



Chief Executive Officer
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Mr Julian Hill MP
Chair
Joint Committee of Public Accounts and Audit

Dear Mr Hill,

Joint Committee of Public Accounts and Audit Report 498: *Inquiry into Commonwealth Procurement*

I am writing in relation to the 2 recommendations directed to the Digital Transformation Agency (DTA) contained in the Joint Committee of Public Accounts and Audit (JCPAA) Report 498: Inquiry into Commonwealth Procurement.

The DTA has addressed the recommendations within JCPAA Report 498 and has implemented recommendations from the Australian National Audit Office (ANAO) s19 Performance Audit on the DTA's Procurement of ICT-related services. The DTA's response to each specific recommendation is outlined below.

Recommendation 11:

3.99 The Committee recommends that the Digital Transformation Agency provide an update to the Committee six months from the tabling of this report on the progress of its improvements to its procurement processes, including:

- its procurement governance and oversight, especially the management of procurement risk*
- its management of probity, particularly its fraud and conflict of interest controls*
- changes to its approach to market processes to meet its obligations under the Commonwealth Procurement Rules, including its use of procurement plans, risk assessments, and the appropriate use of panels*

- *improvements to its tender evaluation processes*
- *improvements to its contract management processes, particularly with respect to contract variations, and*
- *the keeping of appropriate records of all stages of a procurement, from planning to contract management.*

The DTA supports this recommendation.

The DTA has strengthened its approach to, and governance of, procurement activities. Attachment A provides a detailed update in response to this recommendation. A summary of the specific improvement activities taken by the DTA to address all recommendations from the ANAO s19 performance audit is provided at Attachment B.

Recommendation 13:

3.103 The Committee recommends that the Digital Transformation Agency's audit committee review the agency's procurement risk and its internal procurement controls and ensure that procurement is a subject of the agency's internal audit program.

The DTA and the members of the DTA Audit and Risk Committee (ARC) support this recommendation.

The ARC provides independent advice to the CEO on the appropriateness of the DTA's financial and performance reporting, system of risk oversight and management, and system of internal control. The DTA's management team is responsible for the development and implementation of systems, processes, and internal controls for the management of the DTA's risks.

Risk Management is a standing agenda item at each meeting for the DTA ARC and an internal audit on the DTA's procurement is included in the DTA's 2023-24 Internal Audit Work Program. The objective of this internal audit is to assess the effectiveness of the DTA's action plan and associated activities to implement the ANAO s19 performance audit recommendations, and to test the design and operational effectiveness of DTA's procurement controls. Fieldwork for this internal audit commenced in December 2023 and is expected to be completed in February/March 2024. The next ARC meeting is scheduled for 27 March 2024, however the draft report will be distributed to the ARC members out of session, for their review and feedback before formal discussion at the March meeting.

The DTA appreciates the opportunity to update the Committee on its progress in responding to the JCPAA inquiry into Commonwealth Procurement. The DTA remains committed to being an exemplar for procurement activities across the Australian Public Service.

Kind regards



Chris Fechner

22 January 2024

Attachments

Attachment A: Summary of the DTA's actions taken to address recommendation 11 from the JCPAA Inquiry into Commonwealth Procurement

Attachment B: Summary of ANAO recommendations and the DTA's improvement activities taken

Attachment A: Summary of DTA actions taken to address recommendation 11 from the JCPAA Inquiry into Commonwealth procurement

JCPAA Recommendation 11	DTA Update on actions taken
<p>The Committee recommends that the Digital Transformation Agency provide an update to the Committee six months from the tabling of this report on the progress of its improvements to its procurement processes, including:</p> <ul style="list-style-type: none"> • its procurement governance and oversight, especially the management of procurement risk • its management of probity, particularly its fraud and conflict of interest controls • changes to its approach to market processes to meet its obligations under the Commonwealth Procurement Rules, including its use of procurement plans, risk assessments, and the appropriate use of panels • improvements to its tender evaluation processes 	<p>Procurement governance and oversight</p> <p>The DTA's improvements in procurement governance and oversight extends from the implementation of the recommendations from the ANAO performance audit report. The introduction of the following has ensured that the DTA has various points of internal control through the procurement process and maintain consistent procurement governance and oversight:</p> <ul style="list-style-type: none"> • A mandatory Procurement Checklist and Procurement and Evaluation Plan for all procurements was implemented requiring areas conducting procurement activities to consider the obligations under the CPRs. These are developed by the business area with advice from DTA Corporate Procurement prior to the financial delegate's approval of the Procurement and Evaluation Plan. • After the financial delegate's approval of the Procurement and Evaluation Plan, the DTA's COO is the central point of control that approves all approaches to market. The DTA's Corporate Procurement team provides separate advice to the DTA COO on compliance with DTA internal policies and CPRs, and the DTA COO has the authority to not approve requests to approach market if procurement planning activities are considered inadequate. • The DTA Executive Board monitors procurement reporting monthly and the DTA ARC discusses procurement risks and activities in quarterly meetings.

