

Managing Consultants and Contractors



VICTORIA

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Auditor-General

Managing Consultants and Contractors

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The Hon. Bruce Atkinson MLC
President
Legislative Council
Parliament House
Melbourne

The Hon. Christine Fyffe MP
Speaker
Legislative Assembly
Parliament House
Melbourne

Dear Presiding Officers

Under the provisions of section 16AB of the *Audit Act 1994*, I transmit my report on the audit *Managing Consultants and Contractors*.

This audit examined how effectively selected government departments are managing advisory engagements that help them make decisions.


The report highlights significant gaps in the way sampled departments have managed advisory engagements and in the central oversight of these practices.

It also encourages departments to take the opportunity offered by government's current procurement reform to address these weaknesses and notes the early signs that departments are starting to do this.

I have made eight recommendations to improve how:

- departments demonstrate the integrity and value for money of advisory engagements
- the Victorian Government Purchasing Board and the Department of Treasury and Finance guide and oversee departments' application of government policy to these types of engagements.

Yours faithfully



John Doyle
Auditor-General

12 June 2014

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Auditor-General's comments



John Doyle
Auditor-General

Departments often use contractors and consultants to provide advice about how to best realise government policy goals. While the costs of these advisory engagements are usually small relative to the service and infrastructure decisions they inform, they are critical because they help shape and direct these much larger expenditures to deliver better outcomes.

In addition, the community rightly expects that departments are able to demonstrate high levels of integrity and value-for-money outcomes when using public funds.

In this audit I found that four selected departments were unable to demonstrate consistently that their advisory engagements had been well planned, effectively procured, well managed, comprehensively evaluated and transparently reported.

The departments generally followed the minimum, mandated rules covering engagements of this scale, but this did not address these issues. I found an absence of a structured, documented and transparent approach to managing these engagements that was tantamount to maladministration.

The departments I examined managed engagements individually, without the type of intelligence gathering, analysis and leadership needed to understand and improve overall performance across all advisory engagements.

This shortfall in oversight also extended to the Department of Treasury and Finance (DTF) in its whole-of-government role. DTF did not adequately check that departments correctly classified and disclosed advisory engagements, nor verify the savings departments reported against government targets.

These targets were proposed prior to the 2010 election and subsequently adopted without evidence that DTF had reviewed their basis and advised government about their reliability and implications. As a matter of standard practice, DTF needs to verify the basis of all the government's financial commitments and advise it of the implications.

By the end of 2014 all departments should have transitioned to a new approach to procurement. Instead of having to comply with detailed, centrally mandated rules, departments will now be responsible for designing their own detailed practices to achieve high-level reform principles. DTF transitioned in June 2013, and the three other departments included in this audit are likely to follow by August 2014.

The early signs are promising. DTF has upgraded its procurement processes, intelligence gathering and analysis as the basis for improved practices and oversight. The other departments are following a similar development path, and our recommendations encourage them to address past weaknesses.

Audit team

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I intend to return to this area to see whether departments follow through on this promising start to improve their performance in managing advisory engagements.

I would like to thank the Department of Treasury and Finance, Department of Justice, Department of Education and Early Childhood Development, Department of Environment and Primary Industries, and Victorian Government Purchasing Board for their assistance and cooperation during this audit.

A handwritten signature in black ink, appearing to read 'John Doyle', with a stylized, cursive script.

John Doyle
Auditor-General

June 2014

Audit summary

Public sector agencies engage external resources to advise them on how best to realise government policy and to help them implement these decisions. The Department of Treasury and Finance's (DTF) June 2013 definition of a consultancy is the provision of advice to facilitate decision-making, whereas a contractor helps implement decisions.

This audit examined how effectively selected government departments are managing advisory engagements that help them make decisions.

Our audit found that advisory engagements had not been consistently classified because of the way consultancies had been defined before DTF issued the revised definition in June 2013. Prior to this, an engagement for a one-off task to inform a decision would only be classified as a consultancy if the agency judged it to involve 'skills and perspectives not normally expected to reside in the department'.

All engagements are governed by the mandatory supply policies set by the Victorian Government Purchasing Board (VGPB) and two financial reporting ministerial directions. The goals of these policies are to maintain the integrity of the procurement process and deliver value for money from all purchases of goods and services.

While the same principles apply to all procurements, the specific documentation requirements are more prescriptive and specific for high-value—over \$10 million—or high-risk contracts. Advisory engagements do not often fall into this category because they mostly cost under \$150 000 and make up a small proportion of the \$16 billion the general government sector spends on goods and services.

However, they play a critical role in fully informing decisions that involve much larger sums. As with any expenditure of public monies, it is important that departments are able to demonstrate the integrity of these procurements and their value for money.

The VGPB defines value for money as the achievement of a desired procurement outcome at the best possible price—not necessarily the lowest price—based on a balanced judgement of financial and non-financial factors relevant to the procurement. This needs to be demonstrated in the decision to use external resources, throughout the procurement process and after completion through a post-implementation review.

The audit examined whether DTF and the departments of Justice, Education and Early Childhood Development, and Environment and Primary Industries had effectively applied VGPB's requirements for advisory engagements, demonstrating high levels of integrity and value for money through:

- **good planning**—documenting the essential planning work used to justify the use of external resources, identify risks and choose a preferred procurement
- **effective tendering and appointments**—applying processes clearly aligned with VGPB's requirements of consistent, fair and transparent treatment, and delivering outcomes consistent with or exceeding the planned value proposition
- **sound engagement management**—showing how progress had been monitored, deliverables tracked and risks appropriately managed
- **comprehensive evaluation**—completing a post-implementation review confirming the intended outputs and outcomes and applying the lessons learned.

We also examined DTF's and VGPB's oversight of these procurement processes and outcomes for the Minister for Finance and DTF's monitoring of the \$185 million consultancy savings target set by government's Better Financial Management policy.

The conclusions and findings in this report refer to the likely impacts of procurement reform, which represents a fundamental change in how departments manage procurement. VGPB's goal is for all departments to transition to the new procurement approach by August 2014, with DTF being the only department included in this audit to have transitioned in June 2013.

This reform will see VGPB's extensive and prescriptive policies replaced by a set of high-level reform policies around governance, appropriately matching capable resources to different procurements, market analysis and review, a structured approach to the market and how contracts will be managed and disclosed.

Departments must ensure that the application of these policies in specific processes meets the principles of value for money, accountability, probity and scalability. This puts a greater onus on departments to manage different types of procurement, appropriately aligning capabilities and oversight across procurement types.

The transition will give rise to risks and opportunities. Before making the change, departments have to secure VGPB's approval of a procurement strategy showing how they will manage the transition. Departments complete an assessment tool to demonstrate they are fully capable of managing their procurement activities under the new framework and this informs VGPB's assessment and approval decisions.

VGPB has not defined a formal framework for monitoring the results of transitioning to the new procurement environment. Its guidance on making a submission states that:

'The VGPB may also determine that elements of your submission that will be subject to ongoing assessment or may need to be resubmitted as a result of changes that impact on the structure and/or operation of the organisation.'

Conclusions

For advisory engagements, the combined efforts of departments, as accountable managers, and VGPB and DTF, in their oversight capacities, have not delivered on the VGPB requirement that:

‘Government and public officials must be able to demonstrate high levels of integrity in processes while pursuing value-for-money outcomes...’.

We found very few cases in our sampled engagements where agencies had clearly ignored or broken the mandatory rules governing advisory engagements. Instead the lack of assurance resulted from maladministration—where for the most part departments did not apply processes in a way that was structured, documented and transparent to the sampled engagements.

This shortfall meant departments did not generate the information needed to effectively oversee these engagements. There are significant gaps in the way individual departments and DTF, in its whole-of-government role, oversee these engagements.

Procurement reform is an opportunity for departments to transform how they approach procurement and address the issues raised in this report about advisory engagements.

Findings

Planning, procuring, managing and evaluating engagements

In the context of this audit the indicators of maladministration are:

- the absence of a structured and documented approach to management
- the lack of adequate post-engagement evaluation to verify the outcomes and to understand and embed the lessons learned.

While the departments we reviewed largely followed VGPB's specific, mandated requirements for engagements of their size and complexity, the documentary evidence falls well short of demonstrating that these engagements achieved value for money.

Departments could not adequately and consistently demonstrate that engagements were:

- **well planned**—they did not document the essential planning work used to justify the use of external resources, identify and manage risks, and choose a preferred procurement approach
- **effectively procured**—they had not adequately assessed the overall impact of exemptions, the way they used panel appointments requiring only one bidder and the use of variations on value for money
- **well managed**—they could not show how they had monitored progress and performance and appropriately managed risks
- **comprehensively evaluated**—there was a systemic failure to evaluate performance to confirm they had achieved the intended value-for-money outcomes or to distil and apply the lessons learned.

In addition, a small number of engagements are unlikely to have achieved value for money because of materialising risks that were not well assessed and managed.

Oversight

There are significant gaps in the way individual departments and DTF, in its whole-of-government role, oversee procurement. Procurement reform offers the opportunity for individual departments to transform their approach to procurement and address the issues raised in this report.

Departments largely managed engagements on a case-by-case basis without the type of intelligence gathering, analysis and leadership needed to drive significant improvements. They had not effectively captured and analysed agency-wide information about the conduct of advisory engagements in a way that would help them to identify trends, monitor risks and improve value-for-money outcomes.

In terms of central oversight, DTF needs to raise the level of assurance it provides to government about correctly classifying and fully disclosing consultancies, and it also needs to take a more structured and evidence-based approach to verifying the consultancy savings claimed by departments.

We note that DTF has committed to review and analyse departments' consultancy expenditure to ensure expenses are correctly reported.

Impact of procurement reform

The early evidence suggests that procurement reform is an opportunity for departments to transform the way they govern and manage procurement, and address the weaknesses identified in this report.

Our initial review of DTF's progress shows very promising signs, with evidence of upgraded processes, intelligence gathering and analysis underpinning improved procurement practices and oversight.

This transition marks a significant improvement in DTF's approach to procurement. We have examined the revised documentation and examples of DTF's analysis. We have seen some early benefits, and if the implementation happens as intended, this approach is likely to address identified weaknesses in process and oversight.

The other departments in this audit have a similar opportunity to transform their approach to procurement and the early signs are that they intend to do this. However, we are concerned at the absence of a formal process across government to evaluate the impacts of procurement reform, address emerging issues and reinforce demonstrated benefits. VGPB needs to define how it will monitor impacts and report back to government.

We intend to come back to this area to determine whether departments subsequently realise this opportunity for improved oversight and performance.

Recommendations

Number	Recommendation	Page
That departments:		
1.	review and improve their policies and practices to adequately demonstrate the integrity of and value for money achieved through advisory engagements by: <ul style="list-style-type: none"> documenting the essential planning work to justify the use of external resources, to identify and manage risks, and to determine a preferred procurement route comprehensively documenting conflict of interest issues and always evaluating bids, providing greater clarity about progress and performance monitoring, and meeting mandatory records management requirements taking a more structured approach to managing engagements by documenting progress and performance to monitor and manage risks completing post-implementation reviews of all engagements, commensurate with their size and complexity, to verify deliverables and the achievement of process integrity and value-for-money outcomes 	31
6.	collect and analyse the information needed to confirm that business units are complying with mandated policies and practices, and manage the risks to achieving value for money and maintaining process integrity.	45
That the Victorian Government Purchasing Board:		
2.	updates its guidance to more clearly explain departments' records management obligations and how these should be incorporated in contracts	31
8.	defines how it will monitor, evaluate and report on the impacts of procurement reform and the actions needed to address emerging issues and reinforce beneficial outcomes.	45
That the Department of Treasury and Finance:		
3.	describes in its response to this recommendation the steps it will take to verify the accuracy of departments' classification and reporting of consultancy expenditure	45
4.	as a matter of standard practice, verifies the basis of government's financial commitments, where these have not been informed by prior Department of Treasury and Finance input, and advises the government of the implications	45
5.	better understands and verifies the evidential basis for departments' assertions about the Better Financial Management policy savings achieved	45
7.	reviews users' satisfaction with the performance of the Contracts Publishing System website and upgrades the website to provide more effective and user-friendly access to the contract information it contains.	45

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 was provided to the Department of Treasury and Finance, Department of Justice, Department of Education and Early Childhood Development, Department of Environment and Primary Industries, and Victorian Government Purchasing Board 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 are included in Appendix B.

1 Background

1.1 Scope and significance of external advice

Public sector agencies engage external resources to advise them on how best to realise government policy and to help them implement it. From July 2013, the Department of Treasury and Finance's (DTF) revised definitions make the provision of advice to facilitate decision-making the distinguishing feature of a consultancy, whereas a contractor helps implement decisions.

This audit examines how effectively selected government departments are managing these advisory engagements that help them make decisions.

Our planning work for this audit revealed that advisory engagements had not been consistently classified in the past because of the way DTF's Financial Reporting Directions defined consultants and contractors. Accordingly, the scope of the audit includes both consultancy and contractor engagements that inform decision-making.

There is no consolidated record across government of spending on advisory engagements but expenditure is likely to be significant. The 2011–12 annual reports for 65 of the 289 state entities within the general government sector declared consultancy expenditures of \$49.5 million, with government departments accounting for \$4.1 million of this total.

These figures are unlikely to be a good guide to the amount spent on advisory engagements. Under the definition that applied before July 2013, agencies did not have to classify all advisory engagements as consultancies. For example, an engagement to perform a one-off task to facilitate decision-making would only be classified as a consultancy if the agency judged that it involved 'skills and perspectives which would not normally be expected to reside in the department'.

The new definition from July 2013 provides greater clarity by focusing on the provision of expert analysis or advice to facilitate decision-making without the need to judge whether the skills should or should not normally reside in the department. This is likely to increase the number of advisory engagements classified as consultancies.

Expenditure on advisory engagements is a relatively small proportion of the \$16.5 billion of operating expenses budgeted in 2013–14 by the general government sector. While individual advisory engagements are relatively small and are almost always under \$1 million, they are critical in fully informing decisions that involve much larger sums of money. As with any expenditure of public monies, it is important that departments are able to demonstrate value for money and the integrity of these procurements.

1.2 Policies and guidance—advisory engagements

This section explains:

- the framework that governs departments when engaging external advisors
- how the Better Financial Management policy changed this framework after 2010
- how procurement reform aims to transition departments by August 2014 to a framework where they take greater responsibility for procurement as a core business function.

