Joint Committee of Public Accounts and Audit

Inquiry into the failed visa privatisation process and the implementation of other public sector IT procurements and projects

Submission by the Australian National Audit Office

Introduction

1.   The effective implementation of information and communications technology (ICT) projects can support the efficient and effective operation of Australian Government entities and the services they deliver. The table in Appendix 1 sets out key information on the ICT projects discussed in the ANAO reports included in the terms of reference for this inquiry.

2.   A variety of frameworks and processes can apply to public sector ICT projects, depending on how they are delivered (see Appendix 2).

Issues observed by the ANAO

3.   The audits identified by the JCPAA for this inquiry include some common themes that the JCPAA may wish to consider:

- use of Gateway reviews and other advice processes;

- planning and risk management;

- CPR compliance and the achievement of value for money; and

- probity.

Gateway reviews and other advice processes

4.   Of the nine audits included in this inquiry, Gateway reviews or Defence Independent Assurance reviews were discussed in six.[1] Examples of issues relating to the Gateway review and other advice processes include:

- Auditor-General Report No. 20 2023–24 Design and Implementation of the Australian Apprenticeships Incentive System set out that Gateway reviews had overall positive findings for the Apprenticeships Data Management System (ADMS) project, reflecting the success of the project delivery.[2]

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[1] See Appendix 1 *Table of ICT projects discussed in the Auditor-General reports listed in the terms of reference for the JCPAA Inquiry into the failed visa privatisation process and the implementation of other public sector IT procurements and projects*.

[2] See paragraphs 2.49–2.52.

- Auditor-General Report No. 12 2023–24 Administration of the Parliamentary Expense Management System identified that the findings of the Gateway reviews of PEMS were inconsistent with Finance's internal reporting on project status and were based on the re-baselined delivery.3 This approach potentially reduced the impact of the Gateway reviews in being able to appropriately escalate issues for action by the Senior Responsible Officer.4

- Auditor-General Report No. 1 2021–22 Defence's Administration of Enabling Services – Enterprise Resource Planning Program: Tranche 1 found that Gateway reviews and an Independent Assurance Review identified planning deficiencies and risks related to schedule.5 The audit noted issues related to other forms of advice, with inconsistencies in Defence's internal risk reporting and its risk reporting to government.6

5.   The Gateway review process applies to non-corporate Commonwealth entities. In Auditor-General Report No. 21 2023–24 *Management of the Australian War Memorial's Development Project* the ANAO has suggested that the Department of Finance could amend the scope of Resource Management Guide 106 *Australian Government Assurance Reviews*, to include corporate Commonwealth entities (CCEs) undertaking high risk projects valued at more than $30 million, particularly where such projects are of greater cost and complexity than business-as-usual activities.7

Planning and risk management

6.   Insufficient planning (including understanding and articulating business requirements) and risk identification and management can result in re-baselining of time, budget and/or scope for IT projects. Examples of where these issues have been identified in the audits being considered as part of this inquiry are included below. In two instances, the projects considered in the audit report were cancelled.

- Auditor-General Report No. 20 of 2023–24 Design and Implementation of the Australian Apprenticeships Incentive System identified that there had been a revised budget for ADMS relating to the addition of new functionality relating to other VET programs.8

- Auditor-General Report No. 12 2023–24 Administration of the Parliamentary Expense Management System found that scope and user requirements were not clearly defined.9 This resulted in a significant increase to costs and multiple delays.10

- Auditor-General Report No. 7 2023–24 Establishment of the Workforce Australia Services Panel found that the Department provided optimistic advice to Ministers on the delivery timeframe for the Department's Procurement and Licence Management System (PaLMS) and that the system's deliverables had been overstated.11 PaLMS was to be delivered as part of Tranche 1 of the Department's broader Digital Employment Services Platform (DESP). By June 2021, the delivery of PaLMS had been delayed and implementation risks associated with the broader DESP were realised in November 2021.12 The audit identified that the area responsible for the New Employment Services Model (NESM) procurement had raised concerns on at least five occasions

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[3] See paragraph 12.

[4] See paragraph 2.57.

[5] See paragraph 2.20.

[6] See paragraphs 2.68 and 2.85–2.86.

[7] See paragraph 2.46.

[8] See paragraph 2.40.

