



Secretaries Board

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Meeting Paper

Implementation of the Review of Integrity Concerns and Governance Arrangements for the the Management of Regional Processing Administration by the Department of Home Affairs (the Richardson Review)

Lead: Ms Stephanie Foster PSM, Secretary of the Department of Home Affairs

Action required

- **Note** the update from the Secretary of the Department of Home Affairs on the implementation of Recommendations 1 -3 of the Richardson Review.
- **Note** the Department of Home Affairs will return later this year to provide a final update and seek closure of Recommendations 1 and 2 as they transition to core business.
- **Note** the complexities associated with the implementation of Recommendation 3 and the ongoing work underway to consider the development of an appropriate information sharing protocol.

Key issues

1. On 31 July 2023 the Minister for Home Affairs announced the appointment of Mr Dennis Richardson AC to conduct a *Review of Integrity Concerns and Governance Arrangements for the Management of Regional Processing Administration by the Department of Home Affairs* (Richardson Review). The Terms of Reference for the Richardson Review are at **Attachment A**.
2. The Richardson Review considered integrity concerns related to the Department of Home Affairs' current and historic regional processing contacting arrangements and administration, which encompassed governance arrangements, oversight processes and systems for managing offshore processing, including engagement of sub-contractors by head contractors.
3. The Government released its **response** to the Richardson Review alongside an unclassified version of the report on 12 February 2024.
4. The Richardson Review made four recommendations:
 - a. Recommendations 1 and 2 principally relate to the Department of Home Affairs improving its risk management practices and culture to ensure the operating environment and the ethical conduct and integrity of tenderers is considered in procurement and contract decision-making for regional processing arrangements; and to promote an 'ask and tell' operating environment.

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The Government **agreed** with both recommendations and noted the Department of Home Affairs would lead implementation.

- b. Recommendation 3 relates to the development of a Commonwealth protocol to lawfully share law enforcement and intelligence information to inform procurement and contracting activities. The Government **agreed in principle** to this recommendation with the Department of Finance (Finance) and the Attorney-General's Department (AGD) – in consultation with relevant law enforcement agencies and the Office of National Intelligence (ONI) on behalf of the National Intelligence Community (NIC) – to lead consideration of a protocol or other arrangement for the lawful and appropriate disclosure of law enforcement and intelligence information to, and its use by, Commonwealth entities to inform procurement and contracting decisions in high risk environments. This will include regard to the legal frameworks that regulate information-sharing as well as operation and resourcing implications.
- c. Recommendation 4 is classified and is redacted in the public report.

Implementation Progress

5. Implementation milestones for Recommendations 1 – 3 are summarised in ***Attachment B – Richardson Review Recommendation Implementation Plan***.

Recommendation 1 and 2

6. Recommendations one and two relate to the internal processes and culture of the Department of Home Affairs. Prior to the finalisation of the Richardson Review, work had already commenced to further enhance processes in regional processing procurement and contract management as a result of internal and external audit activity.
7. This work has encompassed policy updates to procurement and contracting procedures, guidelines, and frameworks; the establishment of more robust risk and integrity communication with stakeholders; and identification of cultural change lines of effort.
8. The Department of Home Affairs has established a Transformation Division, which will take forward a culture refresh which will support the creation of an 'ask and tell culture'.
9. Implementation of these cultural reforms will be ongoing and will be embedded within core business and reviewed on an ongoing basis.
10. Work recently undertaken by Finance that will assist the Commonwealth and address Recommendations 1 and 2 regarding the ethical conduct of tenderers and improved supplier integrity include:
 - a. the release of an 'Ethical conduct of tenders and suppliers' policy note for whole of government application, reminding entities of the requirements under the Commonwealth Procurement Rules to consider supplier's past ethical behaviour
 - b. changes to the Commonwealth Contracting Suite (CCS) and ClauseBank in May 2023 to include the Notification of Significant Events clauses
 - c. the development of a Commonwealth Supplier Code of Conduct to strengthen integrity and ethical conduct in its operations and that of its suppliers who deliver goods and services (industry consultation on the Code opened on 15 December 2023 and closed on 1 March 2024 and it is anticipated that the Code will come into effect in mid-2024).