1.2.1 Framework for governing advisory engagements

The framework comprises:

- principles and supply policies set by the Victorian Government Purchasing Board (VGPB), under section 54L of the *Financial Management Act 1994* (the Act)
- two of the Minister for Finance's directions, made under section 8 of the Act
- responsibilities for monitoring and reporting on agencies' compliance.

VGPB's procurement framework

VGPB's goals are to lead government's procurement of goods and services. They also aim to deliver value-for-money outcomes, with integrity, by setting mandatory purchasing principles and supply policies, and by providing guidelines and advice.

VGPB's policies govern the procurement of non-construction goods and services for 289 state entities, including all nine government departments.

Departmental purchasing must be based on the following principles:

- **value for money**—taking full account of quality, the total cost of ownership, fitness for purpose and risk in making procurement decisions
- **open and fair competition**—providing opportunities that enable more businesses to compete on the same basis for government contracts
- **accountability**—ensuring that accountable officers have the flexibility and capability to achieve value-for-money outcomes
- **probity and transparency**—applying the highest standards of behaviour to protect the integrity of procurements
- **risk management**—continuously identifying, evaluating and appropriately treating risks that threaten the achievement of these principles.

Figure 1A summarises VGPB's current supply policy requirements for planning, tendering, and awarding and managing contracts. Overall—according to the *Conduct of Commercial Engagements Policy*—'Government and public officials must be able to demonstrate high levels of integrity in processes while pursuing value-for-money outcomes'.

VGPB's existing supply policies place more onerous and specific requirements on procurements that are valued in excess of \$10 million and for other procurements considered high risk or complex. For the most part, advisory engagements do not fall into this high-value, high-complexity category and are therefore not subject to the more onerous requirements.

Figure 1A
Victorian Government Purchasing Board requirements

Supply policy requirements	
Planning	
<p>Planning intent</p> <p>Planning the purchasing process from start to finish is essential for all procurements. This includes:</p> <ul style="list-style-type: none"> establishing the business need, what is to be purchased and the options for doing this developing an evidence-based strategy to recommend a preferred procurement route. 	<p>Planning requirements</p> <p>All procurements will:</p> <ul style="list-style-type: none"> use mandatory state or departmental panel arrangements if they apply consider and settle the procurement process before the competitive process starts form strategies to mitigate and respond to risks that may emerge. <p>For procurements over \$10 million and/or that are high risk or complex, departments will develop:</p> <ul style="list-style-type: none"> a Strategic Procurement Plan, describing the management strategy for the procurement a Procurement Conduct Plan, describing how a procurement will be effectively implemented a Risk Management Plan, with specific content requirements for procurements over \$10 million.
Bid process and contract award	
<p>Intent</p> <p>Bids and award processes must adhere to VGPB's five procurement principles so that:</p> <ul style="list-style-type: none"> bidders are given the same fair opportunity to compete contract awards are based on value for money. 	<p>Bid process requirements</p> <p>Departments must:</p> <ul style="list-style-type: none"> provide comprehensive and clear tender documents for purchases from panel arrangements, apply the specific rules adopted for these agreements not split identical procurements into separate parts, nor be inconsistent in providing information or assessing the submissions of competing bidders for purchases up to \$25 000 in value, obtain one written quote for purchases between \$25 000 and \$150 000, seek a minimum of three written quotes for purchases over \$150 000, go to public tender with minimum advertising requirements where seeking an exemption, satisfy the authorising party that the exemption is justified by the exceptional circumstances defined by VGPB, and not for the purposes of avoiding competition ensure that processes identify and address any actual or perceived conflicts of interest. <p>Contract evaluation and award requirements</p> <p>Contract managers must:</p> <ul style="list-style-type: none"> apply the same pre-approved evaluation method to all bids appoint based on value for money and ensure the assessment conforms to VGPB's principles report summary details of contracts over \$100 000 and disclose contracts over \$10 million in full on the Contracts Publishing System website within 60 days of awarding a contract.

Figure 1A
Victorian Government Purchasing Board requirements – continued

Supply policy requirements	
Contract management	
Intent The processes, structure and resources to manage the contract should be identified during planning, where the degree of management depends on the contract complexity and assessed risk levels.	Contract management requirements Departments must: <ul style="list-style-type: none"> • ensure contract managers possess the competency/experience required to manage contracts • for higher-value and complex procurements, develop a Contract Management Plan • for major contracts, establish a process to evaluate and record outcomes against stated objectives • ensure the process for varying a contract because of changed circumstances is: <ul style="list-style-type: none"> • based on high standards of probity and effective governance and consider whether additional requirements are better managed under a new contract • approved by the financial delegate defined by the department's procedures for different levels of variation within the department's accreditation level • approved by the VGPB when the variation exceeds the department's accreditation level • based on the cumulative value of the variation, exclusive of the initial contract value • establish and maintain a consultancy register with specified details for engagements over \$2 000.

Source: Victorian Auditor-General's Office based on Victorian Government Purchasing Board supply policies.

Minister for Finance's directions covering procurement

The Minister for Finance has issued two directions under section 8 of the Act that reinforce VGPB's supply policies:

- Standing Direction 3.4.5 provides that departments must implement effective internal controls so procurement is authorised in accordance with business needs and within a framework of policies and procedures based on VGPB's key principles
- *Financial Reporting Direction 22—Standard Disclosures in the Report of Operations*—includes consultancy disclosure requirements. We note that the information requirements of VGPB's consultancy register are more extensive and detailed than the material that needs to be disclosed under this direction.

Compliance, reporting and monitoring responsibilities

The primary accountability for complying with VGPB's policies and the Minister for Finance's directions rests with individual agencies, and for this audit, with the four departments being examined.

To give assurance that they are following requirements, departments provide:

- VGPB with an annual supply report summarising procurement activity, exemptions and any breaches of VGPB policies
- DTF with a certification that includes a tick box confirmation that procurement policies are based on each of VGPB's procurement principles.

VGPB and DTF are responsible for monitoring and reporting on compliance with respect to procurement. They review, collate and consolidate the reported material so that the Minister for Finance can inform Parliament about whether appropriate controls are in place across the Victorian public service.

DTF's monitoring responsibilities extend beyond procurement to cover all directions set under the Act. DTF supplements agencies' assertions with sampled assurance reviews targeted at areas and agencies it perceives to carry significant risks. To date, DTF has not completed an assurance review around consultancy disclosures.

VAGO's 2012 audit *Personal Expense Reimbursement, Travel Expenses and Corporate Credit Cards* identified weaknesses in DTF's approach to monitoring and providing assurance to the minister about compliance with purchasing card rules. The audit:

- concluded that 'the mechanisms for assuring government about performance are not working' because five of six agencies 'did not accurately report rule breaches to the Minister for Finance, and DTF did not adequately review this information'
- recommended that, DTF 'significantly improve its scrutiny of agencies' reporting on breaches of the purchasing card rules and reports on thefts and losses' and 'request an acquittal of the scale of contract leakage and the reasons why this happens from agencies participating in a mandatory State Purchase Contract'.

DTF accepted the report's conclusions and recommendations. This audit examined DTF's approach to providing assurance about agencies' compliance with the procurement requirements for advisory engagements.

1.2.2 Applying the Better Financial Management policy

Coalition's *Better Financial Management Plan*

The Coalition's pre-election *Better Financial Management Plan* set a savings target of \$1.57 billion over the period 2010–11 to 2014–15. It encompassed 11 savings initiatives, including reduced spending on advertising, travel expenses, head office staff, legal bills and consultants.

The plan recognised that consultants had a role in providing impartial and specialist advice but committed to 'end the wasteful use of consultancies and lower the bill for consultants by around \$185 million over five years'.

The plan described how many consultancies added little value and that the true value of advisory engagements was hidden from scrutiny because agencies:

- did not have to disclose details of individual consultancies valued under \$100 000
- classified many advisory engagements as 'contractors', thus avoiding the more stringent disclosure rules applied to consultancies.

The Coalition therefore committed to:

- '...issue clear guidelines and definitions on the use of consultants...'
- ensure that 'all consultancies—including those under \$100 000—are reported in annual reports'.

Better Financial Management policy

This plan formed the basis of the government's Better Financial Management policy, which retains the specific savings targets set out in the pre-election plan. After the November 2010 election, the newly formed government required DTF to:

- update the consultancy definition and disclosure rules
- advise departments about their allocation of target savings for each of the 11 savings initiatives
- as part of the 2011–12 Budget process, review and refine the allocation of savings and propose a detailed monitoring and reporting framework.

Updating consultancy definition and disclosure rules

Figure A1 in Appendix A provides a detailed description of how DTF changed Financial Reporting Direction 22 to increase the consultancy reporting requirements and set out new consultant and contractor definitions.

The amended July 2013 definitions are likely to change how agencies classify advisory engagements and significantly increase declared expenditures on consultancies. This disclosure should make information on consultancies more publicly accessible.

Managing the implementation of consultancy savings

As part of this audit we examine DTF's performance in tracking and verifying reported progress towards the government's goal of reducing spending on consultancies by \$185 million between 2010–11 and 2014–15.

1.2.3 Procurement reform

Current VGPB policies are being replaced under a reform process intended to support a more strategic, flexible and efficient approach to procurement.

VGPB's 'process based' approach will be replaced by a less prescriptive set of high-level reform policies underpinned by the requirement that all procurement activity applies the following principles—value for money, accountability, probity and scalability. VGPB's definitions of the first three principles are outlined in Section 1.2.1. Scalability has been added and means matching organisational capability and oversight to the complexity and risk of procurement projects. Departments must ensure that all procurement activity meets these principles.

This approach puts a greater onus on a department to decide how best to manage different types of procurement, and to appropriately align its capabilities and oversight across this range of procurement types. VGPB has issued the following five reform policies to guide agencies in developing their own detailed framework:

- **governance policy**—embedding procurement as a core business function with greater focus on up-front strategic planning and transparency to deliver consistency and better value for money
- **complexity and capability assessment policy**—understanding the complexity of engagements and ensuring sufficient capability to effectively manage them
- **market analysis and review policy**—effectively using market intelligence to determine the most appropriate procurement path
- **market approach policy**—applying a structured, measured approach to informing, evaluating and negotiating with suppliers
- **contract management and disclosure policy**—focusing consideration early in the planning process to determine an integrated, end-to-end approach.

The transition will give rise to risks and opportunities. Before making the change departments have to secure VGPB's approval of a procurement strategy that shows how they will manage the transition. Departments complete an assessment tool to demonstrate they are fully capable of managing their procurement activities under the new framework, and this informs VGPB's assessment and approval decisions.

VGPB has not defined how it will monitor the results of transitioning to the new procurement environment. In its guidance documentation for making a submission, it states that:

'The VGPB may also determine that elements of your submission that will be subject to ongoing assessment or may need to be resubmitted as a result of changes that impact on the structure and/or operation of the organisation.'

Currently DTF is the only department included in this audit that has transitioned to this new approach, and we describe our early observations on the potential benefits of this in Part 3 of the report.

1.3 Previous audits

Previous audits found a range of common practice deficiencies and also the need for departments to improve their understanding and oversight of advisory procurements if they are to effectively address these issues.

1.3.1 VAGO's contracting and tendering audit

The 2007 audit *Contracting and Tendering Practices in Selected Agencies* assessed whether 'practices in selected agencies comply with government policy and procedures, and deliver on expected outcomes for the public sector' by examining a sample of 15 contracts. These included mostly larger construction and service delivery contracts of a scale that activated the more detailed VGPB requirements applied to large or complex contracts. Only three were for advisory services.

The audit concluded that while, 'the tendering approach selected, and the tender process, were consistent with procurement policies and guidelines... for nine of the contracts, however, there was scope for improvement in the key procurement stages, of specifying what is to be procured, evaluating the bids, assuring the quality of the procurement process, and monitoring and evaluating contractor performance'. It singled out monitoring and evaluation of performance as the key deficiency.

The audit recommended that agencies clearly specify and monitor performance standards and improve their records management of procurement activities to adequately demonstrate the basis for decisions.

VAGO published the guide *Public Sector Procurement: Turning Principles into Practice* based on the good practice principles used to assess engagements during the 2007 audit. We took account of these good practices in forming the approach used in this audit.

1.3.2 Audits from other jurisdictions

The findings of recent audits from the UK and South Africa on the use of consultants are typical of the type of findings found in overseas audits. They raise issues around the incomplete application of processes and a consequent lack of assurance about value for money, but also clearly identify the need for department and government-wide intelligence and oversight to address these issues.

The Auditor-General of South Africa

The January 2013 *Report of the Auditor-General of South Africa on a performance audit of the use of consultants at selected national departments* found similar practice issues to VAGO's 2007 audit, where departments did not:

- comprehensively assess needs before engaging consultants, nor adequately plan consultancy engagements
- consistently evaluate the success of engagements and the lessons learned.

In addition, the report found insufficient evidence of how departments had considered the use of internal resources before appointing consultants or effectively transferred the skills and knowledge from engagements.

The UK National Audit Office

The October 2010 audit *Central government's use of consultants and interims* was the latest in a series of audits on the use of consultants.

The audit found that departments' progress in applying previous recommendations had been slow. Given previously well-defined practice issues, the audit focused on the quality of whole-of-department and central government management systems to address these issues, finding that departments:

- have poor quality management information—there was an absence of timely, complete and accurate information to effectively plan and manage the future use of consultants
- are not smart customers—they did not clearly define required services, were unclear how consultants contribute to objectives and did not assess benefits
- have not identified and addressed core skill gaps which would allow them to use more cost-effective alternatives—they repeatedly used consultants for the same basic skills without addressing these needs through improved recruitment
- have not used the knowledge generated from centrally collated information to improve how they use consultants.

The report called for leadership by departments to address these findings and improved central analysis and oversight by the Cabinet Office to drive good practices.

1.4 Audit objective, scope and approach

1.4.1 Objective

The objective of this audit was to assess whether selected departments are effectively managing advisory engagements that inform their decisions by examining how well they are:

- planning, procuring and managing these engagements
- evaluating engagements and demonstrating that they achieve value for money and process integrity.

1.4.2 Scope

The audit examined for the period 2011–12 to 2013–14 the following agencies—Department of Education and Early Childhood Development (DEECD), Department of Environment and Primary Industries (DEPI), Department of Justice (DOJ) and DTF. We also examined how well DTF monitors compliance with financial reporting direction requirements for disclosing consultant and contractor spending.

In these departments we selected a sample of 63 advisory engagements for detailed examination, and Figure 1B summarises their characteristics. The selection was designed to cover a range of contract values and types of advice engaged by agencies.

