

**ACT AUDITOR–GENERAL’S REPORT**

**TOTAL FACILITIES MANAGEMENT  
PROCUREMENT**

REPORT NO. 1 / 2019

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PA 18/08

The Speaker  
ACT Legislative Assembly  
Civic Square, London Circuit  
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Performance Audit Report titled 'Total Facilities Management Procurement' for tabling in the ACT Legislative Assembly pursuant to Subsection 17(5) of the *Auditor-General Act 1996*.

Yours sincerely



Ajay Sharma  
Acting Auditor-General  
18 January 2019

*The ACT Audit Office acknowledges the Ngunnawal people as traditional custodians of the ACT and pays respect to the elders; past, present and future. The Office acknowledges and respects their continuing culture and the contribution they make to the life of this city and this region.*



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# SUMMARY

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## Overall conclusion

Housing ACT's management and implementation of procurement processes for the Total Facilities Management (TFM) contract were effective. The procurement was effectively planned and managed and effective administrative arrangements were put in place for a procurement that was complex, high value and high risk.

## Chapter conclusions

### PROCUREMENT GOVERNANCE

Housing ACT developed and implemented an appropriately structured procurement governance framework for the TFM procurement, which was supported by well-organised and comprehensive project documentation and record-keeping of key activities and decisions. The governance arrangements included clear management and leadership roles and responsibilities, an experienced Project Manager, oversight by a Project Steering Committee with a broad range of experience, and proactive and early engagement with key stakeholders.

### TENDER EVALUATION

Housing ACT developed a well-structured and comprehensive TFM evaluation method, which reflected the evaluation criteria specified in the TFM *Request for Tender*. An appropriately experienced Tender Evaluation Team was established with clear roles and responsibilities. The Tender Evaluation Team was supported by a well-organised evaluation process and Specialist Advisors.

### PROBITY ARRANGEMENTS

A sound, documented framework was established for the management of probity in the TFM procurement and probity in decision-making was promoted through the establishment of, and adherence to, the sound administrative processes for the procurement identified in this report.

For a complex, high value and high risk procurement such as this, probity arrangements would have been enhanced by a clearer articulation of the role of the Probity Adviser (including the nature of the activities to be undertaken and services to be provided) and more timely provision of written assurance with respect to the probity of the procurement process.

## Key findings

PROCUREMENT GOVERNANCE	Paragraph
<p>Housing ACT allocated and implemented clear roles and responsibilities for the management and administration of the TFM procurement. This included appropriate senior leadership and oversight through a Project Steering Committee, which met on a monthly basis (and more regularly as needed) and senior leadership roles including a Project Sponsor, Project Director and Senior Project Manager, who was responsible for the day-to-day management of the procurement.</p>	2.21
<p>In accordance with the <i>Government Procurement Regulation 2007</i>, and Housing ACT's timely and appropriate submissions to the Government Procurement Board, the ACT Government Procurement Board reviewed and endorsed the TFM procurement through a two-stage process.</p>	2.29
<p>Procurement and Capital Works (now Procurement ACT), in the Chief Minister, Treasury and Economic Development Directorate, was involved, and worked with Housing ACT, in the TFM procurement process through: a Procurement and Capital Works representative sitting on the Steering Committee; commenting on procurement documents; facilitating consultation with the Government Procurement Board; facilitating consultation with relevant unions' representatives; and communicating with tenderers, including receiving tenders and issuing requests for clarification. The central and ongoing role initially envisaged for Procurement and Capital Works in the <i>Procurement Overview</i> document (October 2016) was not followed for the duration of the project. It is apparent that Housing ACT considered the extensive governance arrangements established for the TFM procurement meant that Procurement and Capital Works' ongoing involvement was not necessary.</p>	2.35
<p>Housing ACT developed appropriate project documentation to plan for, and execute, the TFM procurement. Key documents used to plan and execute the TFM procurement were comprehensive and developed and approved in a timely manner.</p>	2.41
<p>Housing ACT developed a systematic and comprehensive approach to effectively engage key stakeholders throughout the procurement process, including a <i>Stakeholder Engagement Strategy</i> underpinned by a <i>Communication and Engagement Plan</i> that set out key protocols and communication activities.</p>	2.52
<p>Communication with industry and prospective tenderers was effective and included a pre-tender consultation and briefing session on 3 March 2017 and information sessions for potential tenderers, following the issue of the RFT, on 6 and 7 December 2017. Early and effective engagement with industry and potential tenderers improved the knowledge of potential tenderers of Housing ACT's TFM contract requirements.</p>	2.58
<p>Housing ACT developed and implemented a robust and comprehensive risk management framework which covered each stage of the TFM procurement. A <i>TFM</i></p>	2.75



*Procurement Risk Management Plan* was prepared, which comprised of a comprehensive risk register prepared in accordance with the ACT Insurance Authority template. Procurement risk management workshops were conducted and facilitated by an external facilitator and the *TFM Procurement Risk Management Plan* was reviewed regularly by the procurement Steering Committee and updated by the procurement team.

