

APPENDIX A

Submissions and comments

We have consulted with the Department of Families, Fairness and Housing, Parks Victoria, the Department of Health and the Department of Jobs, Precincts and Regions, and we considered their views when reaching our conclusions. As required by the *Audit Act 1994*, we gave a draft copy of this report, or relevant extracts, to those agencies and asked for their submissions and comments.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses were received as follows:

Department of Health	40
Department of Jobs, Precincts and Regions	44
Department of Families, Fairness and Housing	47
Parks Victoria	50



Secretary

Department of Health

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VAGO file No: 34640

Andrew Greaves
Auditor-General
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via e-mail: andrew.greaves@audit.vic.gov.au

Dear Mr Greaves

Limited assurance review: *Managing conflicts of interest in procurement*

Thank you for sending us the latest iteration of the report of the limited assurance review, *Managing conflicts of interest in procurement* on 27 August 2021, which included an acquittal of the matters raised in my letter of 26 August 2021.

My department would make the further responses:

1. (a) The challenges that staff encounter may provide context for a procurement decision that does not comply with policies or procedures. However, they do not justify non-compliance (p. 5)

DH Response:

The example of non-compliance identified by VAGO relates to an issue of input of data into the Critical Incident Procurement policy (CIPP) database, rather than a finding of non-compliance. The latter suggests more substantive issues with CIPP processes than data input.

In addition, there are several points in the Overview chapter which refer to failures of 'two' agencies, neither of which apply to the Department.

DH Response:

My preference would be that VAGO explicitly identifies which agencies are referred to with respect to procedural failures. These references could be taken from the agency report chapters.



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(b) (p. 8) What we concluded: Nothing came to our attention to show that the contract for medical services was improperly awarded to the medical services provider because of undisclosed conflicts of interest

DH Response:

Thank you. Could I also ask that the conclusion includes additional wording as follows:

Nothing came to our attention to show that:

- *the contract for medical services was improperly awarded to the medical services provider because of undisclosed conflicts of interest; and*
 - ***the department displayed a lack of regard for how the public might perceive conflict of interest***
2. The referrals allege that DHHS improperly awarded a contract to a provider delivering medical services, including to the Hotel Quarantine Program and pop-up testing, a call centre, and a hotline for the broader community, based on undisclosed conflicts of interest.

DH Response:

Accept VAGO's amendments

3. & 4. DHHS could have sought quotes from the two AMD Services that the NWHPN recommended. Or, concurrent with the initial engagement, DHHS could have run a tender process to identify whether the current entity, or another, would deliver the best value for money.

VAGO stated that the department urgently engaged a single entity but did not review its process to ensure value for money.

VAGO understands that DHHS could not do more than ask the Commonwealth Department of Health and NWHPN for advice when they urgently needed to establish the services. However, VAGO finds that DHHS could have reviewed the value for money once the critical incident procurement was in effect.

DH Response:

My department accepts that a subsequent review of the market to confirm value for money could have been undertaken after the acute phase of the pandemic eased. However, I am satisfied that there was no opportunity for the team to have undertaken a quotation process concurrent with the initial engagement. Further, the department is satisfied that DHHS conducted an appropriate sounding of the market in consultation with the Commonwealth Government and a Primary Health Network to identify organisations with the capability and capacity to deliver the services, which confirmed that only one accredited medical deputising service had the requisite capacity.

5. VAGO did not accept DH's following wording: 'As a result of insurance limitations, DHHS was unable to enter into a contract with Medi7 for the period 7 - 27 April 2020.'

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DH Response:

DH accepts the wording.

The actions that the department will undertake to address the two procurement-related report recommendations are included in the Action Table at **Attachment 1**.

I and my department appreciate the diligence and patience of your team when working with the us on this review. We are committed to continued strengthening of our procurement processes and practices.

Yours sincerely



Professor Euan M Wallace AM
Secretary

30/08/2021

Department of Health action table to address recommendations from *Procurement for the Hotel Quarantine Program*

Re c No	VAGO recommendation	Department al response	Action	Completion date
1	<p>DH to revise its critical incident procurement policy so that it ensures value for money, accountability and probity, and includes:</p> <ul style="list-style-type: none"> • accessible information and guidance for staff; and • procurement's role in ensuring procurement decisions and record keeping comply with policies and procedures. 	Accept	The department to revise its Critical Incident Procurement policy.	30 Sep 2021
2	<p>DH to provide training and communications for staff so that they follow procurement procedures and:</p> <ul style="list-style-type: none"> • take into account value for money, accountability, and probity in procurement • consistently adopt mandatory and minimum recordkeeping • maintain transparency and accountability in procurement • adhere to contract disclosure requirements; and • declare any potential, perceived or actual conflicts of interest when participating in a procurement. 	Accept	The department to develop a training and communications strategy for staff to enable them to follow both standard procurement procedures and the critical incident procurement policy.	28 Feb 2022

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Department of Jobs, Precincts and Regions

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Dear Mr Greaves

VAGO's Proposed Report – Managing Conflicts of Interest in Procurement limited assurance review

Thank you for your letter of 19 August 2021, providing the department with the proposed report for VAGO's limited assurance review on Managing Conflicts of Interest in Procurement.