11. Mr David Tune PSM has been appointed to review all procurement frameworks, processes and practices, to ensure they are robust, fit-for-purpose and align with respective Commonwealth principles/best practice. This review will be finalised by 30 June 2024.

Recommendation 3

12. Finance and AGD are leading engagements with relevant agencies, including the Australian Federal Police (AFP), ONI and the Department of Home Affairs, on the potential scope and risks which would need to be managed when establishing a protocol to lawfully share law enforcement and intelligence information.

s 47C



14. AGD and Finance will continue to engage with relevant agencies to scope the development of a protocol, or other arrangement that meets the intent of Recommendation 3 of the Richardson Review, and report back to Secretaries Board later this year, as required, noting that the review recommended that any protocol be endorsed by the Secretaries Committee on National Security.
15. In accordance with the Government response to Recommendation 3, any protocol or arrangement will also need to be consulted with each NIC agency prior to endorsement.

Other work underway to support integrity of contracting in high-risk environments

16. The Board should note that while ongoing consideration will be given to the appropriate development of a protocol or otherwise, there has been, or is, work underway to address the intent of Mr Richardson’s recommendation which includes:

s 47E(d)



Cascade note

The Board received an update on the progress of implementing recommendations from the *Review of Integrity Concerns and Governance Arrangements for the Management of Regional Processing Administration by the Department of Home Affairs*.

Attachments

- A. Richardson Review Recommendation Implementation Timeline
- B. Richardson Review Recommendation Implementation Plan

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Review of Integrity Concerns and Governance Arrangements for the Management of Regional Processing Administration by the Department of Home Affairs

Terms of Reference

Review of Integrity Concerns and Governance Arrangements for the Management of Regional Processing Administration by the Department of Home Affairs, noting:

- Allegations reported by 60 Minutes and the Nine papers relating to the Department of Home Affairs' management of regional processing contracts with Broadspectrum, Canstruct, Paladin, Management and Training Corporation (MTC) and other contractors over approximately the last decade; and
- Previous and ongoing investigations and inquiries into related matters, including by the Australian Federal Police and AUSTRAC.

An independent eminent person will be appointed to conduct a review of the contractual arrangements regarding regional processing, managed by the Department of Home Affairs and its predecessor, the Department of Immigration and Border Protection. The review will cover:

- Any integrity concerns about contracting arrangements regarding regional processing, whether public or otherwise, including the allegations and concerns raised by 60 Minutes and the Nine papers;
- The Department's governance arrangements, oversight processes and systems for managing offshore processing, current and historic, including in relation to the engagement of sub-contractors by head contractors;
- Any other related concerns regarding arrangements for regional processing administration.

The review will not consider the policy of regional processing.

The review will:

- Review the handling of any matters in the public realm and detail any matters of concern not in the public realm;
- Where appropriate, make recommendations for referrals to bodies for investigation (e.g. AFP, NACC);
- Where appropriate, make recommendations to ensure that the Department's processes and systems meet Australian standards for propriety and probity.

In conducting the review, the reviewer should:

- Have regard to previous and any ongoing investigations, including by the AFP, AUSTRAC and the National Anti-Corruption Commission;
- Seek information, as appropriate and necessary, from any Commonwealth agencies to support this inquiry.

The reviewer will be engaged by the Secretary of the Department of the Prime Minister and Cabinet and supported by that Department, with costs to be met by the Department of Home Affairs.

The review will report to the Minister for Home Affairs and the Minister for Finance (the Ministers) by 30 September 2023, for consideration of the National Security Committee of Cabinet.