[9] See paragraphs 2.14–2.15.

[10] See Chapter 2 conclusion.

[11] See paragraph 20.

[12] See paragraphs 3.29–3.36.

between July 2021 and June 2022 that the PaLMS deliverables had been overstated. The extent of the outstanding deliverables was examined by the Department in a post-procurement review of PaLMS in June 2022.

- Auditor-General Report No. 34 2022–23 Procurement of the Permissions Capability found that the departures from the planned approach to the conduct of the procurement impacted whether value for money could be demonstrated. After the successful tenderer was identified to have not delivered against its contractual obligations, the contract was terminated by mutual agreement 11 months after being signed.

- Auditor-General Report No. 1 2021–22 Defence's Administration of Enabling Services – Enterprise Resource Planning Program: Tranche 1 found that the program was re-baselined in 2019 and 2020, with time and cost increases.[13] This was the result of Defence's iterative approach to planning, which allowed for changes to scope and schedule.[14]

- Auditor-General Report No.24 2018–19 The Australian Criminal Intelligence Commission's Administration of the Biometric Identification Services found that numerous deficiencies in contract management were identified, and no milestones were completed. The project was subsequently cancelled.[15]

- Auditor-General Report No. 4 2019–20 OneSKY: Contractual Arrangements found that 'if the current contracted timeframes are achieved, there will be a more than ten year delay (from 2015 to 2026)'.[16]

Compliance with Commonwealth Procurement Rules and the achievement of value for money

7.   An example where issues were found in demonstrating value for money is:

- Auditor-General Report No. 34 2022–23 Procurement of the Permissions Capability found that overall, the approach to tender evaluation was designed in a way that enabled the Department of Home Affairs to demonstrate the achievement of value for money … In conducting the procurement, the department departed in a number of respects from the approach it had set out in the request or tender (RFT).[17]

Probity

8.   Probity issues were identified in three audits. Examples include:

- Auditor-General report No. 34 of 2022–23 Procurement of the Permissions Capability found shortcomings in the implementation of the procurement probity framework, related to the equitable treatment of suppliers,[18] communication with tenderers[19] and conflicts of interest.[20]

- Auditor-General Report No. 1 2021–22 Defence's Administration of Enabling Services – Enterprise Resource Planning Program: Tranche 1 found probity issues in relation to the overall management of the program. These shortcomings related to management of: conflicts of interest; use of panel arrangements for the program; gifts and hospitality; and the use of official information.[21]

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[13] See paragraphs 2.22–2.23.

[14] See paragraphs 17, 1.11, 1.18 and 2.22–2.23

[15] See paragraphs 3.22–3.31 and paragraph 1.16.

[16] See paragraph 11.

[17] See paragraph 9.

[18] See paragraphs 2.74–2.78.

[19] See paragraphs 2.79–2.82.

[20] See paragraphs 2.83–2.107.

[21] See paragraphs 3.67–3.87.

Further, it was found that the contract change control process gave 'rise to actual conflicts of interest as the systems integrator is part of the decision-making process for variations to its contract.'[22]

- Auditor-General Report No. 4 2019–20 OneSKY: Contractual Arrangements set out issues raised in probity advice regarding justification for why a tenderer was the highest ranked.[23]

Key messages from audit reports

9.   ANAO audit reports contain a section with key messages from the audit for all Australian Government entities. Of the 36 key messages in the reports included in this inquiry, the recurring themes were:

- Governance and risk management – such as: ensuring adequate levels of senior management responsibility; including assurance mechanisms in governance structures; considering the nature of the roles contactors are undertaking and ensuring there are appropriate accountability frameworks and conflict of interest management; ensuring adequate reporting to senior leaders; identifying risks to schedule and scope early; and designing and implementing appropriate risk management frameworks.

- Project implementation – such as: ensuring a clear understanding of user requirements and agreed scope; understanding system operating costs, system shortfalls and future system design to make evidence-based and risk-based investment decisions; and implementing effective performance monitoring and evaluation processes, supported by meaningful data.

- Procurement – such as: implementing appropriate training and guidance; considering the design and use of panel arrangements; focussing on value for money and encouraging competitive processes; taking care in engaging the market and consulting prior to a procurement; and ensuring a level playing field during procurement.