Figure 1B
Details of sample advisory engagements examined during the audit

Department	Classification			Range of contract values (\$)		Date for applying reform
	Consultants	Contractors	Total	Lower	Upper	
DEECD	4	12	16	61 000	613 000	July 2014
DEPI	6	12	18	49 000	355 000	July 2014
DOJ	5	9	14	85 000	1 610 000	August 2014
DTF	5	10	15	12 000	650 000	June 2013
Total	20	43	63			

Note: DTF has completed its application of VGPB reforms.

Source: Victorian Auditor-General's Office.

1.4.3 Approach to assessing departments' performance

Demonstrating delivery against VGPB's intended outcomes

Our approach tests whether departments have effectively applied VGPB's overarching requirements for advisory engagements by demonstrating that they have:

- achieved value for money and high levels of integrity through open and fair competition, clear accountability and high standards of probity and transparency
- identified, assessed and effectively managed the risks that threaten to undermine these intended outcomes.

Integrity

The State Services Authority review of Victoria's integrity system explained that 'the public is entitled to expect that public officials will act with integrity' because citizens expect them 'to uphold values such as honesty and truthfulness and to act in the public's interest in performing their duties. Fair, reliable and systematic decision-making in public services engenders public trust and creates a level playing field...'.

This is consistent with the values set out in section 7 of the *Public Administration Act 2004* to guide the conduct and performance of the Victorian public sector.

On Page 3 the review defined a spectrum of behaviour comprising:

- **acting with integrity**—acting with honesty and transparency, managing resources appropriately and using powers responsibly
- **maladministration**—where administrative tasks are not performed properly or appropriately, encompassing inefficiency, incompetence and poorly reasoned decision-making
- **misconduct**—this is more serious than maladministration, involving more than not paying attention or not exercising due diligence, such as breaches of codes of conduct or an element of dishonesty
- **corruption**—this goes beyond misconduct and involves the misuse of power and the misuse of office, with the term usually applying to serious wrongdoing such as bribery, embezzlement, fraud and extortion.

The audit examined whether agencies could demonstrate how they had acted with integrity in planning, completing and evaluating advisory engagements.

Value for money

VGPB defines value for money from the point where an agency has decided to procure goods or services to meet identified needs. The *Achieving value for money procurement guide* says:

'Value for money (VFM) underpins Victorian Government procurement. It is the achievement of a desired procurement outcome at the best possible price—not necessarily the lowest price—based on a balanced judgement of financial and non-financial factors relevant to the procurement'.

This guide makes it clear that value for money has to be considered and demonstrated throughout the procurement process and after completion when doing a final evaluation of the procurement. This is consistent with existing supply policies.

Demonstrating integrity and value for money

We tested the integrity and value for money by assessing whether departments could demonstrate that engagements were:

- well planned, by:
 - justifying the need for external resources
 - clearly defining engagement objectives, intended outcomes, staff capability requirements, and the engagement risks and how these should be managed
 - justifying the intended procurement approach in terms of the costs and benefits of alternative procurement options and the impacts on encouraging open and fair competition
- effectively procured, by applying tender and appointment processes that:
 - clearly align with VGPB's requirements
 - are consistent, fair and transparent
 - deliver tender outcomes consistent with, or exceeding, the planned value proposition
- well managed, by showing monitoring of progress, tracking of contracted deliverables and appropriately managed engagement risks
- comprehensively evaluated, by:
 - completing a post-implementation evaluation confirming the delivery of intended outputs
 - measuring performance in terms of the intended outcomes
 - applying the lessons learned.

We note that the advisory engagements we examined are unlikely to be classified under VGPB as large or complex. For these types of projects, VGPB's policies define the principles and outcomes without mandating the specific form and content of documentation required for large—greater than \$10 million—or complex procurements.

For all advisory engagements, and indeed all procurements, we expect agencies to create and retain sufficient documentation to demonstrate the achievement of VGPB's intended outcomes.

The audit was performed in accordance with the Australian Auditing and Assurance Standards. Pursuant to section 20(3) of the *Audit Act 1994*, unless otherwise indicated any persons named in this report are not the subject of adverse comment or opinion.

The total cost of the audit was \$470 000.

1.5 Structure of the report

The report has two further parts:

- Part 2 examines how agencies plan, procure, manage and evaluate advisory engagements based on our review of 63 of these engagements
 - Part 3 examines department-wide and whole-of-government oversight and reporting, how procurement reform has the potential to improve departments' performance and what departments need to do to realise this potential.
-

2 Planning, procuring, managing and evaluating

At a glance

Background

Demonstrating process integrity and value for money of advisory engagements requires evidence that engagements are well planned, effectively procured, well managed and comprehensively evaluated.

Conclusion

Departments largely followed the Victorian Government Purchasing Board's (VGPB) specific, mandated requirements for engagements of different sizes and complexity. However, the evidence falls well short of demonstrating that these engagements achieved VGPB's goals of value for money and process integrity.

Instead maladministration—where processes were not properly or appropriately performed—characterised how departments managed the sampled advisory engagements.

Findings

Departments could not demonstrate that advisory engagements were well planned, effectively procured, well managed and comprehensively evaluated.

In addition, a small number of engagements are unlikely to have achieved value for money because of materialising risks that were not well assessed and managed.

Recommendations

- That departments review and improve policies and practices to address procurement weaknesses and adequately demonstrate the integrity and value for money achieved through advisory engagements.
- That VGPB updates its guidance to more clearly explain departments' records management obligations and how these should be incorporated in contracts.

2.1 Introduction

An essential part of good public administration involves applying appropriate processes and documenting the basis for decisions about the expenditure of public funds. The opposite of this is maladministration, where there are process failures and the absence of adequate documentation. While not as serious as misconduct or corruption, maladministration obscures and undermines performance.

We drew on our work within selected departments to determine whether they could demonstrate that engagements had been effectively planned, procured—that is, tendered and appointed—well managed and comprehensively evaluated.

We used these findings to form conclusions on whether departments could adequately demonstrate they had achieved the Victorian Government Purchasing Board's (VGPB) intended outcomes of process integrity and value for money for advisory engagements.

2.2 Conclusion

While the departments we reviewed largely followed VGPB's specific, mandated requirements for engagements of their size and complexity, the documentary evidence falls well short of demonstrating that these engagements achieved value for money.

Departments have not delivered on the VGPB's requirement that, 'Government and public officials must be able to demonstrate high levels of integrity in processes while pursuing value-for-money outcomes...'.

Instead, maladministration characterised how departments managed the sampled advisory engagements—where processes were not properly or appropriately performed.

Departments could not adequately and consistently demonstrate that engagements were:

- **well planned**—as they did not document the essential planning work used to justify the use of external resources, identify and manage risks, and choose a preferred procurement approach
- **effectively procured**—as they had not adequately assessed the overall impact of exemptions, the way they used panel appointments requiring only one bidder and the use of variations on value for money
- **well managed**—as they could not show how they had consistently monitored progress and performance and appropriately managed risks
- **comprehensively evaluated**—in fact the opposite was true, as there was systemic failure to evaluate performance to confirm that the intended value-for-money outcomes had been achieved and to distil and apply the lessons learned.

In addition, a small number of engagements are unlikely to have achieved value for money because of materialising risks that were not well assessed and managed.

These findings are consistent with the internal audit evidence we examined. The Department of Justice's (DOJ) December 2013 internal audit of contractor and consultant performance concluded:

'...we identified inconsistent contractor and consultant appointment-to-completion activity...and inconsistency in the extent and transparency of documentation completed and maintained to justify the activity...'.

The departments we examined had not effectively captured and analysed agency-wide information about the conduct of advisory engagements in a way that would help them to identify trends, monitor risks and improve value-for-money outcomes.

In Part 3 of the report we describe how procurement reform offers the opportunity to address these issues. Departments need to seize this opportunity to revamp their processes and realise the significant potential benefits of doing this.

2.3 Planning

Thorough planning is essential if departments are to create a solid foundation for adequately informing procurement decisions and delivering value for money by:

- clearly establishing the business need
- carefully considering the internal and external options for meeting this need
- developing an evidence-based strategy to recommend a preferred procurement option, taking account of the costs, benefits and risks of alternative options
- doing the preparatory work needed to effectively engage the market and match appropriate internal resources to the procurement's risk and complexity.

The four departments reviewed did not adequately document engagement planning. While our interviews with contract managers partly addressed this gap by, for example, explaining the reasons for using external resources, we found limited supporting evidence of the depth and consistency required.

The absence of a comprehensive and transparent approach is significant because we are not assured that departments have adequately:

- considered the use of internal resources
- prepared for engagements by fully assessing potential risks and documenting the basis for a preferred approach that best addresses these.

2.3.1 Establishing the need for external advice

We found little documentary evidence of establishing the need for external advice in advance of going to the market with a request for tender, or of making a compelling case for engaging external resources to meet this need. Contract managers explained that they engaged external advisers to:

- access specialist skills or knowledge not residing in the department
- get an independent or objective assessment, even when skills resided internally
- supplement skills that resided in the department but which were unavailable.

These interviews did not assure us that departments routinely and consistently assessed the availability of suitable internal resources to meet these needs.

For engagements under \$100 000, the DOJ 2013 internal audit found:

- a lack of evidence of a systematic approach to assessing whether departmental resources could meet needs that were put to the market
- the absence of departmental guidance about how to assess this capability.

2.3.2 Adequately preparing for the engagement

The VGPB's policies encourage departments to properly prepare for a potential engagement before going to the market. In addition to deciding whether to engage external resources, this preparatory work should clearly document departments' understanding of:

- the need for external advice, the engagement objectives and the expected deliverables
- the expected cost of the advice and the departmental resources needed to effectively manage the engagement, given its scale and complexity
- how the engagement should be managed, including identifying, assessing and working out how to treat risks and setting up a clear and appropriate structure for managing the contract.

The documentation we reviewed did not meet these requirements for all departments.

Figure 2A summarises the planning requirements applied by the audited departments, together with VAGO's assessment of the gaps in documentation.

While there were occasional examples of good practice for parts of the planning process, none of the documentation fully conveyed essential planning information and in all cases there were substantial gaps. This represents a missed opportunity to identify, assess and start to manage risks that are likely to threaten the engagement's objectives. The worst consequences are seen for a small number of engagements where materialising risks seriously undermined their value for money.

Finally, departments did not consistently identify, assess and describe how they intended to manage engagement risks.

Departments need to improve the comprehensiveness and clarity of their engagement planning and document this as the foundation for their preferred procurement approach and the effective management of engagements through to delivery.

2.3.3 Benefits of improved planning and documentation

A rigorous and documented approach is likely to better identify and manage key risks, provide greater assurance about planning decisions and identify where resource gaps could be cost-effectively addressed over time through recruitment and training.

Figure 2A
Departments' approach to engagement planning

Number of contracts reviewed	Departmental planning requirements	VAGO assessment
Department of Education and Early Childhood Development		
16 (25 per cent)	<p>All contracts should:</p> <ul style="list-style-type: none"> • identify business need • conduct sourcing analysis • develop a procurement conduct plan. <p>All contracts must:</p> <ul style="list-style-type: none"> • identify and assess risks by using a Procurement Activity Risk Register. <p>Contracts over \$150 000 must:</p> <ul style="list-style-type: none"> • complete a procurement conduct plan. 	<p>None of the 16 engagements adequately documented engagement planning:</p> <ul style="list-style-type: none"> • five had developed a business case and three of these were in the form of project charters that adequately identified risks and contract management issues • the remaining 11 had little documentation. <p>There was no risk register or procurement plan for the 10 projects over \$150 000, although three had risk analyses in charters.</p>
Department of Environment and Primary Industries (DEPI)		
18 (29 per cent)	<p>For all procurement over \$500 000:</p> <ul style="list-style-type: none"> • complete a procurement risk assessment • since 2011 complete a complexity risk assessment (also for engagements over \$2 500). 	<p>None of the 18 engagements adequately documented the engagement planning:</p> <ul style="list-style-type: none"> • six had partial but inadequate planning documentation • the remaining 12 had no meaningful planning documentation.
Department of Justice		
14 (22 per cent)	<p>For all contracts:</p> <ul style="list-style-type: none"> • prepare a risk management plan • define the business need • develop a contract specification. <p>For all consultancies:</p> <ul style="list-style-type: none"> • complete a consultancy engagement approval form before seeking quotes. <p>For major consultancies (value not defined):</p> <ul style="list-style-type: none"> • complete a cost-benefit analysis. 	<p>None of the 14 engagements adequately documented engagement planning.</p> <p>All five consultancies completed consultancy engagement approval forms:</p> <ul style="list-style-type: none"> • these forms included planning material but did not provide sufficient information justifying the engagement and explaining the risks. <p>For the remaining nine contractors, DOJ has been unable to provide planning documentation.</p>
Department of Treasury and Finance (DTF)		
15 (24 per cent)	<p>Prior to July 2013, no formal planning requirements.</p> <p>Since July 2013, for all engagements over \$10 000:</p> <ul style="list-style-type: none"> • complete a complexity assessment • prepare procurement initiation document, including market analysis, proposed approach, and tender evaluation/contract management plans. 	<p>Our review of DTF contracts found the same lack of comprehensive planning up to July 2013.</p> <p>DTF upgraded its processes in July 2013 as part of its transition to a reformed approach.</p> <p>These processes are more extensive and significantly improved, but their recent addition means their application is not yet able to be tested.</p>

Source: Victorian Auditor-General's Office.

2.4 Procuring—tender and appointment

Tender and appointment processes must adhere to VGPB's principles of value for money, open and fair competition, clear accountability, probity and transparency, and the effective management of risks. Departments need to demonstrate that bidders have been given the same fair opportunity to compete and that engagements are awarded on the basis of value for money.

We found that departments largely complied with VGPB's requirements, although this section also describes areas where they fell short and need to act.

However, VGPB's specific minimum requirements for procurements of this scale and complexity are not sufficient to demonstrate that departments achieved value for money through the tender and appointment processes.

Departments need to do more to extract additional value from these engagements and provide greater assurance about their value for money by extending practices beyond VGPB's requirements and better monitoring their application.

2.4.1 Where departments fell short of VGPB requirements

Departments largely met VGPB's requirements for panel arrangements, where these applied, and by either seeking the number of bids consistent with an engagement's expected value or seeking an appropriately authorised exemption.