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ATTACHMENT B

Implementation Plan

Review of Integrity Concerns and Governance Arrangements for the Management of Regional Processing Administration

On 12 February 2024, the Government released its [response to the Richardson Review](#), titled *Review of Integrity Concerns and Governance Arrangements for the Management of Regional Processing Administration by the Department of Home Affairs* which made four recommendations.

#	Recommendation	Lead
1	<p>Home Affairs should enhance its integrity risk process and culture to better inform procurement and contract decision-making for regional processing arrangements by:</p> <ul style="list-style-type: none"> more carefully considering the environment in which a procurement is conducted or a contract is delivered, and the ethical conduct and integrity of tenderers, suppliers and supply chains; and undertaking risk-informed due diligence activities throughout the procurement and contract management lifecycle 	Department of Home Affairs
	<p>Government Response: the Government agrees with the recommendation, with the Department of Home Affairs to lead implementation.</p>	
Implementation		
Action		Status
<p>Implementation of Major Subcontracts Standard Operation Procedure</p> <p>The Department of Home Affairs has implemented a Standard Operating Procedure (SOP) for the approval of defined Major Subcontracts within the Nauru Facilities, Garrison, Transferee Arrivals and Reception Services Contract with MTC Australia (MTC Australia Contract). The SOP includes the requirement to undertake:</p> <ul style="list-style-type: none"> an assessment of the proposed entity's (including their employees, officers, agents and advisers') real, perceived or actual conflict of interests in their delivery of the services. a review of the entities' compliance with applicable laws. an assessment of the financial viability of the application, including a value for money assessment. 		COMPLETE

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<p>Enhanced escalation provision for subcontracts</p> <p>Implement an enhanced escalation provision for subcontracts identified as complex, including:</p> <ul style="list-style-type: none">high value arrangements at >\$500,000 per financial year, those where conflicts of interest are identified, s 33(a)(iii) <p>The SOP also provides clear escalation processes for applications identified as complex, including high value (\$500,000 for a financial year +) or where conflicts of interest have been identified.</p>	<p>COMPLETE</p>
<p>Updated RFT documentation, Tender Evaluation Plans and Contract Management Manual</p> <p>The Department of Home Affairs has updated Request For Tender (RFT) documentation, Tender Evaluation Plans and Contract Management Manual to address expectations in relation to Financial and Corporate viability checks of both the primary contractor and subcontractors including disclosure of significant events. Corporate Viability checks include a tenderers and subcontractors organisational information such as the corporate structure (management structure, parent company, legal status, details of senior executives) and seeking independent verification from third party providers. Due diligence checks are outlined as including but not limited to;</p> <ul style="list-style-type: none">relevant legal, technical, financial, and regulatory requirement updates are applied and metsupplier claims are verified and preferred suppliers are able to deliver the goods and/or servicescontracts are being performed in accordance with the agreed terms and conditions.	<p>COMPLETE</p>
<p>Implementation of additional due diligence guidance and protocols</p> <p>The Department of Home Affairs has developed additional guidance/protocols to ensure due diligence activities are incorporated and considered when undertaking complex and strategic procurement and contract management activities, particularly in high risk environments. Mandatory due diligence activities must be conducted in order to identify and reduce risks and promote transparency, assurance and accountability throughout procurement planning, evaluation, contract execution and in the delivery of contracted goods and services.</p>	<p>COMPLETE</p>
<p>Development of education and awareness products</p> <p>The Department of Home Affairs has developed training material and factsheets on the National Anti-Corruption Commission (NACC). This information has been provided to senior officials of the Government of Nauru (GoN).</p>	<p>COMPLETE</p>
<p>Implementation of Regional Processing Risk Event Management Procedural Guideline</p> <p>The Department of Home Affairs have developed and implemented a Regional Processing Risk Event Management Procedural to document the analysis of incoming events, including what risks they relate to, and if a new risk has been identified, the actions to remediate.</p>	<p>COMPLETE</p>
<p>Department of Finance ethical conduct of tenders and suppliers policy note</p> <p>The Department of Finance released their 'Ethical conduct of tenders and suppliers' policy note for whole of government application. The policy note reminds entities the Commonwealth Procurement Rules, among other things, state officials must consider a potential supplier's relevant experience, performance history (unethical behaviour, deficiencies in performance under prior contracts) and workplace practices (adherence to labour, Work Health and Safety and environmental impact regulations). Officials should also monitor the ethical behaviour of suppliers throughout the term of the contract.</p>	<p>COMPLETE</p>