Housing ACT maintained a comprehensive record of the TFM procurement including decisions, processes and communications associated with the procurement. These documents were filed and retained in a systematic and comprehensive manner and facilitated transparency and accountability. 2.78

## TENDER EVALUATION

Paragraph

A series of documents, including the *Procurement Overview* document (October 2016), the *Total Facilities Management Project Plan* (September 2016), the *Tender Evaluation Plan* (August 2017) and the *Request for Tender No 28556.110.01* (November 2016) provided a sound and documented framework for the management of the tender evaluation component of the TFM procurement. Collectively, these documents identified and articulated the tender evaluation processes to be applied to prospective tenders. Although each document served a different purpose, and had different types of information at different levels of detail, they were consistent and aligned. 3.13

Housing ACT's TFM evaluation documentation, as articulated in the *Tender Evaluation Plan* (August 2017), demonstrated a well-structured and comprehensive TFM evaluation method that reflected the overall procurement objective detailed in the *Total Facilities Management Project Plan* (September 2016) and the evaluation criteria specified in the *Request for Tender No 28556.110.01* (November 2016). 3.18

A Tender Evaluation Team was established for the TFM procurement, which comprised experienced ACT Government executives and senior staff and a representative from the New South Wales Department of Family and Community Services. The seniority and experience of the Tender Evaluation Team, as well as the breadth of experience, was appropriate given the complexity, high value and high risk of the TFM procurement. The roles and responsibilities of the Tender Evaluation Team were established in key procurement documents including the *Tender Evaluation Plan* (August 2017). 3.25

Specialist Advisors provided input and expertise into the tender evaluation process in a range of areas including TFM knowledge, information computer technology, local industry participation, finance, quality assurance, performance management and workplace, health and safety. Specialist Advisors were provided with relevant extracts of tenderers' responses, on which they provided a written report to the Tender Evaluation Team. The use of Specialist Advisors during the tender evaluation process, and the means by which they were provided with information and how they provided their input to the tender evaluation, were effective. 3.30

The documentation developed and maintained by the Tender Evaluation Team demonstrates that the tender evaluation process was conducted in accordance with the *Request for Tender No 28556.110.01* (November 2016) and the *Tender Evaluation Plan* (August 2017). The rationale for the assessment of each tender was documented adequately. 3.34

In April 2018, the Tender Evaluation Team prepared the *Tender Evaluation Report*, which provided a comprehensive assessment of the tenders that were received and the rationale for the selection of the preferred tender, in accordance with the requirement of the *Tender Evaluation Plan* (August 2017). Through the *Tender Evaluation Report* (April 2018), and supporting documentation, Housing ACT provided a comprehensive and well-documented evaluation which provided the rationale behind the assessment of each tender, the ranked order of tenders and a value for money assessment. 3.44

## PROBITY ARRANGEMENTS

Paragraph

The *Total Facilities Management Procurement Risk Management Plan, Procurement Overview* document (October 2016) and the *Total Facilities Management Probity Plan* (November 2016) provided a sound, documented framework for the management of probity during the TFM procurement. Collectively, the documents identified and articulated probity objectives for the procurement as well as practical requirements for the management of probity during the procurement, including the use of deeds or undertakings of confidentiality by participants, and the role of the ACT Government Solicitor's Office in providing probity advice and support through a Probity Adviser. 4.23

In accordance with the requirement of the *Total Facilities Management Probity Plan* (November 2016), the Senior Project Manager maintained a separate file of signed *Confidentiality and Conflict of Interest Undertaking* forms, *Deed of Confidentiality and Conflict of Interest* forms and *Conflict of Interest – Status Disclosure* forms for participants in the TFM procurement, including the Project Management Team, the Tender Evaluation Team, Specialist Advisors and other participants in the procurement process. 4.30

The *Total Facilities Management Probity Plan* (November 2016) established the role and responsibilities of the Probity Adviser. The Plan established a specific and defined responsibility of the Probity Adviser to 'advise ... with respect to any probity issue notified by an Evaluation Chairperson or Delegate arising in relation to a procurement process or engagement with industry' and 'prepare a written report to the relevant Delegate' on any complaints received. The Plan then outlined a range of activities that the Probity Adviser *may* undertake in relation to the procurement, including 'attend any briefing given in connection with any process', 'observe the making of any decision that is likely to affect the conduct of a process and review any documents taken into account by a person making a decision' and 'review the process and provide a written report to the Evaluation Chairperson in relation to any core decision-making document, and make any observation in any probity report'. While these probity-related activities *may* be undertaken by the Probity Adviser, there was no documented statement, agreed by Housing ACT and the ACT 4.42

Government Solicitor's Office, with respect to: the actual activities to be undertaken by the Probity Adviser and the input they would provide to the TFM procurement; or the circumstances in which they would undertake the discretionary activities identified in the Plan.

