Communities of Practice and the Validation of Assessment Task meetings. To be fair, I don't believe that this was their remit but it was made so by the Department of Education and Training and this continued under DoHA for a period of time.

Vic TESOL is active in delivering PD to its members and LWA have asked them to deliver PD for AMEP providers on occasion.

Another example of LWA having their head in the sand relates to the LWA assessment task bank. For providers regulated by ASQA, a number of the Assessment Tasks are unusable as they are not ASQA-compliant because they do not cover all of the elements and underpinning skills and knowledge. Consequently ,since ASQA came down heavily on providers we have had to write our own assessment tasks and put them through a rigorous process before they can be released and used as assessment tasks.

It all seems a long way from the PD provided with the CSWE Curricula in the 90's when the PD was real and focused on genre theory, systemic functional linguistics and adult learning theory to complement teacher training courses that focus on approaches to learning for primary and secondary school students.

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