However, we found two areas where departments clearly fell short of the requirements:

- firstly, for 40 of the 63 engagements departments failed to complete and retain conflict of interest forms for engagement assessors
- secondly, there were 17 cases where departments received a single quotation but did not assess it against evaluation criteria.

In addition, we found a further three isolated examples of engagements that had breached other VGPB requirements.

Conflict of interest documentation

The one recurring area where agencies inconsistently applied requirements is in assessors completing conflict of interest forms. Across departments we found:

- documented declarations for 23 engagements
- no documented declarations for 40 engagements.

One of these examples of missing documentation involved an engagement without the required documentation that was inherited following a machinery-of-government change.

Departments were unable to provide declarations for the remaining 39 engagements or explain their absence.

Evaluating single bids

VGPB supply policy advises that 'All offers must be evaluated in a consistent manner against the evaluation criteria adopted for the tender', and the VGPB *Conduct of Commercial Engagements* good practice guidelines note that, 'It is critical to apply the evaluation criteria consistently and transparently to all tenderers and to all tenders'.

We found 24 engagements where departments appointed based on a single, written quotation. This occurred where an exemption from seeking three quotes or public tender was obtained from the Accredited Purchasing Unit (APU), or when the proposed engagement had an expected value of less than \$25 000. For 17 of these, departments did not document an assessment of the submission against its procurement criteria—eight of these 17 engagements were for sums in excess of \$150 000.

VGPB advised that departments must evaluate all bids—including single bids—to confirm that they meet departments' minimum requirements.

Figure 2B describes a Department of Education and Early Childhood Development (DEECD) advisory engagement that was legitimately appointed through a single quotation under a panel arrangement but without evaluating the adequacy of the bid.

Figure 2B
DEECD—absence of adequate planning and evaluation of a single bid

Risks around inadequate planning and diminished value for money	
Description	Implications
DEECD used an internal research panel to directly engage a contractor for a \$548 900 research project.	<ul style="list-style-type: none"> DEECD justified this appointment based on the specialist nature of the work, the expertise and experience of the contractor, and its track record in previously doing this type of work for DEECD. DEECD did not evaluate the single bidder against the appointment criteria and did not evaluate the contractor's performance after completion. It is likely that DEECD will repeat this type of engagement in the future. Our major concern is the absence of evidence that DEECD has: <ul style="list-style-type: none"> considered the longer-term implications of this type of direct appointment identified the value risks of committing to one provider and examined what it could do to raise the level of competition by, for example, making sure that it has access to the underlying survey data and analysis that would make it easier for other firms to compete for future studies in this area.

Source: Victorian Auditor-General's Office.

2.4.2 Specific examples of noncompliance with VGPB policies

Aside from the conflict of interest declarations, we found three engagements that did not meet VGPB's requirements—these are described in Figure 2C.

Figure 2C
Specific examples of noncompliance with VGPB policies

DOJ variation without approval	
Description	Implications
<ul style="list-style-type: none"> In April 2012 a team within DOJ requested a third variation—of \$133 000—to a contract that started in late 2008. The APU rejected the request, requiring a new procurement. The team continued to use the contractor and paid a further \$133 000 before completing the engagement. The APU discovered this breach in June 2012 and briefed the Secretary of DOJ. 	<ul style="list-style-type: none"> This noncompliance raises issues about the effectiveness of departmental controls around the application of procurement decisions. Discussions with DOJ reveal that it has since implemented several systems and training, and will implement a mandatory contract management system which will be able to track and monitor all departmental contracts.
DTF potential contract splitting	
Description	Implications
<ul style="list-style-type: none"> DTF issued requests for quotes (RFQ) to the same expert simultaneously for two separate but related engagements valued at \$12 000 and \$15 000 (for two of the six parts of DTF's review of GST distribution). The RFQs for these two engagements proposed the same method, tasks and time lines. DTF subsequently agreed to change the time lines for these two engagements so that the expert could deliver them sequentially rather than in parallel. 	<ul style="list-style-type: none"> DTF did not identify the risk that this approach would be perceived as an attempt to split a single procurement to avoid a competitive selection process. If tendered jointly, DTF would have had to seek three written quotes. We have seen no evidence that DTF either considered bundling these engagements to achieve a more competitive outcome or considered going to separate vendors to achieve the original time lines outlined in the RFQ. These risks should have been identified, assessed and transparently managed.
DEECD commencing an engagement before gaining appropriate approvals	
Description	Implications
<ul style="list-style-type: none"> DEECD started an engagement before obtaining, as required, APU approval. Once identified, a noncompliant briefing was reported to the APU and approval obtained for the remainder of the engagement. DEECD explained the oversight was due to key personnel associated with the contract manager being on leave. 	<ul style="list-style-type: none"> DEECD's oversight and monitoring systems need to be robust enough to ensure that these noncompliance incidents do not happen even when specific staff members are absent.

Source: Victorian Auditor-General's Office.

2.4.3 Practice and oversight improvement opportunities

Departments should improve their practices by:

- better monitoring how they use exemptions and panels, and understanding the potential impacts of these practices on value for money
- reviewing how they deal with single bids for engagements over \$25 000
- standardising tender evaluation and reporting processes
- providing greater clarity about progress monitoring
- identifying and securing access to records that are of value to departments.

Using panel arrangements and exemptions

Figure 2D describes VGPB's supply policies for using whole-of-government or departmental panels and exemptions from normal competitive processes.

For 33 of the 63 engagements, departments used these mechanisms and followed VGPB's rules for securing the required authorisations. However, we have not seen evidence that departments monitored trends in the use of exemptions and panels, and increased cross-departmental scrutiny is likely to be required.

For example, understanding the incidence of and rationale for inviting single panel quotes, or for exempting procurements from competition, will provide the information needed to test and continuously improve value for money.

Figure 2D
VGPB supply policies—panel arrangements and exemptions

Panel arrangements

There are two broad types of panel arrangement:

- State Purchase Contract—whole-of-government arrangement aggregating the purchase of goods and services needed by multiple government agencies
- Sole Entity Purchase Contract—arrangement where a department sets up a panel as a cost-effective way of purchasing goods or services commonly procured by multiple business units.

Both of these typically:

- pre-qualify suppliers for inclusion on the panel, verifying their capabilities and often securing discounted, standard rates for goods and services
- use quotation and contract templates to reduce the transaction costs
- define business rules for the number of quotes required at different levels of expenditure, which do not have to mirror VGPB's normal requirements.

The departmental arrangements we examined further reduce the transaction costs by allowing a higher threshold than the normal VGPB rules before requiring multiple quotes. However, contract managers are able to invite multiple quotes below the minimum level if they think the benefits outweigh the additional costs.

Panels set up to secure advisory services provide easier and less costly access to quality tested resources invited to compete for entry on to the panel.

Figure 2D
VGPB supply policies—panel arrangements and exemptions – *continued*

Exemptions
<p>Under VGPB's supply policies, departments can seek an exemption from normal competitive processes and quotation thresholds where these may not be the optimal sourcing strategy.</p> <p>They do this by satisfying the appropriate financial delegate, based on the expected value of the contract, that the exemption:</p> <ul style="list-style-type: none">• is based on exceptional circumstances and not for the purpose of avoiding competition• does not compromise the integrity of the procurement process. <p>The policy describes a non-exhaustive list of exemption factors including:</p> <ul style="list-style-type: none">• matters of urgency—for example, safety or security as a consequence of unforeseen events• where no tenders are submitted• an absence of competition where specialist expertise is required or where services can only be delivered by a particular supplier and no reasonable alternatives exist• exceptional circumstances as determined by the minister or accountable officer. <p>Source: Victorian Auditor-General's Office based on Victorian Government Purchasing Board supply policies.</p>

Use of panel arrangements

Eighteen engagements, with an average value of \$231 800, were contracted using whole-of-government or departmental panels. Departments used single bidder quotations to appoint contractors to eight of these engagements. The final value of these direct appointments ranged from a DTF engagement for \$59 600 to a DEECD engagement for \$548 900 involving a company updating an earlier modelling exercise.

We are not assured that departments adequately compared the additional costs of going beyond a single panel quotation with the potential benefits of the increased competitive tension of inviting multiple bids.

When a single quote is accepted because of a bidder's specialist expertise or knowledge, departments need to assess and mitigate the risk that the engagement will consolidate a single bidder's hold on future work.

Use of exemptions

Figure 2E shows that 15 of 63 sampled engagements were subject to an exemption, with four of these avoiding a public tender but still being required to obtain a minimum of three bids and the remaining 11 exempt from any competition.

Figure 2E
Exemptions from VGPB's default competition rules

Department	Exemptions from			Total number of exemptions	Total number of engagements
	Public tender (>\$150 000)	Three quotes (>\$25 000)	Public tender/ three quotes		
DEECD	1	0	2	3	16
DEPI	0	2	1	3	18
DOJ	3	1	3	7	14
DTF	0	1	1	2	15
Total	4	4	7	15	63

Source: Victorian Auditor-General's Office.

The average value of these engagements was \$285 870, with four valued under and the remaining 11 valued over \$150 000. Agencies usually cited more than one reason for these exemptions. Needing to meet tight deadlines and a contractor's unique expertise or prior knowledge was used to explain about half of the exemptions. In four cases agencies justified exemptions based on the confidential nature of engagements.

Departments need a cross-organisation appreciation of the incidence, frequency and type of all exemptions granted. They should regularly analyse this information to understand exemption trends and characteristics and conduct appropriate testing to confirm that exemptions do not lessen competitive tension and value for money.

Single bids for engagements over \$25 000

We found a small number of non-panel and non-exempt engagements where departments made appointments for over \$25 000 based on single bids, including:

- three cases where a department sought three bids but received only one, subsequently accepting these single bids for between \$49 000 and \$300 000
- one case where departments requested a single written quote, expecting the cost to be less than \$25 000, but appointed for a sum in excess of \$25 000.

VGPB has clarified that these examples do not contravene its supply policies.

Departments are required to seek—not obtain—three written quotations for engagements between \$25 000 and \$150 000.

For the second case, VGPB advised that if a quotation exceeded the one quote threshold by a small amount it would not expect a department to start a new procurement process. However, a significant excess of the threshold should be accompanied by a rigorous appraisal of the case for a new, three quotation process. The recommendation and approval should take account of the value for money and integrity impacts.

Figure 2F shows an example where DTF appointed to an \$88 000 advisory engagement based on a single bid without adequate documentation underpinning the decision to do this.

Figure 2F
DTF—informal and inadequate appointment process

DTF advisory engagement based on single bid	
Description	Implications
<ul style="list-style-type: none"> • A face-to-face meeting between DTF and a subject matter expert in the property industry led to the consultant submitting a proposal. • This proposal was adopted and formed the basis for the contract. • In November 2012, DTF engaged the consultant for \$ 88 000, including GST. 	<ul style="list-style-type: none"> • No planning documentation was prepared prior to meeting with the consultant. DTF justified the appointment based on the specialist nature of the advice required, the tight time frames and the quality of the consultant's proposal and references. However, this was not documented. • Without a procurement plan, the project's objectives, time frames, deliverables, evaluation criteria or performance measures were not articulated. • No formal post-contract evaluation or performance report was completed.

Source: Victorian Auditor-General's Office.

Standardising tender evaluation and reporting approaches

We found diverse approaches to documenting the same type of tender evaluations even within the same department. These varied between evaluations that provided combined assessment panel scores as the sole basis for making an appointment, to evaluations providing a much fuller description of relative strengths and weaknesses, panel member scores and a clearly stated rationale for the recommended appointment.

Greater clarity around progress and performance monitoring

We found variable and inconsistent contractual requirements defining how departments would monitor progress and performance. We deal with this and its impacts under Section 2.5 on engagement management.

Records management requirements

Neither the contracts reviewed, nor VGPB's 2013 contract templates and guidance, fully address the mandatory records management requirements defined by the Public Records Office of Victoria (PROV).

VGPB needs to update its guidance to more clearly explain departments' records management obligations and how these should be incorporated in contracts. VGPB has indicated it will liaise with PROV to ensure that both VGPB and PROV guidance and templates are sufficiently clear as to the applicability of PROV standards to advisory engagements.

While departments routinely identified deliverables such as draft and final reports, they did not adequately address how the full set of records generated by the engagement should be managed. This exposes departments to risks that:

- the record of their activities will fall short of legislative requirements
- they will not realise the full benefits because they have not secured access to valuable information created through these advisory engagements
- the state may be exposed to difficulties in accessing records where this is disputed by consultants and contractors
- consultants and contractors may use the records created through government engagements for their own commercial benefit without any reference to the state.

Legislated requirements

PROV's *Specification 1—Strategic Management* states that, 'Contracts, agreements or legislative instruments for outsourcing or privatisation must specify records management and monitoring practices that meet government and legislative records management requirements'. We note that the VGPB webpage 'Contract Management Step 6' references PROV's non-mandatory guideline *Managing Records of Outsourced Activity*, but does not reference the strategic management specification, which is mandatory.

Figure 2G summarises departments' obligations for managing records from outsourced arrangements, including advisory engagements.

Engagement contracts

While contracts typically include clauses to establish the ownership of records created as a result of the engagement, we did not find sufficient detail covering the security of and access to the full records of the engagement.

For example, arrangements did not:

- clearly identify the underlying data and analysis supporting engagements' deliverables
- describe how this information would be preserved
- explain how departments could access and reuse this information.

As well as raising legislative compliance issues, this gap has the potential to reduce the value of these engagements by:

- making it difficult for departments to access and use valuable information for other purposes
- reducing the level of competition for follow-on work because access to records generated under previous engagements has not been well managed.

Figure 2G
Public Records Office of Victoria records management requirements

Requirement Number	Description
21	Ownership and custody of records of outsourced or privatised activities is determined and documented in the legal documents that govern the relationship with contracted service providers or privatised entities.
22	Contracted service providers and privatised entities must be required to comply with records management requirements determined by the agency.
23	Records of outsourced or privatised activities must only be disposed of in accordance with the <i>Public Records Act 1973</i> and other relevant legislation.
24	The same level of access to records of outsourced or privatised activities must be available to the public regardless of who is delivering the service.
25	The contractual or legislative arrangements must specify appropriate standards of storage for any records of outsourced or privatised activities which are not in government custody.
26	The contractual or legislative arrangements must specify appropriate standards of security for any records of outsourced or privatised activities which are not in government custody.
27	Arrangements for monitoring and audit of contracted service provider or privatised entity records management practices are agreed and specified.
28	Outstanding records management issues, including disposal, must be addressed by contracted service providers prior to the completion of the contract.
29	The agency must ensure that the total budget for a contract includes sufficient resources to fund the cost of the record-keeping requirements specified in the contract.