- Contract management – such as: ensuring an appropriate level of control from the Commonwealth and robust conflict of interest processes where contractors are in decision-making and contract management roles; ensuring negotiations reflect entity directives and final contracts reflect negotiated outcomes; ensuring contracts have clear deliverables, milestones, performance measures and accountabilities; and ensuring entities have strong contract management capabilities and technical expertise.

Themes arising in audit recommendations

10.   There are a total of 22 recommendations across the nine audits being considered as part of this inquiry. Common themes in the recommendations relate to the need to:

- improve procurement and project governance, including probity measures;

- improve performance measures and benefits realisation tracking and evaluation; and

- improve project scope definition and procurement planning.

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[22] See paragraph 29 and 4.24–4.37.
[23] See paragraphs 3.38–3.51.

APPENDIX 1

Table of ICT projects discussed in the Auditor-General reports listed in the terms of reference for the JCPAA Inquiry into the failed visa privatisation process and the implementation of other public sector IT procurements and projects.

	Audit	ICT project discussed in the audit	ICT project approval date	ICT Investment Approval Process applied? (Y/N)	Procurement approach	Did the procurement comply with the CPRs[e]? (Y/N)	Did the entity consider value for money? (Y/N)	Gateway Review process applied? (Y/N)	Variation from initial planned completion date? (Y/N)	Variation from initial budget? (Y/N)	Probity issues related to the ICT project? (Y/N)
1	Auditor-General Report No. 20 2023-24 Design and Implementation of the Australian Apprenticeship Incentive System (March 2024) **Department of Employment and Workplace Relations (NCE)[a]**	Apprenticeships Data Management System (ADMS) See para 1.9 and 2.37	August 2020. See para. 2.40	Not covered in the audit report	Not covered in the audit report	Not in the scope of the audit	Not in the scope of the audit	Y See para. 2.49–2.52	N/A – project not complete at the time of the audit. Reported as being on track. See para. 2.39–2.43	Y Initial: $92.9m Revised: $124.96m See para. 2.40	N
2	Auditor-General Report No.12 2023–24 Administration of the Parliamentary Expense Management System (January 2024) **Department of Finance (NCE)[a]**	Parliamentary Expenses Management System (PEMS) See para. 1.5	2017–18 Mid-Year Economic and Fiscal Outlook (MYEFO) process. See para. 1.8	Not covered in the audit report	Developed 'in-house' using contractors, consultants, outsourcing and employees. See para. 1.8 and 2.21	Not in the scope of the audit	Not in the scope of the audit	Y See para. 2.53–2.61	Y Initial: July 2020 (ERP operational) Revised: July 2022[d] See para. 8, 11, 14, 2.24, 2.57, Table 2.4, 3.14–3.16, 3.20 and Appendix 3	Y Initial: $38.1m Revised: $74.3m See para. 11, 2.16–2.20, 2.36 and Table 2.5	N

	Audit	ICT project discussed in the audit	ICT project approval date	ICT Investment Approval Process applied? (Y/N)	Procurement approach	Did the procurement comply with the CPRs[c]? (Y/N)	Did the entity consider value for money? (Y/N)	Gateway Review process applied? (Y/N)	Variation from initial planned completion date? (Y/N)	Variation from initial budget? (Y/N)	Probity issues related to the ICT project? (Y/N)
3	*Auditor-General Report No. 7 2023–24 Establishment of the Workforce Australia Services Panel* (November 2023) **Department of Employment and Workplace Relations (NCE)[a]**	Procurement and Licence Management System (PaLMS) Delivered as a part of the 'Digital Employment Services Platform' (tranche one) See para. 3.29–3.36	Not reported. The Digital Employment Services Platform was announced by the Australian Government in October 2020 See para. 3.29	Not covered in the audit report	Not covered in the audit report	Not in the scope of the audit	Not in the scope of the audit	Not covered in the audit report	Y Initial: 30 June 2021 Revised: As at June 2022 work still ongoing. See para. 3.29–3.36	Not covered in the audit report in relation to the PaLMS system. Initial: $295.9 million investment for the delivery of the first tranche of the Digital Employment Services Platform. See para. 3.29	N
4	*Auditor-General Report No. 34 2022–23 Procurement of the Permissions Capability* (June 2023) **Department of Home Affairs (NCE)[a]**	Permissions Capability System See para. 2	August 2020 See para. 1.1, 1.2, 1.11–1.12 and figure 3.1	Y	Open tender ('expedited'/ 'accelerated') See para. 1.2, 2.7, and 2.9–2.11	Departures from planned procurement approach meant value for money could not be demonstrated (para. 7–9). Reporting of contracts and amendments on AusTender was partly compliant	Y See para. 7, 9, 16, 18–22, 2.16, 3.20, 2.32, Table 2.2, and para. 2.64–2.67 and 3.11–3.28	Y	Y Project terminated by mutual agreement See para. 1.15	Y Project terminated by mutual agreement 12 August 2022 As of 31 October 2022, the department had paid Accenture a total of $16.5 million. See para. 1.15	Y See para. 15, 17 and 2.71–2.107 and Appendix 11