<ul style="list-style-type: none"> • improvements to its contract management processes, particularly with respect to contract variations, and • the keeping of appropriate records of all stages of a procurement, from planning to contract management. 	<ul style="list-style-type: none"> • An internal review of 20 procurement samples in the 2022-23 financial year focused on compliance, documentation, and ethical proceedings. • Introduction of quarterly procurement reviews from the 2023-24 financial year with outcomes to be reported to the DTA Audit and Risk Committee. <p>Specifically for the management of procurement risk, the DTA's improvement activities against recommendations 1, 4 and 7 from the ANAO outlines the progress made on managing procurement risks. At an agency level, the DTA has also reviewed and updated its Risk Management Framework and Risk Management Policy in 2023 and is currently updating its risk register template and risk mitigation register template to further improve risk management practices at the agency level, which will also contribute to the management of procurement risk.</p> <p>Management of probity</p> <p>The DTA's improvement activities against recommendations 2 and 3 from the ANAO outlines the progress made on managing probity, particularly its fraud and conflict of interest controls.</p> <p>The DTA's Corporate Procurement team actively reviews conflicts of interest declarations, including nil-declarations, and monitors staff involved included in procurement activities to ensure declarations are received and updated in a timely manner and documented appropriately.</p> <p>Changes to approach to market processes</p> <p>The DTA's improvement activities against recommendations 1 and 4 from the ANAO outlines the progress made on changes to its approach to market processes to meet its</p>
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	<p>obligations under the Commonwealth Procurement Rules, including its use of procurement plans, risk assessments.</p> <p>The Procurement and Evaluation Plan also includes consideration of use of panels, which is closely assessed by the DTA's Corporate Procurement team before a financial delegate approves the Procurement and Evaluation Plan and the COO approves the release to market.</p> <p>The approach to market is conducted exclusively by the DTA Corporate Procurement team to ensure processes are consistent and in line with DTA internal guidelines and policies and CPRs.</p> <p>Improvements to tender evaluation processes</p> <p>The DTA's improvement activities against recommendation 6 from the ANAO outlines the progress made on improvements to tender evaluation processes.</p> <p>For all planned procurements, the DTA Corporate Procurement team reviews the proposed evaluation criteria included in the Procurement and Evaluation Plan prior to recommending the COO to approve the approach to market process. This ensures that evaluation criteria are set in accordance with internal advice and guidance on best practice and appropriate justification is maintained.</p> <p>During the evaluation process, the evaluation team is required to document outcomes of assessment against the agreed criteria and provide appropriate justification. The DTA's Corporate Procurement team further reviews the evaluation assessment for consistency with the agreed evaluation approach and recommend to the delegate to approve the evaluation report.</p>
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	<p>Improvement to contract management processes</p> <p>The DTA's improvement activities against recommendations 2, 3, 8 and 9 from the ANAO support the improvements made to contract management processes.</p> <p>In addition to these improved practices, the DTA's Corporate Procurement team monitors and reports on all procurements, including contract variations. For all proposed contract variations, approval is sought from the appropriate financial delegate after the DTA's Corporate Procurement team has agreed to the proposed justification for the contract variation under the CPRs and a value for money assessment has been provided by the contract manager.</p> <p>Contract variations are not progressed unless the DTA Corporate Procurement team is satisfied that the justification for variation is appropriate and value for money and ethical requirements consistent with the CPR's have been met.</p> <p>Keeping of appropriate records</p> <p>The DTA's improvement activities against recommendations from the ANAO detailed in <u>Attachment A</u> contribute to the improvement of maintaining appropriate records of all stages of a procurement, from planning to contract management.</p> <p>All procurements conducted have central records repositories maintained by the DTA Corporate Procurement team and have minimal document requirements which consist of:</p> <ul style="list-style-type: none"> • A completed Procurement and Evaluation Plan; • A completed Procurement Checklist; • A completed conflict of interest declarations by all staff involved in the procurement; • A completed request for quotation/tender documentation; • Correspondence between Corporate Procurement and the Business Area;
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	<ul style="list-style-type: none">• Quotations/tenders received;• A completed Evaluation Report with value for money justification;• A signed contract; and• Any signed contract variations and justifications (if applicable)
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Attachment B: Summary of ANAO s19 Performance Audit on the DTA's Procurement of ICT-related services recommendations and DTA's improvement activities taken