Source: Public Records Office of Victoria's strategic management specification.

VGPB's latest contract templates

VGPB's templates for departments embed practices that address PROV's requirements in the way they plan for and contract advisory engagements. One department raised this issue with us during the audit conduct.

We asked VGPB to confirm that the templates covering the provision of services took PROV's requirements into account, and specifically asked how the nine requirements in Figure 2G had been integrated within these contracts.

VGPB responded that:

- the new templates are a baseline, to which departments can incorporate additional clauses depending on the complexity of the outsourced arrangement
- the Victorian Government Solicitor's Office confirmed that the templates are sufficiently robust to be legally defensible in court.

The evidence offered has not provided sufficient assurance that VGPB's current guidelines and contract templates are sufficient to guide departments in meeting their records management obligations for advisory engagements. VGPB's planned consultation with PROV provides the opportunity to address this issue.

2.5 Managing engagements

There is insufficient documentary evidence to assure us that departments have applied a structured and effective approach to managing advisory engagements in terms of monitoring progress and performance and managing risks.

2.5.1 Monitoring progress and performance

The approach to monitoring progress and performance against engagements' objectives is inconsistent, and for the most part not adequately documented. Except for a few isolated examples of better practice, departments did not document an adequate plan for measuring progress and, for the most part, did not document key interactions between contract managers and consultants.

Our interviews with contract managers showed they relied on general contract provisions about producing specified deliverables and they informally checked on progress. They consistently advised us that they tracked progress and performance through informal discussions.

We found little evidence of performance measures or benchmarks being developed and applied to engagements, irrespective of their relative cost, size or complexity.

2.5.2 Managing risks

Our findings were similar when we assessed how departments managed engagement risks. Except for a small number of engagements, this was informal with no clear assessment of the risks and no structured approach to monitoring and managing risks during engagements.

We did not see how departments applied the formal frameworks they make reference to throughout the term of engagements. Contract managers frequently referred to their informal or non-documented management of emerging risks, but it is very difficult to gain assurance about the effectiveness of this type of approach.

This level of ongoing monitoring and oversight is insufficient to adequately manage the potential risks that threaten effective performance. The absence of a structured, documented approach to monitoring does not adequately address the risks that would flow from a contract dispute and is unlikely to systematically identify and proactively deal with emerging risks.

Figure 2H describes the material consequences from inadequate risk management for:

- a DTF advisory engagement to review a major commercial transaction
- two DEPI engagements where shortfalls in planning and risk management led to substantial variations that are likely to have diminished value for money.

Figure 2H
Examples of inadequate risk management

DTF engagement to advise on a commercial transaction	
Description	Implications
<ul style="list-style-type: none"> DTF appointed a contractor to advise it on a major commercial transaction. The contractor noted it had previous experience in a similar advisory role in another state but did not think this represented a conflict. The bidder signed the contract and subsequently the private sector company negotiating with DTF raised the contractor's previous work as a critical conflict of interest. DTF signed and then two days later terminated the contract, agreeing to pay approximately \$200 000 for the delivery of a summary report drawn from publicly available information. 	<ul style="list-style-type: none"> While DTF was aware of this potential risk, we found no formal assessment or evidence of it seeking legal advice before the preferred bidder signed the contract. DTF explained that the fee had been calculated based on the contractor completing 13 days work between the start of the contract on 21 August and its termination on 6 September. This means the contractor started work before DTF countersigned the contract on 29 August. The scale of the payout and the need to engage an alternative firm to provide advice means that DTF is unlikely to achieve value for money. DTF has not evaluated and documented the lessons from this. This experience highlights inadequate risk assessment and management.
DEPI examples of inadequate planning, risk management and subsequent extensive variations	
Description	Implications
<ul style="list-style-type: none"> DEPI significantly varied two engagements after making appointments based on single bids under a panel arrangement which did not require multiple bids for engagements under \$150 000. First engagement: <ul style="list-style-type: none"> involved a head office review of an organisation within the portfolio once the work started, assumptions about the completeness and scope of data held by the organisation proved wrong accordingly, DEPI expanded the scope, and the APU signed off on changing the contract value from \$90 000 to \$355 231. DEPI advised this occurred after accepting the evidence from the contract manager that this variation represented value for money for DEPI. However, VAGO has reviewed the request for variation and could not confirm this. Second engagement: <ul style="list-style-type: none"> involved a review of the budget allocated to a division of DEPI early into the conduct, DEPI argued that the scope needed to be expanded to address the engagement objectives accordingly, DEPI expanded the scope and the APU signed off on changing the contract value from \$90 000 to \$355 231 after accepting the evidence from the contract manager that this variation represented value for money for DEPI. 	<ul style="list-style-type: none"> We found very little planning documentation and no assessment of the potential risks threatening the success of these arrangements. The submissions to the APU argued that these scope changes were not foreseeable and recommended that the existing contracts be extended without re-tendering because of the contractors' established knowledge. The submission also noted that it would be difficult to re-tender and achieve the tight time lines set for these projects. Our interview with the contract manager—who was involved with both projects—suggested they would have appreciated more guidance and support in managing these procurements and a better understanding of the implications. DEPI notes that it provides contracting and procurement advice to staff via webpages on the intranet and both the APU support team and the business unit procurement process champion are available to assist staff with procurements.

Source: Victorian Auditor-General's Office.

2.5.3 Actions to address this

Departments need to better define progress and performance measures and their approach to managing risk, and better record their contract management actions.

Applying a structured, scalable and documented approach to managing engagements of different sizes and complexities does not necessarily require more resources, but it will require more discipline in following well-designed minimum requirements and documenting the outcomes.

This will bring greater rigour and consistency to how departments manage these engagements and make it possible for departments to monitor and improve practices across business units.

2.6 Evaluating and learning from engagements

As documented in our 2012 publication *Reflections on audits 2006–2012: Lessons from the past, challenges for the future*, VAGO's audits since 2006 have found that agencies are frequently unable to clearly demonstrate how well they have performed. In this context, post-implementation reviews are essential to verify the value for money and integrity of advisory engagements and to learn from procurements and continuously improve.

Our conclusions on this type of activity are clear—VGPB's supply policies do not mandate this and none of the departments completed post-implementation reviews.

VGPB's *Management of Consultants Policy* lists the 'dates a consultant evaluation and consultancy post-implementation review were completed' as information that should be recorded on departments' consultancy registers. This is the only reference we can find to this essential activity in VGPB's supply policies, which do not mandate this for all engagements.

All departments need to complete post-implementation reviews for an advisory engagement that are sufficient to evaluate whether it achieved intended value-for-money integrity outcomes and to understand and apply improvement lessons.

2.7 Value-for-money implications

We tested value for money by assessing whether departments could demonstrate that engagements were well planned, effectively procured through the tender and appointment process, well managed and comprehensively evaluated after completion.

For the vast majority of engagements, the documentary evidence falls well short of demonstrating that these engagements achieved value for money.

In addition, a small number of engagements are unlikely to have achieved value for money because of risks that materialised which were not well assessed and managed.

Departments need to improve their practices and oversight to address these weaknesses. The transition to a reformed procurement approach provides a clear opportunity to do this, and Part 3 of this report describes our early, indicative findings about the potential of the reform process to address these issues.

2.7.1 Demonstrating value for money

From the evidence we have reviewed, departments are unable to demonstrate that the engagements they procure represent value for money because:

- essential planning work is unconvincing and largely undocumented—cases for using external resources are mostly undocumented, with little cross-departmental feedback about resource gaps that might be best filled by recruitment
- tender and appointment processes largely follow the VGPB requirements, but there is a need for greater scrutiny of the value-for-money implications of departments' use of panels and exemptions
- managing engagements is largely informal in the absence of a structured and consistent departmental approach to monitoring and management
- post-implementation reviews to confirm value for money and distil and apply the lessons learned are non-existent.

Departments need to address these issues if they are to raise the level of assurance about the value for money and integrity of the advisory engagements they commission.

2.7.2 Engagements with diminished value for money

We identified a small number of examples where compliance issues or materialising risks significantly undermined the engagements' value and have described these in figures throughout this part of the report:

- Figure 2B describes an example where DEECD made a direct appointment for a \$548 900 engagement under a panel arrangement without formally evaluating the bid and the outcomes, or assessing how to best manage its records to open the possibility of greater competition for future work.
- Figure 2C describes three examples of noncompliance with VGPB policies, involving a variation, a contract commencing without appropriate approval and contract splitting.
- Figure 2F describes an example of an informal and inadequate appointment process for an \$88 000 DTF engagement.
- Figure 2H describes one DTF and two DEPI engagements with inadequate risk management.

Recommendations

1. That departments review and improve their policies and practices to adequately demonstrate the integrity of and value for money achieved through advisory engagements by:
 - documenting the essential planning work to justify the use of external resources, to identify and manage risks, and to determine a preferred procurement route
 - comprehensively documenting conflict of interest issues and always evaluating bids, providing greater clarity about progress and performance monitoring, and meeting mandatory records management requirements
 - taking a more structured approach to managing engagements by documenting progress and performance to monitor and manage risks
 - completing post-implementation reviews of all engagements, commensurate with their size and complexity, to verify deliverables and the achievement of process integrity and value-for-money outcomes.
 2. That the Victorian Government Purchasing Board updates its guidance to more clearly explain departments' records management obligations and how these should be incorporated in contracts.
-

3 Oversight and the new approach to procurement

At a glance

Background

This part examines department-wide and whole-of-government oversight and reporting, how procurement reform has the potential to improve departments' performance and what departments need to do to realise this potential.

Conclusion

There are significant gaps in the way individual departments and the Department of Treasury and Finance (DTF), in its whole-of-government role, oversee procurement. Procurement reform offers the opportunity for individual departments to transform their approach to procurement and address the issues raised in this report.

Findings

- Departments largely complied with the requirements about classifying, recording and disclosing engagements. However, the Victorian Government Purchasing Board's (VGPB) requirements for information gathering and disclosure are not sufficient to underpin effective procurement.
- In terms of central oversight, DTF needs to raise the level of assurance it provides to government about correctly classifying and fully disclosing consultancies and in verifying the savings claimed by departments.
- The early evidence suggests that procurement reform is an opportunity for departments to transform the way they govern and manage procurement and address the weaknesses identified in this report.

Recommendations

- That departments collect and analyse sufficient information to reliably advise their executives about procurement performance and how to manage value-for-money and integrity risks.
- That DTF describes how it will verify the accuracy of departments' classification and reporting of consultancy expenditure, verifies the basis of financial targets developed outside of government and better understands and advises government of the evidential basis for departments' savings assertions.
- That VGPB defines how it will monitor, evaluate, report on and respond to the impacts of procurement reform.

3.1 Introduction

Part 2 of this report focused on departments' performance in planning, procuring, managing and evaluating a selected sample of advisory engagements.

This Part examines department-wide and whole-of-government oversight and reporting, how procurement reform has the potential to improve departments' performance, and what departments need to do to realise this potential.

Effective oversight requires departments to use available resources to understand the quality of cross-departmental procurement, adequately monitor risks and, where appropriate, intervene to improve practices.

The Department of Treasury and Finance (DTF) and the Victorian Government Purchasing Board (VGPB) need to better understand practices across government so they can advise the Minister for Finance on any systemic and significant risks to performance, and act where better guidance or education would help address these risks.

By August 2014 the four departments in this audit will have transitioned to a new approach to procurement. DTF has been operating under this system since June 2013. We examined the potential for this change to address the weaknesses identified.

3.2 Conclusion

There are significant gaps in the way departments and DTF, in its whole-of-government role, oversee procurement.

Departments in the past have not systematically collected and analysed the information needed to effectively oversee advisory engagements. They have instead managed these engagements on a case-by-case basis without the type of intelligence gathering, analysis and leadership needed to drive significant improvement.

In terms of central oversight, DTF needs to raise the level of assurance it provides to government about how departments classify and disclose consultancies. To better verify the savings claimed by departments, DTF has committed to review and analyse departments' consultancy expenditure to ensure expenses are correctly reported, but it continues to rely on departmental attestations about savings without any documentation of the basis for these claims.

The early evidence suggests that procurement reform has the potential to transform the way departments govern and manage procurement and address the weaknesses identified in this report in relation to advisory engagements. Our initial review of DTF's progress shows very promising signs, with evidence of upgraded processes, intelligence gathering and analysis underpinning improved procurement practices, oversight and accountability.

We have asked all four departments to explain how their approaches to procurement reform will address the findings and recommendations in this report. However, VGPB has not defined a formal framework for monitoring the results of transitioning to the new framework, and this is a significant omission.

3.3 Departmental oversight and reporting

Departments largely complied with the requirements about classifying, recording and disclosing engagements. However, VGPB's minimum requirements for information gathering and disclosure are not sufficient to underpin the type of proactive approach needed to identify and address the weaknesses described earlier in this report.

Departments need to improve their information gathering and how they analyse and use this information to guide and support business units and make them accountable for their performance.

3.3.1 Departmental oversight

For the period examined in this audit we found that departments had largely managed advisory engagements on a case-by-case basis without the type of intelligence gathering, analysis and leadership needed to drive significant improvements.

The management and documentation weaknesses identified in Part 2 of this report in relation to advisory engagements mean that departmental intelligence has been insufficient for them to understand and report on performance.

VGPB's minimum requirements, especially for lower value advisory engagements, are not sufficient to demonstrate value for money because the focus is on following rules rather than demonstrating the achievement of outcomes. This approach does not promote proactive and purposeful leadership of the procurement function.

We recommend a more defined whole-of-department intelligence and leadership role for procurement units involving:

- the collection of essential information for all engagements
- the analysis of this information to better understand and respond to the value for money and probity risks where there are noncompliance or process weaknesses
- improved reporting to departmental executives and the accountable officer to provide greater assurance about the effectiveness of procurement processes.

3.3.2 Classifying, recording and disclosing engagements

Departments have largely, but not completely, met these obligations by:

- classifying consultancies up to June 2013, according to a definition that incorporated an element of judgement that was unlikely to lead to consistent outcomes across departments
- recording 75 per cent of the information that they are required to hold in consultancy registers
- failing to disclose only one of the 20 consultancies examined
- not publishing details of four of the 41 contracts over \$100 000 we examined.