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	Audit	ICT project discussed in the audit	ICT project approval date	ICT Investment Approval Process applied? (Y/N)	Procurement approach	Did the procurement comply with the CPRs[c]? (Y/N)	Did the entity consider value for money? (Y/N)	Gateway Review process applied? (Y/N)	Variation from initial planned completion date? (Y/N)	Variation from initial budget? (Y/N)	Probity issues related to the ICT project? (Y/N)
						with the CPRs. See para. 22 and 3.44–3.47.					
5	*Auditor-General Report No. 1 2021–22 Defence's Administration of Enabling Services – Enterprise Resource Planning Program: Tranche 1* (August 2021) **Department of Defence (NCE)[a]**	Enterprise Resource Planning (ERP) program (Tranche 1). See para. 1.14	May 2017 – First pass. See para. 1.10 June 2018 – Second pass. See para. 1.14 and Table 1.1	Y See para. 1.8 and 1.10–1.18.	Open tender See para. 3.21	Largely See para. 13, 22–23, and 3.49–3.57	Y See para.13, 22, and 3.24–3.41	Y See para. 2.18–2.20, and 2.48–2.51	Y Initial: Quarter 4 2020 (Initial Operating Capability) Revised: Mid-2022 (not due for completion at time of audit) See Table 1.1, para. 31, 2.22–2.23 and 4.46–4.49, and Appendix 4.	N No change to total value of project reported in the audit. Tranche 1 value was $364 million at second pass (including sustainment) See para. 1.14	Y See para. 11, 14, 24, 25, and 3.58–3.87
6	*Auditor-General Report No. 10 2020–21 Systems Redevelopment –*	Redevelopm ent of welfare payment ICT system as part of the	November 2014 – First pass.	Not covered in the audit report	Not covered in the audit report	Not in the scope of the audit	Y See para. 1.22 and para. 3.6–3.9	Y See Figure 1.3, para. 1.20, 2.3, 2.44, 2.45,	N/A Project was not due for completion until almost	Not covered in the audit report. Project was not due for	N

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	Audit	ICT project discussed in the audit	ICT project approval date	ICT Investment Approval Process applied? (Y/N)	Procurement approach	Did the procurement comply with the CPRs[c]? (Y/N)	Did the entity consider value for money? (Y/N)	Gateway Review process applied? (Y/N)	Variation from initial planned completion date? (Y/N)	Variation from initial budget? (Y/N)	Probity issues related to the ICT project? (Y/N)
	Managing risks While Planning Transition (September 2020) **Services Australia (NCE)[a]**	Welfare Payment Infrastructure Transformation Programme (WPIT). See para. 2	May 2015 – Second pass. See para. 1.17 and Figure 1.3					3.29, 3.30, and 3.35	two years after the audit tabled. See para. 2.24 and 3.9 for risks to project budget	completion until almost two years after the audit tabled. See para. 2.24 and 3.9 for risks to project budget.	
7	*Auditor-General Report No. 13 2019–20 Implementation of the My Health Record System* (November 2019) **Australian Digital Health Agency (CCE)[b] and Department of Health (NCE)[a]**	My Health Record expansion program – to move to an opt out model. See para. 2.1 and 2.6	April 2017 with adjustments in September 2018 to the implementation plan included in the business case. See para 2.10	Not covered in the audit report	Not covered in the audit report	Not in the scope of the audit	Not in the scope of the audit. For discussion of arrangements to measure, evaluate and report on broader benefits from MHR, see para 3, 9, 21, 22 and the audit finding box preceding para 4.16.	Y See para. 14, 1.11, 2.13, 3.8 and 4.25	Y Changed timeframes not reported. See para. 2.10 and 2.12	N Expenditure was within the approved budget. See para.12, 2.12 and footnote 25	N
8	*Auditor-General Report No. 4 2019–20 OneSKY: Contractual Arrangements*	Civil Military Air Traffic Management	December 2014. See para 2.33	Airservices is principally funded by revenue	Open tender See para. 2	Conduct of the tender examined in Auditor-	Y See para. 10, 12, 16, 21,22, 1.2,	Not applicable. The Gateway	Y If the current contracted timeframes	Y Tender outcome was not	Y See para.3.38 to 3.51. See

