

VICTORIA

Victorian
Auditor-General

Audit summary of Management of Prison Accommodation Using Public Private Partnerships

Tabled in Parliament
15 September 2010

Audit summary

Background

Since 1996, the private sector has become increasingly involved in owning, operating and managing prisons through public private partnerships (PPP). A PPP is a long-term partnership between the public and private sectors to deliver a major capital asset and/or services.

The Department of Justice (DOJ) manages several PPP contracts. When the Port Phillip Prison and Fulham Correctional Centre opened in 1997 the *Infrastructure Investment Policy for Victoria* (1994) applied. The Metropolitan Remand Centre and Marngoneet Correctional Centre contracts were signed in 2003 under a new policy adopted in 2001 called the *Partnerships Victoria Framework*. The new Ararat Prison contract was signed in 2010 under a later iteration of this framework, one that complies with the *Infrastructure Australia National Guidelines* (2008).

As two of these PPP prison contracts date back more than 10 years, it is timely to review the operational phase of such long-term contracts. This audit evaluated whether the state is managing PPP prison accommodation services well, whether the services are meeting appropriate standards and whether value-for-money and appropriate risk allocation has been maintained.

Conclusions

DOJ faces significant challenges in managing its long-term PPP prison contracts and recognises the need to further improve its management. Although it has been slow to act in relation to these challenges, DOJ has recently started implementing improvements and rectifying known deficiencies with its contract management and administration.

This is overdue as DOJ has not been able to demonstrate that it is continuing to receive value-for-money in terms of the standard of prison accommodation services it is paying for. Nor is it able to demonstrate that it has taken adequate steps to assure that the prison accommodation assets will be in an appropriate condition when ownership of the Port Phillip Prison and Fulham Correctional Centre assets reverts to the state.

All PPP contracts examined have weaknesses, particularly those developed pre-2001. They do not adequately define accommodation service standards, making it difficult for DOJ to effectively monitor contractor performance. For the post-2001 contracts, DOJ has not fully exercised its rights to monitor contractor performance and to manage service failures. There is insufficient documentation to explain the rationale for DOJ's approach, or the decisions made by contract administrators.

DOJ's administration of the PPP contracts can also be improved. It needs to demonstrate appropriate management of the risks allocated to the state to avoid a deterioration in the value-for-money premise on which the contracts were based. Recognising this, DOJ has recently commenced a review of its governance structure and to better document its contract management practices.

Findings

Service delivery outcomes

The pre-2001 contracts do not adequately specify accommodation service quality standards. This has limited DOJ's ability to reduce payments when contractors underperform.

For the post-2001 contracts, Metropolitan Remand Centre and Marngoneet Correctional Centre, DOJ has been reluctant to reduce service payments where service standards have not been met. Documentation in relation to the reductions in service payments applied is not sufficient to demonstrate that a rigorous analysis and thorough assessment has been undertaken to support these decisions.

Information from the contractor that is used to calculate monthly payments for the Metropolitan Remand Centre and Marngoneet Correctional Centre is not verified by DOJ. For Port Phillip Prison and Fulham Correctional Centre, DOJ has established an Annual Accommodation Service Review. However, the review does not establish a maintenance program and DOJ does not have the assurance that the assets are being appropriately maintained throughout the year. Without appropriate verification, monitoring and evaluation of contractor-supplied information, it is likely the state will receive the assets back in a poorer condition than expected.

DOJ has learnt from its earlier contracts and developed the Ararat Prison contract appropriately.

Contract management and administration

DOJ developed a complex governance structure for managing its PPP contracts. The current structure has multiple reporting lines and duplication of responsibility. DOJ has acknowledged this and recently decided to review and simplify the governance arrangements.

It is difficult for DOJ to demonstrate that contract variations and facility modifications have maintained value-for-money, because the decisions and contract variations have been poorly documented.

Shortfalls identified in DOJ's contract management systems include inadequate and missing contract administration manuals and risk management plans. These increase the risk that the state is not getting the services to the standard it pays for.

The Department of Treasury and Finance supports the procurement phase of PPP projects with considerable resources, however, the need for greater support to DOJ and other departments in the operational phase of these contracts is evident.

Recommendations

Number	Recommendation	Page
1.	The Department of Justice should: - analyse the potential costs and benefits of modifying its existing contracts to enhance its ability to extract services at the highest standard possible - independently audit key performance indicator data prepared by contractors - fully document its analysis of, and reasons for, decisions taken about time extensions to rectify faults and reductions in service payments.	20
2.	The Department of Justice should: - complete the review of governance structures and use a single contract administration unit to manage contracted prison services - complete contract administration manuals for each contract, including: - developing risk management plans - incorporating best practice from the <i>Partnerships Victoria Contract Management Guide</i> (2003) and the <i>Australian National PPP Policy and Guidelines</i> (2008), as applicable - document its analysis and rationale for all contract variations and facility modifications - maintain records of discussions at meetings with the Commissioner of Corrections to authorise contractor payments.	30
3.	The Department of Treasury and Finance should develop comprehensive guidance for the Department of Justice and other departments for the management of public private partnership projects at all stages of the contract.	30

Submissions and comments received

In addition to progressive engagement during the course of the audit, in accordance with section 16(3) of the *Audit Act 1994* a copy of this report, or relevant extracts from the report, was provided to the Department of Treasury and Finance and the Department of Justice with a request for submissions or comments.

Agency views have been considered in reaching our audit conclusions and are represented to the extent relevant and warranted in preparing this report. Their full section 16(3) submissions and comments, together with my acquittal response to the Secretary, Department of Justice, are included in Appendix C.