Classifying engagements

The definition of consultancy applying up to June 2013 permitted departments to legitimately classify a wide range of private-sector advisory services as contracts rather than consultancies. For example, a one-off study to underpin a new strategy involving the use of expert analysis could be classified as a contractor rather than consultancy if the required skills were expected to reside within the agency.

In this audit we have seen firms carrying out similar types of engagements under similar circumstances classified as both consultancies and contractors based on departments' judgements about whether skills are expected to reside in the agency.

The 2013 revised definition of a consultancy is less ambiguous. It still focuses on engagements that facilitate decision-making, but specifies that this is through the provision of expert advice and analysis and/or by developing a written report or other intellectual output. This sets a much lower bar and dispenses with the judgement about whether the skills employed are expected to reside in the department.

We raise issues with how DTF communicated these changes in Section 3.4.

Keeping a register of consultancies

VGPB's *Management of Consultants Policy* describes the information departments are required to record on all consultants over \$2 000. VGPB confirmed that this information did not need to be held in a separate register. This information is made up of nine specific items covering details about the external business, engagement, departmental contact and the date a post-implementation review and evaluation were completed. We found that departments held the required information on their systems except for the dates when post-implementation reviews had been completed.

Departments need to address the gap in completing the dates of post-implementation reviews and this is tied to changing practices to routinely complete these reviews for advisory engagements.

Disclosing consultancy and contractor engagements

We reviewed performance against the government's requirements for reporting consultancies in their annual reports for 2011–12 to 2012–13 and for publishing details of all contracts over \$100 000 on the government's Contracts Publishing System (CPS)—as set out in VGPB's Disclosure of Contracts Policy.

This is also the case for individual contracts over \$100 000 engaged through a State Purchase Contract or a departmental panel—referred to as a Sole Entity Purchase Contract. The VGPB policies covering these arrangements both state that:

'Entities are required to report individual purchase order contracts over \$100 000 on the Contract Publishing System.'

Departments had largely complied with these requirements by:

- disclosing the details for all but one of the 20 consultancies we examined
- publishing details of 37 of the 41 advisory engagements over \$100 000 that departments classified as contracts but not consultancies.

Figure 3A shows that for disclosure of consultancies:

- DTF fully and accurately disclosed consultancy engagements.
- The departments of Education and Early Childhood Development (DEECD), Environment and Primary Industries (DEPI) and Justice (DOJ) had a combined total of six consultancies that they partly disclosed because engagements across two financial years were reported only in the first year. However, DTF stated that there was a lack of clarity before July 2013 on whether departments were only required to report consultancies in the year the engagement was approved. This has since been clarified in FRD 22D Standard Disclosures in the Report of Operations applying since July 2013.
- DEECD did not report at all on one consultancy.

Figure 3A
Departments' performance in disclosing consultancies in annual reports

Department	Fully and accurately disclosed	Partly disclosed	Not disclosed	Due to publish in 2013–14 annual report
DEECD	1	1	1	0
DEPI	2	2	0	2
DOJ	2	3	0	0
DTF	5	0	0	1
Total	10	6	1	3

Source: Victorian Auditor-General's Office.

Figure 3B shows that—for the engagements we examined—departments published details of 37 of the 41 engagements valued at over \$100 000 on the government's CPS website.

We had considerable difficulty in establishing these facts by searching the CPS website because it did not provide an effective and user-friendly search capability. We raise this issue in Section 3.4.

Figure 3B
Departments' performance in disclosing contracts over \$100 000

Department	Sample engagements over \$100 000 examined during audit			
	Consultants	Contractors	Total	On CPS
DEECD	3	11	14	13*
DEPI	0	9	9	9
DOJ	4	7	11	11
DTF	2	5	7	6
Total	9	32	41	37

Note: *During the audit DEECD updated the CPS with two engagements.

Source: Victorian Auditor-General's Office.

3.4 Central oversight and support

We examined DTF and VGPB's roles in assuring the Minister for Finance about the effectiveness of departments' procurement of advisory engagements.

More transparent disclosure of consultancies and savings in consultancy expenditures are specific policy goals of the government.

We found that DTF needs to raise the level of assurance provided to government to verify departments' progress towards these goals and note that DTF has committed to do this in relation to classifying and disclosing consultancies.

The United Kingdom applies a greater level of rigour to verifying savings through the Efficiency and Reform Group, a unit within the Cabinet Office.

While it is clear that departments are on track to deliver the quantum of savings set by government, we have not seen sufficient evidence to verify the source of these savings. For future financial commitments made outside of government DTF needs to:

- test the rigour of estimates and report the implications to government
- obtain information from departments to underpin specific savings claims.

3.4.1 Monitoring how departments classify consultancies

We note that departments are primarily accountable for complying with ministerial directions issued under the *Financial Management Act 1994*.

DTF's role is to provide assurance to the Minister for Finance that departments are discharging their accountabilities in accordance with these directions. The *Financial Management Compliance Framework* was established to provide department-sourced information to underpin this assurance.

DTF reviews and collates this information and completes risk-based assurance reviews for a sample of the directions to provide greater assurance.

Given the policy significance of consultancies to government, DTF needs to raise the level of oversight of their correct classification. DTF flagged its intention to do this in the late 2013 bulletin advising agencies how to apply the government's cap on labour expenses—the Labour Sustainability Cap (LSC). The bulletin stated, 'DTF will review and analyse departments' consultancy expenditure to ensure expenses are correctly reported'.

We note in applying the LSC, DTF has made changes to the way departments record temporary labour contracts to facilitate better monitoring of progress towards the government's targets.

In responding to this report, DTF should describe how and when it intends to apply this greater level of scrutiny.

3.4.2 Tracking progress in achieving consultancy savings

DTF is also responsible for tracking progress against the government's Better Financial Management policy target of saving \$1.57 billion across 11 savings initiatives over the five years between 2010–11 and 2014–15. The government wanted progress tracked and progressively reported against baseline spending in 2009–10.

Agencies are on track to achieve government's overall savings targets because funding allocations have been adjusted to take this into account.

However, while we acknowledge that its monitoring role is challenging, DTF does not have sufficient evidence to verify that the specific savings targets, such as for consultancies, were based on sound evidence and have been delivered as intended.

This task is challenging because:

- the targets were set without DTF input pre the 2010 election—we have seen no evidence that DTF checked the basis for the targets for each initiative
- for several initiatives, including consultancy spending, reliable baseline data was not available because of differences in official definitions of consultancies before and after July 2013—in fact, for several departments annual savings targets exceeded the total amount of reported consultancy expenditure in 2009–10.

DTF confirmed the absence of reliable baseline data for several initiatives, including consultancy expenditure and informed VAGO that it:

- completed a stand-alone exercise to report back to government on the achievement of these savings, relying on chief financial officer (CFO) verbal attestations and a review of overall departmental expenditure, identifying to government where these savings were fully implemented and describing instances where these savings were partly achieved through broader application within the department's administrative expenditure
- noted that its monitoring and oversight role was carried out consistent with the *Financial Management Compliance Framework*, where departments are accountable for results and responsible for reporting these
- considered that the CFO verbal attestations used were adequate in the circumstances to confirm the achievement of savings
- explained that DTF's role is to report to government on the overall achievement of savings, not to verify each departmental attestation line by line.

We do not consider:

- the submission of summary savings achieved by departments without adequate documentation of the basis for these assertions as being sufficient to verify that savings have been made against specific initiatives
- it an onerous or excessive requirement for departments to document how they calculated the savings under each initiative.

We note the greater level of rigour used in the UK to measure the achievement of claimed savings. The Efficiency and Reform Group works with departments to deliver efficiencies, savings and reforms on behalf of UK taxpayers. It prescribes the methods departments use to measure savings and verify savings through internal audits.

DTF should have verified the basis for the government's savings targets and gained sufficient documentation from departments to verify how they had calculated actual savings for each initiative.

Our expectation is that in similar situations in the future DTF will do a due diligence check on targets, advise government of the implications, and require departments to fully explain the basis for claimed cost savings.

3.4.3 Additional improvement opportunities

We identified the following opportunities for DTF and VGPB to help improve the management and disclosure of consultancies by:

- DTF reviewing and improving the performance of the CPS website—we found the interface and search functionality difficult to use and DTF needs to improve access to the information contained in this database
- VGPB reviewing whether Public Records Office Victoria's (PROV) record-keeping requirements have been adequately incorporated in its template contracts and guidelines and amending these to address any gaps.

3.5 Procurement reform

The early evidence suggests that procurement reform is an opportunity for departments to transform the way they govern and manage procurement, and address the weaknesses identified in this report.

Our initial review of DTF's progress shows very promising signs, with evidence of upgraded processes, intelligence gathering and analysis underpinning improved procurement practices and oversight. The other departments in this audit have a similar opportunity to transform their approach to procurement and the early signs are that they intend to do this.

While VGPB has defined a formal and structured pathway to transition, it has not defined how it will monitor, evaluate and report on the impacts of procurement reform. Given the scale and significance of the reform, it is essential that VGPB takes a structured and methodical approach to doing this.

3.5.1 Procurement reform and progress to implementation

Procurement reform introduces a policy framework to support a more strategic and efficient approach to procurement. It is underpinned by high standards of probity, accountability and flexibility, with a strong focus on value for money, more interactive engagement with the market, and improved productivity.

The reform aims to reposition procurement as a core business function. It places the onus on the buyer to understand how best to manage the procurement process, engage the supplier market and align the skills required to manage the procurement (capability) with the requirements of the procurement activity (complexity).

As such, it will require structural, cultural and process change within departments.

VGPB's goal is for all departments to transition to the new procurement approach by August 2014. DTF transitioned to the new approach in June 2013, and the remaining departments in this audit are on track to meet VGPB's target date.

To transition, departments have to make a submission to VGPB describing how they will apply the policy framework in a way that best suits the department's procurement profile, business activity, organisational structure and capability—VGPB must assess and endorse this submission before a department transitions.

The transition will give rise to risks and opportunities. While departments have to secure VGPB's approval of their procurement strategy showing how they will manage the transition, VGPB has not defined a formal framework for monitoring the results of transitioning to the new procurement environment, and we see this as a significant omission.

3.5.2 Case study—Department of Treasury and Finance

DTF was the first department to transition to the new procurement approach in June 2013 and we have completed an initial review of the changes made and their potential to address the issues raised in this audit. The full implementation of the framework will take four years.

This transition marks a significant improvement in DTF's approach to procurement. We have examined the revised documentation and examples of the type and depth of analyses completed under the new framework.

DTF's documentation and oversight appears significantly improved, with processes in place to provide the central Procurement Resource Unit (PRU) with the information it needs to better monitor compliance and procurement trends. If implementation continues as intended then this approach is likely to address the process and oversight weaknesses we have described in this audit.

Department of Treasury and Finance's revised approach

Governance Framework

The Governance Framework adopted by DTF is designed to address recognised weaknesses in planning, procuring and managing engagements.

DTF has modified governance by:

- modernising procurement processes
- increasing procurement and contracting capability through training
- adopting a 'whole-of-life' approach to procurement
- underpinned this by the following organisational structure:
 - accountable officer
 - chief procurement officer—new appointment
 - Internal Procurement Unit (IPU)—new
 - Procurement Resource Unit—new.

Improved approach to procurement

DTF has changed its approach to procurement by:

- encouraging, empowering and enabling staff to approach procurement holistically by developing comprehensive and upgraded policies, guidance, tools and templates to assist them to understand the overall process and requirements from beginning to end
- understanding the department's spend profile and updating this understanding by developing improved reporting and analysis of procurement activities
- improving supplier engagement with the aim of improving engagement throughout the entire procurement cycle.

In terms of the different stages of procurement, DTF has:

- implemented a Procurement Initiation Document to capture critical planning information for all engagements, which DTF thinks will address the planning information gaps identified in this audit
- implemented a Procurement Outcome Document—completed post market approach but prior to contract execution—defining the outputs, outcomes, value-for-money proposition and how risks will be managed
- updated requirements in the light of our early findings to specifically check that the use of internal resources has been adequately considered
- better defined the required capabilities of contract managers for different types of engagement
- introduced the requirement for documented monitoring of progress throughout an engagement and the completion of a post-implementation review.

Visibility and oversight

The revised approach provides visibility of all procurement activity over \$10 000 to the PRU and to the IPU for engagements over \$150 000. The PRU is responsible for analysing procurement activity and trends and reporting risks to the IPU and the chief procurement officer.

Improved practice example—planning information

Figure 3C describes how DTF's revised planning requirements are likely to improve performance.

Figure 3C
Improved engagement planning documentation at DTF

Description	Improvements
<p>DTF's Procurement Initiation Document requires that the following details are recorded for all engagements over \$10 000:</p> <ul style="list-style-type: none"> • scope of requirement • background • estimated value • interaction with key policies such as environmental sustainability and indigenous inclusion policies • market analysis • proposed market approach • proposal evaluation criteria and methodology • evaluation team details • risk management and mitigation issues • contract management arrangements • internal reporting and monitoring arrangements. <p>In response to the audit findings, DTF has stated that it will supplement the Procurement Initiation Document to include a specific category on examining the potential to use internal resources.</p> <ul style="list-style-type: none"> • In addition, a complexity assessment is also required for engagements over \$10 000 using an in-house tool to assess complexity, required capability and procurement route. 	<p>This approach, if effectively applied, will provide the basic information required to assess the planning approaches used across all significant engagements and will generate valuable intelligence for understanding and improving performance by ensuring that:</p> <ul style="list-style-type: none"> • aims and objectives of the engagement are established prior to approaching the market • risks are identified, assessed and planned for prior to the beginning of the contract • procurement options are considered in a structured and informed way.

Source: Victorian Auditor-General's Office.

3.5.3 Implications for other departments transitioning

While each agency has to design its approach to reform based on its specific procurement characteristics and profile, we see the opportunity for the other departments to transform their approach and address the issues we have raised.

We have requested that the other three departments advise us how they will address the findings of this report in implementing procurement reform.

DEECD is most advanced—it has reviewed its procurement policy, procedures and practices to align with the new procurement reform and has developed its new governance and operating model to reflect the strategic approach of VGPB's new procurement framework. In March 2014, VGPB approved DEECD's transition to VGPB's new supply policy framework effective 1 July 2014.

3.5.4 Understanding the impacts of reform

VGPB has not defined a formal framework for monitoring the results of transitioning to the new framework. Under its guidance on making a submission, it states that

'The VGPB may also determine elements of your submission that will be subject to ongoing assessment or may need to be resubmitted as a result of changes that impact on the structure and/or operation of the organisation'.