<p>Department of Finance Introduction of Notification of Significant Events clauses</p> <p>The Department of Finance updated the Commonwealth Contracting Suite (CCS) and ClauseBank to include Notification of Significant Events Clauses. These clauses provide the Commonwealth with additional rights where adverse findings are made or significant matters arise regarding a supplier or their personnel by legal or professional bodies or other significant matters about them arise that could adversely impact on the Commonwealth's reputation or its compliance with law or policy. These clauses give the Commonwealth the ability, upon an event being notified, to request additional information and a remediation plan in response to the relevant event. They require the Supplier to prepare and submit a remediation plan if requested by the Customer which details how the Supplier will address the event. If the Supplier fails to comply with these clauses, it will be treated as a breach of the Contract which entitles the Customer to terminate.</p>	<p>COMPLETE</p>
<p>Department of Finance Development of a Commonwealth Supplier Code of Conduct for integrity and ethical conduct</p> <p>The Department of Finance is in the process of developing a Commonwealth Supplier Code of Conduct to strengthen integrity and ethical conduct in its operations and that of its suppliers who deliver goods and services. Industry consultation on the Code opened on 15 December 2023 and closed on 1 March 2024. It is anticipated that the Code will come into effect in mid-2024.</p>	<p>IN PROGRESS</p>
<p>Consideration of legal and administrative use of intelligence holdings</p> <p>s 42</p> <p>The Department of Home Affairs will be working collaboratively with the Department of Finance and the Attorney-General's Department to understand and shape intelligence sharing protocols and products the Department can access, use and rely on from a procurement perspective. This includes:</p> <ul style="list-style-type: none">• supporting the delivery of protocols for lawfully sharing law enforcement and intelligence information between agencies to inform procurement and contracting decisions• ensuring due consideration is given to cyber security checks and system integrity when undertaking procurement activities and entering into subsequent contracts.	<p>IN PROGRESS</p> <p><i>Implementation is dependent upon Recommendation 3 s 42</i></p>
<p>Distribution of NACC Act, Conflict of Interest (COI) and self-reporting of COI communications</p> <p>The Department has ensured to maintain active lines of communication with its current service provider for regional processing (MTC Australia) with respect to the NACC Act and conflicts of interest, of specific relevance including:</p> <ul style="list-style-type: none">• more broadly, MTC has prepared documentation to disseminate to all subcontractors, which is undergoing legal clearance <p>All subcontracts with MTC have clauses relating to immediate reporting of conflicts of interest.</p>	<p>IN PROGRESS</p> <p><i>To be completed by 30 April 2024</i></p>

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Implementation Plan - Review of Integrity Concerns and Governance Arrangements for the Management of Regional Processing Administration