	Audit	ICT project discussed in the audit	ICT project approval date	ICT Investment Approval Process applied? (Y/N)	Procurement approach	Did the procurement comply with the CPRs[e]? (Y/N)	Did the entity consider value for money? (Y/N)	Gateway Review process applied? (Y/N)	Variation from initial planned completion date? (Y/N)	Variation from initial budget? (Y/N)	Probity issues related to the ICT project? (Y/N)
	(July 2019) **Airservices Australia (CCE)[b] and Department of Defence (NCE)[a]**	System (CMATS)[e]		from industry rather than Budget funded. Reflecting the Defence involvement, Auditor-General Report 46 2016-17 discusses the approval process and business case development. Specific findings at para 2.23.		General Report 46 2016-17. Airservices Australia is not subject to CPRs – JCPAA has recommended this be addressed.	2.24, 2.27, 3.25–3.55 Auditor-General Report 46 2016-17 concluded that it was not clearly evident that the successful tender offered the best value for money.	Review process does not apply to Corporate Commonwealth Entities. Auditor-General Report 1 2016-17 examines the contracting arrangements employed by Airservices Australia for high level reviews of the procurement process.	are achieved, there will be a more than ten year delay (from 2015 to 2026) compared with the timeframe envisaged at the start of the procurement process. See para. 11.	within budget (Auditor-General Report 46 2016-17). CMATS involved a capped, firm fixed price for the scope set out within it. Reducing the scope would, effect, represent a price increase. See para. 3.54. Note that for AIR5431 Phase 3, of which CMATS is a component - Initial: $906m Revised: $1,149m See para.2.33	also Auditor-General Report 1 2016-17.
9	*Auditor-General Report No. 24 2018–19 The Australian Criminal Intelligence Commission's*	Biometric Identification Services Project	November 2014 – First pass	Y See para. 9, 11 and 2.1–2.17	Open tender See para. 12 and 2.28–2.34	Y See para. 9, 11, 13, 2.1–2.43	Y See para. 9, 12, 13, 2.28–2.43	N (this project met the threshold for a	N/A Project terminated June 2018.	N/A Project terminated June 2018.	N See para. 13, 2.41–2.42

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Audit	ICT project discussed in the audit	ICT project approval date	ICT Investment Approval Process applied? (Y/N)	Procurement approach	Did the procurement comply with the CPRs[c]? (Y/N)	Did the entity consider value for money? (Y/N)	Gateway Review process applied? (Y/N)	Variation from initial planned completion date? (Y/N)	Variation from initial budget? (Y/N)	Probity issues related to the ICT project? (Y/N)
Administration of the Biometric Identification Services Project (January 2019) Australian Criminal Intelligence Commission (NCE)[a]		December 2015 - Second pass March 2016 - approved by Prime Minister See para. 2.10, 2.14, 2.16 and Figure 2.1					Gateway Review) See para. 2.6 and 2.14	See para. 4, 18, 1.16	See para. 4, 18, 1.16 Project expenditure see para.3.73– 3.85 Estimated total cost $34,043,266, see Table 3.8	

Note a: Non-corporate Commonwealth entities (NCEs) are legally and financially part of the Commonwealth. Examples of NCEs include departments of state, parliamentary departments or listed entities. NCEs are subject to the PGPA Act, which further clarifies the financial and corporate governance arrangements of these bodies. Source: Department of Finance PGPA Glossary (internet) available from https://www.finance.gov.au/about-us/glossary/pgpa [accessed 21 March 2024].