This is a significant omission and we recommend that VGPB address this by defining how it will evaluate, monitor and report to government on the impacts and lessons.

Contract publishing requirements

The new VGPB reform policy *Contract management and contract disclosure policy*, does not require engagements made by departments using State Purchasing Contracts (SPC) to be disclosed. This is inconsistent with promoting transparency.

The VGPB confirmed that its previous policy required entities to report individual purchase order contracts over \$100 000 on the CPS, and this included contracts set within a SPC.

VGPB further stated the new procurement reform policy framework requires that all departments publish a procurement activity plan for the following 12–18 months ensuring full transparency and better informing the market of future supply opportunities.

VAGO does not agree that these activity plans will address the reduced transparency from departments no longer publishing contracts over \$100 000 made within an SPC on the CPS.

We compared the high-level information provided by DTF's Procurement Activity Plan with the information published when a contract is listed on the CPS. The CPS lists up to 20 items of information on the contract, agency and supplier. DTF's Procurement Activity Plan lists none of this information, instead providing estimated aggregate expenditures for a number of procurement categories. This appears contrary to the government's policy of increasing, not reducing, contracts' transparency.

Recommendations

That the Department of Treasury and Finance:

3. describes in its response to this recommendation the steps it will take to verify the accuracy of departments' classification and reporting of consultancy expenditure
4. as a matter of standard practice, verifies the basis of government's financial commitments, where these have not been informed by prior Department of Treasury and Finance input, and advises government of the implications
5. better understands and verifies the evidential basis for departments' assertions about the Better Financial Management policy savings achieved.

That departments:

6. collect and analyse the information needed to confirm that business units are complying with mandated policies and practices, and manage the risks to achieving value for money and maintaining process integrity.

That the Department of Treasury and Finance:

7. reviews users' satisfaction with the performance of the Contracts Publishing System website and upgrades the website to provide more effective and user-friendly access to the contract information it contains.

That the Victorian Government Purchasing Board:

8. defines how it will monitor, evaluate and report on the impacts of procurement reform and the actions needed to address emerging issues and reinforce beneficial outcomes.

Appendix A.

Changes to Financial Reporting Direction 22

Introduction

Figure A1 shows how the Department of Treasury and Finance changed Financial Reporting Direction 22 to increase the consultancy reporting requirements and clarify the definitions of 'consultant' and 'contractor'.

Figure A1
Changes to Financial Reporting Direction (FRD) 22

FRD 22B—applied July 2007 to June 2011	FRD 22C—applied July 2011 to June 2013	FRD 22D—applies from July 2013
Definition of consultancy		
An arrangement where an individual or organisation is engaged to provide expert analysis to facilitate decision-making and perform a specific one-off task that involves skills or perspectives which would not normally be expected to reside within the agency.	Same schedule as for FRD 22B.	A consultant is a particular type of contractor engaged primarily to perform a discrete task for an entity that facilitates decision-making through: <ul style="list-style-type: none"> • provision of expert analysis and advice and/or • development of a written report or other intellectual output.
Definition of contractor		
An arrangement where an individual or an organisation is engaged to: <ul style="list-style-type: none"> • provide goods, works or services which implement a decision, or • perform all or part of a new or existing ongoing function to assist an agency carry out its defined activities and operational functions, or • perform a function involving skills or perspectives which would normally be expected to reside within the agency but which the agency has determined to outsource. 	Same schedule as for FRD 22B.	A contractor is an individual or organisation that is formally engaged to provide works or services for or on behalf of an entity. This definition does not apply to casual, fixed-term or temporary employees directly employed by the entity.

Figure A1
Changes to Financial Reporting Direction (FRD) 22 – continued

FRD 22B—applied July 2007 to June 2011	FRD 22C—applied July 2011 to June 2013	FRD 22D—applies from July 2013
Consultancy reporting		
For each consultancy—not contractor—valued in excess of \$100 000 (ex GST), an entity should include a schedule listing the following: <ul style="list-style-type: none"> • consultants engaged • brief summary of the project involved • total project fees approved (ex GST) • expenditure for reporting period (ex GST) • any future financial commitments to the consultancy. 	Same schedule as for FRD 22B but for each consultancy value in excess of \$10 000 (ex GST).	Same schedule as for FRD 22B but applies to each consultancy valued at \$10 000 or greater (ex GST) and each agency should publish the schedule on its website.
An entity should also report total expenditure on all consultancies and the total number/expenditure on consultancies that are individually valued at less than \$100 000 (ex GST).	An entity should also report total expenditure on all consultancies and the total number/expenditure on consultancies that are individually valued at less than \$10 000 (ex GST).	Same requirements as for FRD 22C for reporting total expenditure on all consultancies and the number and total expenditure on engagements valued at less than \$10 000 (ex GST). In addition, information should be published on agencies' websites and point to location where details of higher value consultancies can be accessed.
Contract reporting		
Departments to publish the details of all contracts over \$100 000 on the Victorian contracts website.		

Source: Victorian Auditor-General's Office.

Appendix B.

Audit Act 1994 section 16— submissions and comments

Introduction

In accordance with section 16(3) of the *Audit Act 1994*, a copy of this report was provided to the Department of Treasury and Finance, Department of Justice, Department of Education and Early Childhood Development, Department of Environment and Primary Industries, and Victorian Government Purchasing Board.

The submissions and comments provided are not subject to audit nor the evidentiary standards required to reach an audit conclusion. Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses were received as follows:

Department of Treasury and Finance.....	50
Department of Justice	56
Department of Education and Early Childhood Development.....	59
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Victorian Government Purchasing Board.....	62

Further audit comment:

Auditor-General's response to the Department of Treasury and Finance	54
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RESPONSE provided by the Secretary, Department of Treasury and Finance



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Mr John Doyle
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Dear Mr Doyle

MANAGING CONSULTANTS AND CONTRACTORS AUDIT REPORT

Thank you for the follow-up advice from your Office dated 6 June 2014 inviting a final response to the draft Managing Consultants and Contractors audit report by 10 June 2014.

The Department takes pride in its reputation for professional conduct and as a leading risk manager. The statements made within the draft report have been reviewed and the reported probity issues have been addressed.

The draft report acknowledges the Department's transition to the Victorian Government Purchasing Board's new Supply Framework marks a significant improvement in its approach to procurement. The Supply Framework underscores the Department's commitment to the procurement principles of achieving value for money, probity, accountability and scalability.

The Department's response to specific recommendations is attached. I note that the Victorian Government Purchasing Board has separately been provided with the opportunity to formally respond to this report.

I wish to draw your attention to issue contained in the draft report described as managing risks.

Figure 2H of the draft report does not adequately describe the probity approach adopted by the Department on the advisory engagement used in the example. As previously advised, the Department sought probity advice from a member of the Government's Probity Practitioner Services Panel and the advice confirmed there were no conflict of interest issues.

Including this information within Figure 2H would more fairly reflect that probity issues were considered and addressed in this engagement. Engagement of a probity advisor to review the engagement demonstrates the Department's robust risk assessment and management.

Figure 2H of the draft report notes that the Department paid approximately \$200 000 for the delivery of a summary report drawn from publicly available information. The draft report also comments on the scale of the payment relative to services provided.



RESPONSE provided by the Secretary, Department of Treasury and Finance – continued

The Department engaged industry specific expertise and agreed and committed to the terms of the contract. The contractor completed work to meet departmental timeframes, and the Department paid a fee for the delivery of a number of products including three reports and several presentations as well as attendance at meetings. The payment of approximately \$200 000 reflects the schedule of fees outlined in the contract for services provided.

Please contact me should you wish to discuss the matters raised in this letter.

Yours sincerely

A handwritten signature in purple ink, appearing to read 'D. Martine', with a stylized flourish at the end.

David Martine
Secretary

RESPONSE provided by the Secretary, Department of Treasury and Finance – continued**Proposed Action Plan – Managing Consultants and Contractors**

Rec. No.	Recommendation	Proposed Action	Target Date
1	<p>That departments review and improve their policies and practices to adequately demonstrate the integrity of and value for money achieved through advisory engagements by:</p> <ul style="list-style-type: none"> Documenting the essential planning work to justify the use of external resources, identify and manage risks and to determine a preferred procurement route Comprehensively documenting conflict of interest issues and always evaluating bids, providing greater clarity about progress and performance monitoring, and meeting mandatory records management requirements Taking a more structured approach to managing engagements by documenting process and performance to monitor and manage risks Completing post-implementation reviews of all engagements, commensurate with their size and complexity, to verify deliverables and the achievement of process integrity and value-for-money outcomes. 	<p>The Department of Treasury and Finance (DTF) has addressed each of these recommendations in its transition to the new VGPB supply framework effective 1 July 2013.</p> <p>An end to end approach to the procurement life cycle in DTF is to be supported by processes which include comprehensive and holistic planning documentation, risk and benefits management and contract management.</p> <p>The framework is underpinned by the procurement principles of value for money, probity, accountability and scalability.</p> <p>DTF's procurement reform program extends over 4 years: Establishment, Operationalization, Evaluation and Improvement</p> <p>Each year has an extensive program of activities which will see continuous improvement in procurement policies and practices.</p>	July 2017

Proposed Action Plan – Managing Consultants and Contractors

3	<p>That the Department of Treasury and Finance describes in its response to this recommendation the steps it will take to verify the accuracy of departments' classification and reporting of consultancy expenditure.</p>	<p>DTF has improved the reporting of consultancy and contractor expenditure at the departmental level, including through an updated Financial Reporting Direction which includes a revised definition of consultancy expenditure.</p> <p>This ensures there will be a sound basis for establishing baseline expenditure and support the reporting of reliable data by departments into the future.</p> <p>DTF recognises the importance of its role in providing advice to the Government in relation to its financial commitments and expenditure policies and their implications. The Department will continue to oversee implementation of such policies, adopting review and assurance processes consistent with its central oversight role under the Financial Management Compliance Framework.</p> <p>DTF considers that attestations by Chief Financial Officers (CFO) along with a review of overall departmental expenditure are appropriate review mechanisms to confirm their accuracy. Primary responsibility for compliance with Government policy, including expenditure policies, rests with individual agencies.</p>	On-going
4	<p>That the Department of Treasury and Finance as a matter of standard practice, verifies the basis of government's financial commitments, where these have not been informed by prior DTF input, and advises the government of the implications.</p>	<p>As a matter of regular practice, when DTF becomes aware of a government commitment, which is not informed by prior DTF input, DTF prepares appropriate advice for government on the policy, financial and budgetary implications of the commitment.</p>	On-going

RESPONSE provided by the Secretary, Department of Treasury and Finance – continued**Proposed Action Plan – Managing Consultants and Contractors**

5	That the Department of Treasury and Finance better understands and verifies the evidential basis for departments' assertions about the Better Financial Management Policy savings achieved.	<p>Despite the absence of reliable base line data at the time, DTF completed a comprehensive standalone exercise to report back to the Government on the achievement of all <i>Better Financial Management</i> savings, including consultancy expenditure savings allocated across departments.</p> <p>Expenditure savings allocated to departments were implemented by reducing departmental appropriations by the savings amounts. The reporting exercise relied on departmental CFO attestations and the Department's review of overall departmental expenditure. DTF identified to the Government where these savings were fully implemented and any instances where these savings were partly achieved through broader application within a department's administrative expenditure.</p> <p>The monitoring and oversight role performed in relation to the consultancy savings was carried out consistent with the Department's central oversight role under the Financial Management Compliance Framework.</p> <p>The central oversight role in relation to the implementation of the <i>Better Services Management</i> savings required reporting to the Government to provide assurance on compliance – in this case the overall achievement of savings – and appropriately stopped short of verifying each departmental attestation line by line.</p>	No further action
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Proposed Action Plan – Managing Consultants and Contractors

6	That departments collect and analyse the information needed to confirm that business units are complying with mandated policies and practices, and manage the risks to achieving value for money and maintaining process integrity.	<p>DTF has commenced a three pronged approach to compliance with mandated policies and practices:</p> <ul style="list-style-type: none"> • A rigorous internal audit program that will audit activities under each implementation year (Establishment, Operationalization, Evaluation, Improvement); • A comprehensive process of reporting through the governance structure of the department; and • The engagement of the Procurement Resource Unit (PRU) with business units, to support and guide them throughout the life of engagements. 	July 2017
7	That the Department of Treasury and Finance reviews users' satisfaction with the performance of the Contract Publishing System website and upgrades the website to provide more effective and user-friendly access to the information it contains.	<p>The Department commits to improving access to information contained within the Contract Publishing System.</p> <p>The Department will make the information available on the DataVic portal in a simple format, and also work with the user community to determine what changes would be necessary on the Contract Publishing System website.</p>	March 2015

Auditor-General's response to the Department of Treasury and Finance

Managing risks (Figure 2H)—use of the probity adviser

VAGO disagrees with the department's assertion that its risk assessment and management of this engagement was robust. The department has not produced further evidence to alter our conclusion that this is an example of inadequate risk management.

The department was aware, before contracting the preferred consultant, of the risk that the commercial party perceived that this consultant had a conflict.

In terms of the sequence of documented events in 2013:

- 19 August—request for quotation issued to the preferred consultant
- 20 August—interviewed the preferred consultant
- 21 August—DTF note of discussion with probity adviser:
 - reported that there are no conflict of interest issues
 - noted the risk that the advice could be perceived as biased by the commercial party to the negotiation
 - described the internal checks and balances DTF would apply to manage this risk
 - considered the benefits of the consultant's expertise outweighed this risk, which could be managed
- 21 August—DTF asked the consultant to start work and in effect executed the contract
- 22 August—consultant signed the contract
- 22 August—DTF and the probity adviser met with the commercial party to the negotiation. DTF's recall note shows the discussion focused on the consultant's perceived conflict, recording that the commercial party saw the consultant as in a 'position of direct conflict'
- 26 August—DTF had concluded that the arrangement was unworkable and recommended termination
- 3 September—DTF served the termination notice, having signed the contract on 29 August.

VAGO considers DTF's assessment and management of this risk as inadequate.

DTF did not:

- provide a documented assessment of the consequences of this risk materialising
- document why it executed the contract rather than wait one day to confirm—in its meeting with the commercial party to the negotiation—that it could effectively mitigate this risk.

The engagement of a probity adviser has no effect on this conclusion. In addition, documentation weaknesses make it difficult to understand the exact content and nature of the advice provided by the probity adviser.

We have not been provided with any documents authored by the probity adviser. Their input is summarised and captured entirely within file notes and emails authored by DTF staff and we have seen no evidence these documents were copied to the adviser for verification.