ANAO Recommendations	DTA improvement activities taken
<p>1. The Digital Transformation Agency implement a system of risk management that ensures procurement risks are being monitored, managed, and escalated appropriately.</p>	<p>The DTA has implemented:</p> <ul style="list-style-type: none"> • effective 17 June 2022, the Chief Operating Officer (COO) was authorised as a central point of control for all procurements before approaches to market by delegates to ensure: <ul style="list-style-type: none"> ○ The approach to market is appropriate and there is an approved Procurement and Evaluation Plan in place prior to proceeding ○ Conflicts of interest, including NIL responses, are formally captured in a central register ○ Procurement risks are identified and either mitigated or escalated to the delegate for consideration and action ○ Budget availability is confirmed ○ Appropriate records are retained and captured by the Corporate Procurement team • a mandatory Procurement Checklist from September 2022 for each procurement activity. The completed checklist is captured with the relevant procurement and kept as an appropriate record.
<p>2. The Digital Transformation Agency: a) implement a strategy to ensure all officials complete its fraud awareness and</p>	<p>The DTA has:</p> <ul style="list-style-type: none"> • implemented a requirement that mandates annual fraud awareness training for all staff, training for SES and financial delegates on fraud awareness and Commonwealth Resource Management training which also covers internal controls

ANAO Recommendations	DTA improvement activities taken
<p>mandatory procurement and finance training; and</p> <p>b) strengthen its processes to ensure that potential fraud and probity breaches are investigated in accordance with its policies and that appropriate follow-up action is taken.</p>	<p>and conflicts of interest, and training and education campaigns on finance and procurement processes.</p> <ul style="list-style-type: none"> • updated fraud and probity guidelines in December 2022 to strengthen processes around potential fraud and probity breaches.
<p>3. The Digital Transformation Agency:</p> <p>a) establish an internal control to ensure that officials directly involved in procurements make activity-specific declarations of interest; and</p> <p>b) maintain a register of declared interests.</p>	<p>The DTA has implemented a conflict-of-interest declaration (including NIL declarations) requirement for all officers involved in procurements as part of the procurement plan and requires this to be recorded in the mandatory Procurement Checklist mentioned above. The DTA's Corporate Procurement team manages a central register of declared interests.</p>
<p>4. The Digital Transformation Agency align its approach to market processes with the Commonwealth Procurement Rules, with a focus on:</p> <p>a) estimating the expected value of a procurement before a decision on the procurement method is made;</p> <p>b) establishing processes to identify, analyse, allocate and treat risk; and</p>	<p>The DTA has implemented:</p> <ul style="list-style-type: none"> • from September 2022 that each procurement requires an estimate of the full contract value based on research and potential suppliers to be provided in the Procurement and Evaluation Plan prior to seeking delegate approval to proceed. • an updated risk register template that aligns the procurement risk assessment processes to identify risks, factors, current controls in place and residual risk and ownership of risk and treatments. Assessment of risk is also mandated as part of the mandatory procurement plan process for each procurement.