Note b: A Corporate Commonwealth Entity (CCE) is a body corporate that has a separate legal personality from the Commonwealth and can act in its own right exercising certain legal rights such as entering into contracts and owning property. CCEs are established through legislation or legislative instrument, and are subject to the PGPA Act, which further clarifies the financial and corporate governance arrangements of these bodies. Some provisions of the PGPA Act applies to CCEs differently to non-corporate Commonwealth entities because of their different legal status, for example the provisions relating to appropriations banking, investments, and use of indemnities. Source: Department of Finance PGPA Glossary (internet) available from https://www.finance.gov.au/about-us/glossary/pgpa [accessed 21 March 2024].

Note c: Commonwealth Procurement Rules.

Note d: As set out in the report paragraphs and appendix referenced, there were various other re-baselined and re-scoped milestones.

Note e: CMATS is one major element of work being undertaken by Airservices and Defence to modernise air traffic management. Airservices has seven other projects within the OneSKY Program. Defence's AIR5431 Phase 3 Project includes CMATS as well as the replacement or refurbishment of control towers and approach centres and network infrastructure upgrades. See *Auditor-General Report No. 4 2019–20 OneSKY: Contractual Arrangements*, para. 2.30 The progress of CMATS is covered in *Auditor-General Report no. 14 of 2023–24 2022–23 Major Projects Report.*

Source: ANAO

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APPENDIX 2

Key frameworks and processes

Public sector information and communications technology (ICT) procurements and projects are governed in accordance with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the ICT Investment Approval process, the Gateway Review process, and, if a relevant Defence project, the Defence Independent Assurance Review process. The *Commonwealth Procurement Rules* (CPRs) also apply where the IT project is being delivered through the engagement of an external supplier.

ICT Investment Approval Process

1.   The Digital Transformation Agency (DTA) has responsibility for strategic and policy leadership on Whole-of-Government and shared ICT investments and digital service delivery.[24] The government has developed a Commonwealth Digital and ICT Investment Oversight Framework (IOF)[25] to manage its digital and ICT-enabled investments across their lifecycle.

2.   The ICT Investment Approval Process, administered by the DTA, aims to assist entities to develop robust business cases and support the effective implementation of digital and ICT-enabled proposals.[26]

3.   The ICT Investment Approval Process applies to a new policy proposal or an internally funded proposals for consideration by Cabinet that:

- is digital and ICT-enabled (the policy or service delivery outcomes are highly dependent on the underpinning digital and ICT system);

- has a total whole-of-life cost estimated to be $30 million or more, including total whole-of-life digital and ICT costs of $10 million or more – whole-of-life costs must include operational costs, capital costs, and maintenance costs; and

- is assessed by the DTA as high risk through consideration of a Risk Potential Assessment Tool assessment – this risk may relate to factors such as significant change, cost, technical or business complexity, workforce capacity, and schedule.[27]

4.   The process comprises a two-stage approval process, each supported by a business case, to provide the Cabinet and its relevant committees with sufficient information about the proposal to make an informed investment decision.[28]

5.   The purpose of a first pass business case is to provide a sufficient level of information on the benefits, costs, risks and range of digital and ICT implementation options for a proposal to enable an informed in-principle decision on the investment.[29] The purpose of a second pass business case is to

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[24] See About Us [internet], available from About us | Digital Transformation Agency (dta.gov.au) [accessed 26 March 2024].

[25] See Digital Transformation Agency, Digital and ICT Investment Oversight Framework (IOF) [internet], available from Digital and ICT Investment Oversight Framework (IOF) | Digital Transformation Agency (dta.gov.au) [accessed 10 April 2024].

[26] See Digital Transformation Agency, ICT Investment Approval Process [internet], available from ICT Investment Approval Process | Digital Transformation Agency (dta.gov.au) [accessed 26 March 2024].

[27] Cabinet may request a proposal undergo the process, even if the proposal does not meet all of these criteria.

[28] In some circumstances, the relevant portfolio Minister may seek agreement from the Prime Minister or Cabinet for a combined pass approval which brings forward a second pass business case for Government consideration without first bringing forward a separate first pass business case.