Managing risks (Figure 2H)—justifying the contract payment

The statements made in Figure 2H in relation to the payment are based on the wording of the termination agreement.

VAGO's comment about the scale of the payment relates to the need to engage a new contractor for this partially completed engagement. This forced change means the total cost of delivering the intended outcomes using two consultants is likely to exceed the cost of using a single consultant.

Response to recommendation 3

DTF has not responded to the recommendation by stating what steps it will take and this is inconsistent with the department's own commitment, referenced on page 38 of the audit report, to 'review and analyse departments' consultancy expenditure to ensure expenses are correctly reported'.

Response to recommendation 5

The department has not disputed the evidence presented in this report under section 3.4.2 on tracking progress in achieving consultancy savings.

The government set specific savings targets by expenditure category and the department's comments confirm our findings that progress against these targets relied on chief financial officer verbal attestations and a review of overall expenditure.

This does not constitute a 'comprehensive standalone exercise to report back to government on the achievement of all Better Financial Management savings, including consultancy expenditure...'.

VAGO remains of the view that DTF needed to provide assurance that departments were on track to achieve the overall savings target by confirming that departments had made the specific savings prescribed by government.

DTF did not do this.

RESPONSE provided by the Secretary, Department of Justice



Department of Justice

Secretary

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04 JUN 2014

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Auditor-General
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Our ref: CD/14/218871*

Dear Mr Doyle

Audit of Managing Consultants and Contractors

Thank you for your letter of 23 May 2014 enclosing the audit report *Managing Consultants and Contractors* and the invitation to provide a formal response.

The Department of Justice recognises the importance of ensuring that advisory engagements are managed effectively, comply with Victorian Government Purchasing Board requirements, and demonstrate high levels of integrity and value for money.

The department welcomes the report's findings and accepts all of the recommendations. A proposed action plan for the implementation of recommendations is provided at Attachment 1.

Completion of actions addressing the recommendations will be monitored via the department's Audit Tracking Registers, which are updated and attested to by Deputy Secretaries, and reviewed by the department's Audit and Risk Management Committee, on a quarterly basis.

Thank you for the opportunity to comment on the report.

Yours sincerely

Greg Wilson
Secretary

Encl. Proposed Action Plan – *Managing Consultants and Contractors*



RESPONSE provided by the Secretary, Department of Justice – continued**Attachment 1: Proposed Action Plan – Managing Consultants and Contractors****Department of Justice response to VAGO recommendations**

Recommendation	Proposed Action	Completion Date
<p><u>Recommendation 1</u></p> <p>That departments review and improve their policies and practices to adequately demonstrate the integrity of and value for money achieved through advisory engagements by:</p> <ul style="list-style-type: none"> • documenting the essential planning work to justify the use of external resources, identify and manage risks and to determine a preferred procurement route • comprehensively documenting conflict of interest issues and always evaluating bids, providing greater clarity about progress and performance monitoring, and meeting mandatory records management requirements • taking a more structured approach to managing engagements by documenting progress and performance to monitor and manage risks • completing post-implementation reviews of all engagements, commensurate with their size and complexity, to verify deliverables and the achievement of process integrity and value for money outcomes. 	<p>Procurement reform will see the Department of Justice introduce a number of initiatives that demonstrate the integrity of, and value for money achieved through advisory engagements. These include:</p> <ul style="list-style-type: none"> • the development and introduction of a comprehensive Procurement and Contract Management framework and website to guide the department on all engagements, including planning, initiation, sourcing, negotiation and award, contract management and post engagement evaluation • the introduction of an Advisory Services Checklist that details requirements for: <ul style="list-style-type: none"> ◦ planning ◦ records management ◦ conflict of interest ◦ performance management ◦ post engagement review ◦ value for money considerations. 	<p>December 2014</p>

RESPONSE provided by the Secretary, Department of Justice – continued

Recommendation	Proposed Action	Completion Date
<p><u>Recommendation 2</u></p> <p>That departments collect and analyse the information needed to confirm that business units are complying with mandated policies and practices, and manage the risks to achieve value for money and maintaining process integrity.</p>	<p>The Department of Justice will establish a Procurement Approval Board (PAB), which will be responsible for assessing individual procurement activity for compliance to mandated policies, practices, risk mitigation and the achievement of value for money outcomes.</p> <p>Additional to this, the Office of the Chief Procurement Officer will review and analyse spend data, as well as conduct compliance assurance activities for engagements of a value lower than the threshold that triggers the Procurement Approval Board oversight.</p>	<p>December 2014</p>

RESPONSE provided by the Secretary, Department of Education and Early Childhood Development



**Department of Education and
Early Childhood Development**

Office of the Secretary

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Mr John Doyle
Auditor-General
Victorian Auditor-General's Office
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Dear Mr Doyle

Thank you for your letter received on 22 May 2014 providing the opportunity to comment on the proposed report for your audit titled *Managing Consultants and Contractors*.

The Department is committed to demonstrating high levels of integrity through the application of the Government's procurement supply policies and the principles of accountability, probity, scalability and value for money.

This audit has occurred at an opportune time for the Department as preparations are currently underway for a transition to the Victorian Government Purchasing Board's new procurement framework in July 2014. I am pleased to see that your report notes how advanced the Department is in its preparing for this transition and I welcome the advice presented in your report.

The Department has reviewed the report and accepts all recommendations. The Department will implement the actions outlined in the enclosed action plan commensurate with the complexity of its procurement profile under the VGPB's new supply policy framework.

The Department acknowledges that the report highlights some cases where documentation to support specific engagements was lacking. However, I do not believe that this lack of documentation, in itself, infers a lack of integrity in the Department of Education and Early Childhood Development's procurement processes or a failure to pursue value for money outcomes.

Completion of the actions addressing the recommendations will be monitored via the Department's internal audit tracking registers and reviewed regularly by the Executive Board and the Portfolio Audit and Risk Committee as part of the Department's standard procedures.

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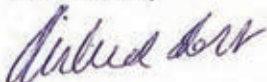


RESPONSE provided by the Secretary, Department of Education and Early Childhood Development – continued

2

Should you wish to discuss the content of this response further, please contact Melissa Dwyer, Director, Audit and Risk, Department of Education and Early Childhood Development, on 9651 3650 or by email: dwyer.melissa.j@edumail.vic.gov.au.

Yours sincerely



Richard Bolt
Secretary

5/6/2014

Encl.

Attachment

VAGO Report – Managing Consultants and Contractors

The Department welcomes the opportunity to comment on the audit report and accepts the recommendations. The Department's specific management response for each recommendation is outlined below:

Recommendation	Action	Indicative Timeframes
Recommendation 1 Departments review and improve their policies and practices to adequately demonstrate the integrity of and value for money achieved through advisory engagements by: (a) Documenting the essential planning work to justify the use of external resources, identify and manage risks and to determine a preferred procurement route (b) Comprehensively documenting conflict of interest issues and always evaluating bids providing greater clarity about progress and performance monitoring and meeting mandatory records management requirements (c) Taking a more structured approach to managing engagements by documenting progress and performance and their actions to monitor and manage risks (d) Completing post-implementation reviews of all engagements to verify deliverables and the achievement of process integrity and value for money outcomes.	Accept The Department is undertaking a review of documentation as part of its preparation to operate under the new procurement policy framework. This documentation will be scaled according to the complexity of the procurement activity in line with the Victorian Government Purchasing Board's new supply policies.	Review by July 2014. Implement by December 2014.
Recommendation 6 That departments collect and analyse the information needed to confirm that business units are complying with mandated policies and practices and manage the risks to achieving value for money and maintaining process integrity.	Accept The Department will determine the approach to collect and analyse information commensurate with complexity and risk of the procurement as part of the transition to the new procurement reform with implementation to occur by the end of the year.	Review by 1 July 2014. Implement by December 2014.

RESPONSE provided by the Secretary, Department of Environment and Primary Industries



**Department of Environment
and Primary Industries**

Ref: SEC010422

File:



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04 JUN 2014

Dear Mr Doyle

John,

PROPOSED PERFORMANCE AUDIT REPORT - MANAGING CONSULTANTS AND CONTRACTORS

Thank you for the invitation dated 22 May 2014 to submit a response to the report on Managing Consultants and Contractors.

The Department of Environment and Primary Industries (DEPI) welcomes the findings in the report and accepts each of the recommendations directed to DEPI.

The issues raised in the report will provide DEPI with an opportunity to improve policies and practices to better demonstrate the integrity of and value for money achieved through advisory engagements.

DEPI will use its procurement reform program, which is currently underway, to transform the way engagements are governed and managed. I expect all policies, procures and processes to be updated to incorporate your recommended actions directed to DEPI by 31 December 2014.

I would like to express my appreciation to your audit team for their professionalism during the conduct of this audit.

Yours sincerely

Adam Fennessy
Secretary

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment and Primary Industries, PO Box 500, East Melbourne, Victoria 8002.



RESPONSE provided by the Acting Chair, Victorian Government Purchasing Board



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5 June 2014

Mr John Doyle
Auditor-General
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Level 24, 35 Collins Street
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Dear Mr Doyle

Managing Consultants and Contractors Audit Report

Thank you for your letter of 22 May 2014 requesting comment on the draft *Managing Consultants and Contractors* audit report.

The Victorian Government Purchasing Board (VGPB) notes the report's findings and recommendations, and draws your attention to a number of specific issues raised.

The VGPB also notes that some of the report's findings relate to a VGPB supply policy framework from which departments are currently transitioning. New VGPB supply policies were published in February 2013 and represent the mandatory standards to which departments will be required to comply. Departments' transition is scheduled for completion in 2014.

Record management requirements

In the VGPB's view the PROV Strategic Management Specification (summarised in Figure 2G of the draft report) applies to the procurement of services provided to the community by another party on behalf of Government, not the procurement of goods and services for the Government's own use (see paragraphs 2.2 and 2.3 of the Guidelines). The new VGPB contract templates were designed primarily for the latter and therefore it is not agreed that they need to integrate the requirements of the Specification.

The draft report refers to access and use of beneficial information created through engagements. These issues are outside the remit of PROV policies and are instead covered by the new Intellectual Property and DataVic Access policies endorsed by Cabinet. The new VGPB templates reflect those policies.

The Board will liaise with PROV to confirm its understanding and, if necessary, ensure that the guidance is sufficiently clear as to the applicability of PROV standards to advisory engagements.

RESPONSE provided by the Acting Chair, Victorian Government Purchasing Board – continued

VGPB procurement reform

Section 54M of the *Financial Management Act 1994* requires the VGPB to provide the Assistant Treasurer with a report of its work and activities for the year ending 30 June. The VGPB has updated its annual reporting framework to capture departments' progress in transitioning to the new VGPB supply policy framework and deliver improved procurement outcomes. This new reporting framework has been implemented for the 2013-14 reporting period. The framework was developed in consultation with departments and the Assistant Treasurer. Upon all departments' transition to the new VGPB supply policies in 2014, the VGPB will implement an ongoing audit program that audits all departments' compliance with its supply policies.

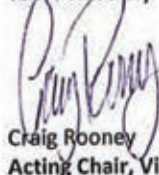
The VGPB has also established a framework to monitor departments' procurement activities following its approval of each department's transition to the new VGPB supply policies. This framework includes a detailed review of departments' procurement governance, processes, and improvement initiatives. The VGPB also retains oversight of specific departmental procurement activities identified during its regular review of departments' forward procurement activity plans. The VGPB's oversight continues throughout the procurement cycle to ensure organisational and procurement objectives are being achieved, procurement governance remains robust, risks are being appropriately managed and value for money is being delivered.

Contract publishing requirements

The VGPB's new contract management and disclosure policy retains existing contract publication requirements including the publication of all individual procurement contracts valued over \$100 000, and head agreements such as state purchase contracts and sole entity purchase contracts. Departments are also required to publish full contract information for contracts exceeding \$10 million.

Should you wish to discuss these comments in more detail, please contact Louise Koschmann, Manager, VGPB Secretariat on 9651 1571 or louise.koschmann@dtf.vic.gov.au

Yours sincerely



Craig Rooney
Acting Chair, Victorian Government Purchasing Board

Auditor-General's reports

Reports tabled during 2013–14

Report title	Date tabled
Operating Water Infrastructure Using Public Private Partnerships (2013–14:1)	August 2013
Developing Transport Infrastructure and Services for Population Growth Areas (2013–14:2)	August 2013
Asset Confiscation Scheme (2013–14:3)	September 2013
Managing Telecommunications Usage and Expenditure (2013–14:4)	September 2013
Performance Reporting Systems in Education (2013–14:5)	September 2013
Prevention and Management of Drugs in Prisons (2013–14:6)	October 2013
Implementation of the Strengthening Community Organisations Action Plan (2013–14:7)	October 2013
Clinical ICT Systems in the Victorian Public Health Sector (2013–14:8)	October 2013
Implementation of the Government Risk Management Framework (2013–14:9)	October 2013
Auditor-General's Report on the Annual Financial Report of the State of Victoria, 2012–13 (2013–14:10)	November 2013
Portfolio Departments and Associated Entities: Results of the 2012–13 Audits (2013–14:11)	November 2013
WoVG Information Security Management Framework (2013–14:12)	November 2013
Public Hospitals: Results of the 2012–13 Audits (2013–14:13)	November 2013
Occupational Health and Safety Risk in Public Hospitals (2013–14:14)	November 2013
Racing Industry: Grants Management (2013–14:15)	November 2013
Local Government: Results of the 2012–13 Audits (2013–14:16)	December 2013
Managing Victoria's Native Forest Timber Resources (2013–14:17)	December 2013
Water Entities: Results of the 2012–13 Audits (2013–14:18)	December 2013
Tourism Strategies (2013–14:19)	December 2013
Oversight and Accountability of Committees of Management (2013–14:20)	February 2014
Managing Emergency Services Volunteers (2013–14:21)	February 2014

Report title	Date tabled
Asset Management and Maintenance by Councils (2013–14:22)	February 2014
Apprenticeship and Traineeship Completion (2013–14:23)	March 2014
Residential Care Services for Children (2013–14:24)	March 2014
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Shared Services in Local Government (2013–14:26)	May 2014
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Accessibility of Mainstream Services for Aboriginal Victorians (2013–14:28)	May 2014
Access to Services for Migrants, Refugees and Asylum Seekers (2013–14:29)	May 2014
Prisoner Transportation (2013–14:30)	June 2014
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