On Friday 27 March 2020, the National Cabinet agreed that, from 11.59 pm Saturday 28 March 2020, all travellers arriving in Australia would undertake mandatory 14-day self-isolation at designated facilities.

As you highlight in your report, in less than 36 hours, the Department of Jobs, Precincts and Regions identified hotels, arranged transport for travellers, and security to staff Victoria's Hotel Quarantine Program. This planning and initial set-up occurred over a weekend with staff across government working remotely.

This unique situation presented numerous challenges for the department. I therefore welcome the recommendations in your report covering policy revisions and the provision of training, procedures and guidance for staff. I note that a number of activities are already underway or completed, and refer you to our enclosed Action Plan for further detail.

The department recognises the importance of maintaining integrity, impartiality and accountability including during a State of Emergency. I note the allegations raised in the report and your finding that probity was not breached and DJPR staff did not inappropriately approve contracts on my behalf.

I appreciate the professional and diligent way this limited assurance review has been conducted.

If you require further information, please contact Justin Perkov, Director Audit & Assurance on 0491 614 371 or justin.x.perkov@ecodev.vic.gov.au.

Yours sincerely

Simon Phemister
Secretary

27/ 08 / 2021



Response provided by the Secretary, Department of Jobs, Precincts and Regions—continued

DJPR action plan to address recommendations from the VAGO Conflict of Interest in Procurement limited assurance review

No	VAGO recommendation	Action	Completion date
	That DJPR:		
1	<p>revise its critical incident procurement policy so that it takes into account value for money, accountability and probity to the extent possible under the circumstances and includes:</p> <ul style="list-style-type: none"> • accessible information and guidance for staff • procurement's role in checking and reviewing procurement decisions and record keeping during and following critical incidents 	<p>Accepted</p> <p>The DJPR Critical Incident procurement policy requires staff undertaking critical incident procurements to take into account value for money, accountability and probity to the extent that they can be applied given the severity and urgency of the incident.</p> <p>During a critical incident, DJPR will continue to use State Purchase Contracts where appropriate and to extract value from pre-existing suppliers to the extent practical.</p> <p>DJPR will review its procedures and guidance material to determine if further clarity is required for staff regarding value for money, accountability and probity and include specific guidance on the use of State Purchase Contracts, procurement's role in checking and reviewing procurement decisions and record keeping during and following critical incidents.</p>	August 2021
2	<p>provide training and communication for staff so that they follow procurement policies and procedures and:</p> <ul style="list-style-type: none"> • implement probity procedures • maintain contract confidentiality • maintain transparency and accountability in procurement • adhere to contract disclosure requirements • declare any potential, perceived or actual conflicts of interest when participating in a procurement • use state purchase contracts when available 	<p>Accepted</p> <p>DJPR has refreshed its training modules on procurement introducing specific training and guidance on Contract Management Essentials, an Overview of Procurement, and on Critical Incidents.</p> <p>The training and guidance material includes a focus on probity, the declaration and management of conflicts of interest, use of state purchase contracts, contract confidentiality, transparency and accountability, and contract disclosure requirements.</p>	August 2021

Response provided by the Secretary, Department of Jobs, Precincts and Regions—continued

No	VAGO recommendation	Action	Completion date
3	<p>provide guidance and procedures for staff working remotely to:</p> <ul style="list-style-type: none"> • seek approval (signatures) • witness signature • ensure records of approval are maintained. 	<p>Accepted</p> <p>DJPR published guidance material for staff regarding the execution and witnessing of contracts when working remotely in April 2020. DJPR has refreshed this material to include the latest information on electronic signatures and maintaining records of approval.</p>	Aug 2021



Secretary

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Dear Mr Greaves

Proposed report: *Managing conflicts of interest in procurement*

Thank you for providing the department with the Managing conflicts of interest in procurement proposed report, specifically Chapter 4 titled *DHHS: Procuring community service providers*.

The department has considered the review findings and accepts the recommendations.

I note that your report concludes that nothing came to your attention that showed improper influence associated with the perceived conflict of interest or that the successful bidders did not meet the key evaluation criteria.

Our actions proposed to address the audit recommendations are included in the attached table.

Yours sincerely



Sandy Pitcher
Secretary

26 / 08 / 2021



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Attachment 1**DFFH Action Table in response to Recommendations*****Procuring community service providers***

Rec No.	Recommendation	Response	Proposed Action	Proposed Completion Date
1	<p>DFFH provide ongoing training and communications for staff so that they follow procurement policies and procedures and:</p> <ul style="list-style-type: none"> • declare any potential, perceived or actual conflicts of interest when participating in a procurement • sign DOPI forms (and other official documents) in the presence of the witness • follow guidelines when shortlisting bidders. 	Accept	<p>The department will review current procurement guides and processes to ensure all requirements in relation to Conflict of Interests are clear for all departmental staff.</p> <p>The department's eLearning procurement training module (currently under development) will include a section in relation to Conflict of Interest to better educate staff.</p> <p>The department is in the process of developing an online system for Conflict of Interests and Declaration of Private Interests. This system will support greater compliance with staff identifying, documenting, and managing conflict of interest. The new online system for Conflict of Interest and Declaration of Private Interest Forms will include a requirement for manager approval for all declarations being completed.</p> <p>The department will provide training for procurement staff to ensure a clear understanding of the shortlisting and evaluation process.</p>	30 November 2021