[29] Digital Transformation Agency, *ICT Investment Approval Process* [internet] available from ICT Investment Approval Process | Digital Transformation Agency (dta.gov.au).

build further detail on the option(s) agreed by Cabinet for further development at first pass to enable an informed final decision on the investment.[30]

Gateway Review Process

6.   The Australian Government's Gateway Review Process[31] is intended to strengthen governance and assurance practices and to assist non-corporate Commonwealth entities to successfully deliver major projects and programs.[32] Finance is responsible for the Gateway Review policy and co-ordination of Gateway Reviews across non-corporate Commonwealth entities and publishes guidance on its website.[33] Gateway reviews examine programs or projects at key decision points during design, implementation, and delivery with the aim of providing independent, timely advice and assurance to the Senior Responsible Officer as the person responsible for delivering the program/project outcomes.[34]

7.   Finance may recommend that a new policy proposal should be subject to the Gateway Review Process for:

- projects with a total estimated cost of $30 million or more for procurement or infrastructure;

- projects with a total estimated cost of $30 million or more including an ICT component of at least $10 million; or

- programs with a total estimated cost of over $50 million.[35]

8.   The Gateway Review Process comprises six reviews that occur at critical stages (or Gates or decision points) of a project's lifecycle and three review stages for programs.[36]

9.   The Gateway Review Process complements the ICT Investment Approval processes for ICT-enabled proposals. The difference between the two processes is that the ICT Investment Approval Process is designed to inform Cabinet prior to an investment decision whereas the Gateway Review Process is designed to help the delivery entity by providing independent advice through development and implementation of the project or program.[37] Where a proposal is subject to both the Gateway Review Process and the ICT Investment Approval process, the requirement to conduct the Gateway

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[30] Digital Transformation Agency, *ICT Investment Approval Process* [internet] available from ICT Investment Approval Process | Digital Transformation Agency (dta.gov.au).

[31] The government introduced the Gateway Review Process in the 2006–07 Budget, focusing initially on projects that satisfied certain financial thresholds or were identified as high risk. However, complexity and implementation challenges associated with program delivery, particularly cross-portfolio programs, led the government to extend the application of the Gateway assurance methodology in 2011 to also apply to programs. Department of Finance, Guidance on the Assurance Reviews Process (RMG 106) [internet] available from Guidance on the Assurance Reviews Process (RMG 106) | Department of Finance. The ANAO examined Finance's administration of the Gateway Review in Auditor-General Report No.22 2011–12 *Administration of the Gateway Review Process* available from Administration of the Gateway Review Process | Australian National Audit Office (ANAO)

[32] Department of Finance, *Gateway Reviews Process* [internet], available from Gateway Reviews Process | Department of Finance [accessed 15 March 2024].

[33] Department of Finance, *Gateway Reviews Process* [internet], available from Gateway Reviews Process | Department of Finance [accessed 15 March 2024].

[34] Department of Finance, *Resource Management Guide – 106: Australian Government Assurance Reviews*, July 2017, p.22, available from RMG-106R.pdf (finance.gov.au) [accessed 15 March 2024].

[35] Department of Finance, *Resource Management Guide – 106: Australian Government Assurance Reviews*, July 2017, p.22, available from RMG-106R.pdf (finance.gov.au) [accessed 15 March 2024].

[36] Department of Finance, *Resource Management Guide – 106: Australian Government Assurance Reviews*, July 2017, p.23, available from RMG-106R.pdf (finance.gov.au) [accessed 15 March 2024].

[37] Department of Finance, *Gateway Reviews Process* [internet], available from Gateway Reviews Process | Department of Finance [accessed 15 March 2024].

Gate 0 and 1 reviews is not mandatory, and the Gateway Review Process will commence after the Government has approved the proposal through the ICT Investment Approval process and will focus on implementation. [38]

10.   The Gateway Review Process does not apply to Defence Integrated Investment Program (formerly known as Defence Capability Plan) projects.[39]

Defence Independent Assurance Reviews

11.   The Defence Independent Assurance Review (IAR) process provides the Defence Senior Executive with assurance that projects and products will deliver approved objectives and are prepared to progress to the next stage of activity. These management-initiated reviews consider a project's status while sufficient time remains for corrective action to be implemented.[40]

12.   IARs are intended to commence at project initiation and are conducted through to Final Operational Capability (FOC); for higher-complexity projects, ideally on an annual basis. They are an important input to key acquisition and sustainment decision points or milestones.[41]

Commonwealth Procurement Rules

13.   Procurement is an integral part of the way the Australian Government conducts business and provides services and is therefore core business for Commonwealth entities.[42] The framework governing public sector procurement is provided by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and articulated in the *Commonwealth Procurement Rules* (CPRs).