<p>Enhanced High Risk High Value (HRHV) Procedural Instruction</p> <p>The Department of Home Affairs is implementing enhancements the High Risk High Value (HRHV) Procurement process to ensure risks relating to the 'operating context/environment' (e.g. prevalence of fraud and corruption) are considered as part of the decision making process, and throughout the contract management lifecycle.</p> <ul style="list-style-type: none">As part of the HRHV PI review, amendments are being made to ensure due consideration is given to potential for reputational risk including Significant Events (fraud, corruption, conflict of interest) and in particular if the contract is being delivered in a high risk setting (e.g. offshore/regional processing).	<p>IN PROGRESS</p> <p><i>Finalisation of the HRHV PI is dependent on Recommendation 3</i></p>
<p>Appointment of external expert to review procurement frameworks, processes and practices</p> <p>The Department of Home Affairs has appointed Mr David Tune PSM to undertake a formal review of the procurement frameworks and processes across the department (including the Australian Border Force), to ensure all procurement practices remains robust, fit-for-purpose and align with respective legislation and Commonwealth principles/best practice recommendations. the review commenced on Monday 8 April 2024 and will be finalised by 30 June 2024.</p>	<p>IN PROGRESS</p> <p><i>Final report due 30 June 2024</i></p>
<p>Implementation of consistent articulation of risk to Government</p> <p>Explicit advice on risk has been included in all ministerial submissions pertaining to regional processing (these have related to transfers of unauthorised maritime arrivals to Nauru).</p> <ul style="list-style-type: none">Submissions will include explicit advice on risk, including trends and mitigation optionsChanges in the risk profile will be communicated to Government no less than bi-annually or as a contemporary issue arises. <p>s 47C [REDACTED]. The first bi-annual update on risk will be provided to the Minister within 6-months of Government publishing its response to the Richardson Review (by August 2024).</p>	<p>ONGOING</p>
<p>Implementation of Regional Processing Governance Model and accompanying Terms of Reference</p> <p>The Department of Home Affairs has updated the Regional Processing Governance Model and accompanying Terms of to ensure more frequent updates and considerations of the department's regional processing Risk Register and enhanced respective Risk Treatment Plans to support the Risk Register as a management tool.</p>	<p>ONGOING</p>
<p>Dedicated external stakeholder engagement capability supporting intelligence use</p> <p>The Department of Home Affairs has established a dedicated external stakeholder engagement capability within Regional Processing Branch to support activity for intelligence use by building and maintaining strong relationships with a range of stakeholders and intelligence partners, AUSTRAC. This enables effective advice regarding any new major subcontractor applications to ensure comprehensive due diligence is undertaken prior to any approvals.</p>	<p>ONGOING</p>

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#	Recommendation	Lead
2	Home Affairs should foster and promote an 'ask and tell' operating environment that encourages collaboration, cooperation, proactive enquiry and information sharing.	Department of Home Affairs
	Government response: the Government agrees with the recommendation, with the Department of Home Affairs to lead implementation.	
Implementation		
Action		Status
Establishment of Enduring Strategy and Planning (ESP) Function The Department of Home Affairs has established an Enduring Strategy and Planning (ESP) function in February 2023, for the purpose of maintaining key stakeholder relationships (both internal and external). <ul style="list-style-type: none">The team act as a primary point of contact for classified reporting relating to people smuggling, regional processing, and other Australian Government interests, and provides active representation at relevant Inter-departmental meetings, including with partners from the National Intelligence Community (NIC).		COMPLETE
Creation of a Transformation Division to lead engagement and centralise activity related to cultural reform The Department of Home Affairs has established a Transformation Division to lead the implementation of the Enterprise Agreement, drive cultural reports and oversee the response to the APSC Capability Review.		COMPLETE
Enhanced pre-deployment briefings The Department of Home Affairs has developed and implemented training packages enhance pre-deployment briefings for short-term deployments to high risk operating environments to include operational/environmental context related to the country of deployment. Training package consisting of 4 modules: <ul style="list-style-type: none">living and working Nauru: includes an overview of the operating environment, bilateral relations and cultural awareness.s 33(a)(iii)Health, Safety & Wellbeing. Your Role which details specifics to operations of the Nauru Support Team identifying key stakeholders, and roles and responsibilities.		COMPLETE