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Rec No.	Recommendation	Response	Proposed Action	Proposed Completion Date
2	<p>DFFH revise its existing procurement policies and procedures and ensure staff are provided with guidance on:</p> <ul style="list-style-type: none"> witnessing signatures managing perceived and potential conflicts of interest responding to referee input. 	Accept	<p>The department is in the process of developing an online system for Conflict of Interests and Declaration of Private Interests. This system will support greater compliance with staff declaring any potential, perceived or actual conflicts of interest and remove the requirement for witnessing signatures.</p> <p>The department will provide training for procurement staff to ensure a clear understanding how referee input is to be considered during the evaluation process.</p> <p>The department will review and update current procurement guides and processes to ensure staff only use referee checks to validate evaluation scores, and not to revise evaluation scores.</p> <p>The department will update referee request template to include consideration of any risks associated with perceived or potential conflicts of interest of the referee</p> <p>The department will include a question that confirms whether the referee currently receives any funding from the bidder in the referee request template.</p>	30 November 2021

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30 August 2021

Mr. Andrew Greaves
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Dear Mr Greaves

PROPOSED ASSURANCE REVIEW REPORT—MANAGING CONFLICT OF INTEREST IN PROCUREMENT

Thank you for your letter dated 19 August 2021, regarding the Proposed Assurance Review Report—Managing Conflicts of Interest in Procurement. I would like to acknowledge the receipt of this letter and the associated report (the Report).

With regards to the findings and recommendations within the Report, please find our responses below:

VAGO Recommendation	Parks Victoria's Response
<p>1. That Parks Victoria revise its procurement procedures and provide ongoing communications and training for staff so that:</p> <ul style="list-style-type: none">▪ they consistently declare any potential, perceived or actual conflicts of interest when participating in a procurement▪ conflicts of interest do not influence procurement decisions▪ it applies valid exemptions from its procurement procedures in an evidence-based manner and in accordance with required timeframes	<p>Accepted by Parks Victoria</p> <p>Parks Victoria welcomes VAGO's findings that nothing has come to VAGO's attention which indicates self-interest unduly influenced the procurement outcome or contradicts with Parks Victoria's assertion that it used a series of short-term contracts to engage the supplier to progressively manage the scope of the work rather than to avoid scrutiny.</p> <p>As part of our Managing Country Together Framework, Parks Victoria is strongly committed to working with Traditional Owners to preserve Aboriginal culture heritage. Parks Victoria remains of the view that the supplier engaged was the only suitable rock art surveyor who had the knowledge of the particular local landscape and the required reputation with Traditional Owners.</p> <p>Parks Victoria fully accepts VAGO's recommendations to revise its procurement procedures and provide ongoing communications and training to staff members to continue to improve the management of perceived, potential or actual Conflicts of Interest in procurement and its procurement exemption process.</p>

Response provided by the Chief Executive Officer, Parks Victoria—continued

VAGO Recommendation	Parks Victoria's Response
	<p>Parks Victoria has provided a procurement training to over 1,000 staff members in April – May 2021. The all-staff training offered has sections dedicated to the topics of “Conflict of Interest in Procurement” and “Procurement Exemptions”.</p> <p>Parks Victoria will further review and enhance its procurement procedure and documentation by 31 October 2021 to ensure that Conflict of Interest considerations are embedded throughout the procurement process and all procurers must actively consider Conflict of Interest implications when conducting procurement activities and ensure any perceived, potential or actual Conflicts of Interest do not (or are not perceived to) influence procurement decisions. In addition to the existing Conflict of Interest declaration process, a dedicated procurement section in the standard Parks Victoria Conflict of Interest declaration template will also be added for the identification and management of Conflicts of Interest in procurement activities.</p> <p>Parks Victoria has undertaken a significant amount of work in the recent months in strengthening its procurement exemptions process. Procurers are required to document a greater level of justification and evidence for exemption requests to be considered for approval. Further updates to the procurement exemption template to provide increased guidance for the exemption process will be provided by 31 October 2021.</p>
2. That Parks Victoria consistently discloses payments made to consultants in accordance with Financial Reporting Direction 22H.	<p>Accepted in principle by Parks Victoria</p> <p>Parks Victoria will continue to disclose payments made to consultants in accordance with Financial Reporting Direction (FRD) 22H.</p> <p>Parks Victoria will provide training to procurers by 31 October 2021 relating to the classifications of contractors vs. consultants in accordance with FRD 22H and the appropriate transaction coding in its financial system.</p>

Should you require further advice on this matter please contact Frances Li, Chief Financial Officer, Parks Victoria on 03 8427 3881 or frances.li@parks.vic.gov.au.

Yours sincerely,



Matthew Jackson
Chief Executive Officer