14.   The CPRs, which are issued by the Finance Minister under subsection 105B(1) of the PGPA Act, form the core of the Commonwealth procurement framework. They provide the basic compliance framework for regulated Commonwealth entities in undertaking procurements. As a legislative instrument the CPRs have the force of law.[43] The CPRs are supported by guidance and templates from the Department of Finance.[44] The Department of Finance also promulgates Australian Government policies concerning procurement (termed 'procurement-connected policies').[45] The CPRs set out requirements for procuring goods and services that must be observed by 'relevant entities'.[46] Appendix B of the CPRs defines 'relevant entities' as all non-corporate Commonwealth entities and

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[38] Department of Finance, *Gateway Reviews Process* [internet], available from Gateway Reviews Process | Department of Finance [accessed 15 March 2024].

[39] Department of Finance*, Resource Management Guide – 106: Australian Government Assurance Reviews*, July 2017, p.22, available from RMG-106R.pdf (finance.gov.au) [accessed 15 March 2024].

[40] Department of Defence, *Independent Assurance Reviews for Programs, Projects and Products*, Defence, Canberra, 2020.

[41] Department of Defence, *Independent Assurance Reviews for Programs, Projects and Products*, Defence, Canberra, 2020.

[42]   Joint Committee of Public Accounts and Audit, Parliament of Australia, Report 472: Commonwealth Procurement – Second Report, Inquiry based on Auditor-General's report 9 and 12 (2017–18) and 61 (2016–17) (2018), p. 1, available from Report 472: Commonwealth Procurement—Second Report – Parliament of Australia (aph.gov.au) [accessed 15 March 2024].

[43] Further, the *Government Procurement (Judicial Review) Act 2018* provides suppliers with significant rights to challenge a government procurement process for contravention of the CPRs.

[44] These are published on the Department of Finance's Procurement website at Buying for the Australian Government | Department of Finance [accessed 15 March 2024].

[45] These are published on the Department of Finance's Procurement website at Procurement Connected Policies | Department of Finance [accessed 15 March 2024].

[46] Department of Finance, Commonwealth Procurement Rules 13 June 2023, paragraphs 4.9 and 4.10, available from Commonwealth Procurement Rules | Department of Finance [accessed 15 March 2024].

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corporate Commonwealth entities prescribed by the Finance Minister in section 30 of the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule).

15.   The Commonwealth procurement framework is largely principles-based, with prescriptive rules and mandatory requirements kept to a minimum. The principles are straightforward and readily visible in the table of contents of the CPRs. ANAO audits in this space have identified cases where entities seek to comply with the letter of the procurement rules without considering how this achieves the intent of the rules. Often minimum compliance has the appearance of creating convenience for the entity and the provider rather than seeking the fundamental outcomes contemplated in the CPRs, including value for money for the taxpayer.

Value for money

16.   Achieving value for money is the core rule of the CPRs: 'officials responsible for a procurement must be satisfied, after reasonable enquiries, that the procurement achieves a value for money outcome.'[47] The CPRs further provide that entities should not enter into a contract at the conclusion of a procurement process where value for money has not been demonstrated (as this would not be in the public interest). [48]

Probity

17.   The CPRs require that procuring entities act ethically throughout the conduct of a procurement process. Ethical behaviour includes recognising and dealing with actual, potential and perceived conflicts of interest, dealing with potential suppliers, tenderers and suppliers equitably and carefully considering the use of public resources.[49]

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[47] Department of Finance, Commonwealth Procurement Rules 13 June 2023, paragraph 4.4, available from Commonwealth Procurement Rules | Department of Finance [accessed 21 March 2024].

[48] Department of Finance, Commonwealth Procurement Rules 13 June 2023, paragraph 10.35, available from Commonwealth Procurement Rules | Department of Finance [accessed 21 March 2024].

[49] Department of Finance, Commonwealth Procurement Rules 13 June 2023, paragraph 6.6, available from Commonwealth Procurement Rules | Department of Finance [accessed 21 March 2024].

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