ANAO Recommendations	DTA improvement activities taken
c) maintaining a level of documentation commensurate with the scale, scope and risk of the procurement.	<ul style="list-style-type: none"> improved document keeping practices with the mandatory Procurement Checklist ensuring documentation is maintained commensurate with the scale, scope and risk of the procurement. The DTA's Corporate Procurement team centrally maintains this documentation and follows up with business areas when required.
5. <i>The Australian Government implement reporting requirements for procurements from standing offers, such as panels, to provide transparency on whether an opportunity was open to all suppliers and, if not, how many suppliers were approached</i>	<i>This recommendation was for the Department of Finance's consideration</i>
6. The Digital Transformation Agency improve its tender evaluation processes to: <ul style="list-style-type: none"> a) align them with the Commonwealth Procurement Rules; and b) incorporate evaluation criteria to better enable the proper identification, assessment and comparison of submissions on a fair and transparent basis. 	<p>In August 2023, the DTA conducted an internal review which looked at a sample of 20 procurements from the 2022-23 Financial Year. It demonstrated an improvement in developing appropriate evaluation criteria within the mandated Procurement and Evaluation Plan following implementation of the ANAO audit recommendations.</p> <p>Since September 2022, as part of the current practice in place, all procurements are required to develop appropriate, relevant, and suitable evaluation criteria for delegate approval as part of the Procurement and Evaluation Plan and requires inclusion of consideration of value for money during both the procurement planning process and tender evaluation process.</p> <p>The above-mentioned internal process review has also been aimed at ensuring internal policies and processes are aligned with and are adequate to support the current practice in place, and the Commonwealth Procurement Rules.</p>

ANAO Recommendations	DTA improvement activities taken
<p>7. The Digital Transformation Agency improve its procurement processes to ensure decision-makers are provided complete advice, including information on risk and how value for money would be achieved.</p>	<p>Since September 2022, the current practices in place require a completed Procurement and Evaluation Plan that includes appropriate advice, commensurate to the scale of the procurement, provided to the delegate, including a completed procurement risk register with controls and mitigation actions, and information on how value for money will be achieved. The tender evaluation report also requires value for money justification to be provide to the delegate before the evaluation report is approved.</p> <p>The COO and Corporate Procurement team further monitors risk and value for money justifications for all procurement activities to ensure the above practices are consistently applied.</p> <p>In addition to the DTA's mandatory training packages, additional face-to-face fraud awareness training sessions were delivered which provided attendees with practical examples to illustrate the importance of probity and the declaration and management of conflicts of interest when conducting procurement. These sessions were mandatory for staff with financial delegations and optional for all other staff. These and other sessions to raise awareness amongst DTA staff will be continued to ensure the issues remain front of mind and that inexperienced staff can attend.</p>
<p>8. The Digital Transformation Agency:</p> <ul style="list-style-type: none"> a) improve its training and management of internal payment controls; and b) conduct an internal compliance review or audit within the next 12 months to verify the effectiveness of its payment controls 	<p>The Accounts Payable Uplift Program with DTA's shared services provider, the Service Delivery Office has been implemented since February 2022 and has significantly reduced the need for manual data entry and increased the accuracy and ability to link invoices to relevant purchase orders. Month-end reconciliations and checks are being performed by the DTA Finance team no later than the seventh working day after the month end as a checking process.</p>

ANAO Recommendations	DTA improvement activities taken
	<p>An internal audit on payment controls was conducted in March 2023, to evaluate the design and operating effectiveness of the DTA's accounts payable function and review the current accounts payable process to identify risks and mitigating controls in place. It also assessed whether the DTA has addressed the payment control deficiencies identified by the ANAO's performance audit. Three recommendations were made to further strengthen the controls in place for the accounts payable function. These 3 recommendations have now been implemented and were presented to the DTA ARC in August 2023 as closed.</p>
<p>9. The Digital Transformation Agency strengthen its internal guidance and controls to ensure officials do not vary contracts to avoid competition or obligations and ethical requirements under the Commonwealth Procurement Rules.</p>	<p>The DTA Corporate Procurement team currently monitors business practice against ethical requirements under the Commonwealth Procurement Rules (CPRs) on an ongoing basis. A compliance report was presented to the DTA ARC on the review of a sample of 20 procurement activities for the 2022-23 financial year. Similar reviews will be conducted on a quarterly basis going forward and presented to the DTA ARC.</p> <p>The DTA will continue to monitor and report on behaviours in the context of risk that do not present as consistent with ethical requirements under the CPRs.</p>