<p>Establish robust understanding of AUSTRAC’s Request for Information (RFI) Process</p> <p>The Department of Home Affairs has developed a thorough understanding of AUSTRAC’s Request for Information (RFI) process to enable future used to support regional processing activities and considerations.</p> <ul style="list-style-type: none">• Further engagement to be facilitated with AUSTRAC on the appropriate use of AUSTRAC information for this purpose.	<p>IN PROGRESS</p> <p><i>Implementation dependent on Recommendation 3.</i></p>
<p>Enhanced procurement capability through mandatory training</p> <p>The Department of Home Affairs implement mandatory risk and procurement training for all officers participating in procurement, which could include tenders, evaluation and contract management.</p>	<p>IN PROGRESS</p>
<p>Development of program of works to improve capability, culture and collaboration</p> <p>The Department of Home Affairs (through establishment of the Transformation Division) is developing a forward work program to improve capability, foster a culture of openness and collaboration, and improve results against key workplace metrics. Considerations include census, possible culture/capability survey, WHS data, retention / separate rates.</p> <p>This will be supported by the Culture Playbook, Capability Action Plan and a principles based policy rewrite currently being scoped, drafted and agreed.</p>	<p>IN PROGRESS</p> <p><i>Culture Playbook being drafted, Capability Action Plan being scoped, principles based policy rewrite underway and further work on forward work plan</i></p>
<p>s 33(a)(iii)</p>	
<p>Implementation of 2024 Risk Management Communications Plan</p> <p>The Department of Home Affairs has developed the 2024 Risk Management Communications Plan focusing on open, honest and early conversations on risk and recognising the importance of embracing risk management as a tool to support decision-making and successful delivery.</p> <ul style="list-style-type: none">• A common language and consistent approach to risk will also enhance cross-enterprise engagement and communication, and improve consistency in decision-making and prioritisation.	<p>ONGOING</p>

#	Recommendation	Lead
3	The Department of Finance, in consultation with the Australian Federal Police, and the Office of National Intelligence on behalf of the National Intelligence Community (NIC), should develop a protocol for lawfully sharing law enforcement and intelligence information with Commonwealth entities, to inform procurement and contracting decisions in high risk environments. The information sharing protocol should be considered and endorsed by the Secretaries' Committee on National Security (SCNS).	Department of Finance Attorney-General's Department
	Government response: The Government agrees in principle , with the Department of Finance and the Attorney-General's Department – in consultation with relevant law enforcement agencies and the Office of National Intelligence on behalf of the NIC – to lead consideration of a protocol or other arrangement for the lawful and appropriate disclosure of law enforcement and intelligence information to, and its use by, Commonwealth entities to inform procurement and contracting decisions in high risk environments. Any protocol or other arrangement will need to have regard to the legal frameworks that regulate information sharing and use, as well as operational and resourcing implications.	

Implementation

Action	Status
Establish a cross-Commonwealth working group Establish a cross-Commonwealth working group to scope and work through any risks associated with the recommendation proposed protocol. Any protocol will also need to be consulted with each NIC agency in accordance with the Government response to the review.	IN PROGRESS
Report to Secretaries Board/SCSN Report back to Secretaries Board and/or SCSN on the options, risks and merits of a protocol or other arrangement to meet the intent of the recommendation.	IN PROGRESS Q3/Q4 2024
Provide further advice to Government Provide further advice to Government on this recommendation, including risks, on options for a protocol or other arrangements.	IN PROGRESS Q4 2024

#	Recommendation	Lead
4	Recommendation 4 is classified and redacted from the unclassified version of the report and Government response	N/A



Secretaries Board

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Agenda

Tuesday 7 May 2024 | s 22(1)(a)(ii)

CHAIR | Professor Glyn Davis AC, Secretary of the Department of the Prime Minister and Cabinet

AGENDA ITEM	LEAD	TIME
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s 22(1)(a)(ii)



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Ms Stephanie Foster PSM

- 5. IMPLEMENTATION OF THE REVIEW OF INTEGRITY CONCERNS AND GOVERNANCE ARRANGEMENTS FOR THE MANAGEMENT OF REGIONAL PROCESSING ADMINISTRATION BY THE DEPARTMENT OF HOME AFFAIRS

s 22(1)(a)(ii)

s 22(1)(a)(ii)