There was a number of procurement activities and meetings that the Probity Adviser did not attend. In particular, the Probity Adviser did not observe the presentations provided by shortlisted tenderers or attend the Tender Evaluation Team meetings. Assurance with respect to the activities of the Tender Evaluation Team and probity of decision making by the Tender Evaluation Team therefore depended on the Tender Evaluation Chairperson ensuring that the tender evaluation was undertaken in accordance with the *Tender Evaluation Plan* (August 2017) and the *Total Facilities Management Probity Plan* (November 2016). The Probity Adviser's attendance at the shortlisted tenderers' presentations and the Tender Evaluation Team meetings would have provided third party assurance of the probity of these processes. 4.56

On 16 November 2018 the Probity Adviser provided a probity statement to the TFM procurement Project Sponsor which included 'Based on the matters in relation to which my advice was sought, to my knowledge: the relevant officers involved in the Procurement Process discharged their responsibilities with due care and diligence; and there is no probity matter on that I advised, which to my knowledge, presents an unresolved probity risk to the Territory'. The provision of the probity statement in November 2018 was not timely, as it was provided after the conclusion of negotiations with the successful tenderer and after the services agreement had been signed, and it did not serve a purpose in providing assurance to the Delegate to assist in their decision-making associated with the evaluation of tenders and consideration of the *Tender Evaluation Report* (April 2018). 4.67

## Recommendation

### RECOMMENDATION 1 PROCUREMENT AND PROBITY GUIDANCE

Procurement ACT, in the Chief Minister, Treasury and Economic Development Directorate, should review and revise its procurement and probity information to provide more detailed guidance on, and clarity with respect to, the engagement of probity advice in a procurement process, including requirements for:

- a) a Probity Plan to specify the activities to be undertaken and services provided by a probity adviser; and
- b) the nature and timing of assurance to be provided by a probity adviser during a procurement process, including assurance through written reports.

## Agency responses

In accordance with the requirements of the *Auditor-General Act 1996*, the Community Services Directorate (Housing ACT), Chief Minister, Treasury and Economic Development Directorate (Treasury) and the ACT Government Solicitor's Office were provided with:

- a draft proposed report for comment. All comments were considered and required changes were reflected in the final proposed report; and
- a final proposed report for further comment. As part of this process, recipients were offered the opportunity to provide a statement for inclusion in the final report in the Summary Chapter.

No comments were provided for inclusion in this Summary chapter.

UnionsACT, who the Acting Auditor-General considered to have a direct interest in the report, was also provided extracts of the draft proposed report and final proposed report for comment.

# 1 INTRODUCTION

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## Total Facilities Management procurement

### Total Facilities Management

- 1.1 Since 2001 the maintenance, repairs and upgrades of Housing ACT properties have been undertaken through a Total Facilities Management (TFM) contract with a private sector supplier. Under the TFM contract, the supplier has responsibility for planning and managing maintenance and service upgrades for social housing properties, including responsibility for managing sub-contractors undertaking the work. The TFM model seeks to place an emphasis on preventing problems from developing instead of repairing defects as they arise.

### History of the TFM contract

- 1.2 Spotless Facility Services Pty Ltd (Spotless) provided TFM services to Housing ACT between 2005 and 2018. Spotless was initially awarded the TFM contract in 2005 and, on 9 May 2012, secured a second contract for a further five-year period to 8 May 2017.
- 1.3 Under the 2012-17 TFM contract, Housing ACT had the discretion to extend the term of the contract for a further five years. Using this discretion, Housing ACT extended the Spotless TFM contract for a further year to 30 June 2018 and this was further extended to 31 October 2018 to facilitate the transition to a new contract.
- 1.4 As at 30 June 2018, the Spotless TFM contract was valued at approximately \$50 million per year (GST inclusive) including both the direct cost of maintenance and the value of the management fee payable to Spotless. This makes the TFM contract one of the Territory's largest ongoing contracts.

### The TFM procurement process

- 1.5 On 30 August 2016, the Minister for Housing and Suburban Development announced the intention to tender for the TFM contract:

Today I have announced that the ACT Government will move towards a new procurement for our public housing maintenance Total Facilities Management (TFM) contract. The current contract, provided by Spotless Services Pty Ltd, commenced in 2012 for a five year period. Spotless has accepted the offer of an extension of the current contract to 30 June 2018 and during this time the government will explore procurement options to ensure the best possible services for tenants and value for money for the broader Canberra community. This will include a close examination of our current TFM framework and consultation with key stakeholders.

1.6 Following the Minister for Housing and Suburban Development's announcement, on 30 September 2016 the Commissioner for Social Housing (the Director-General of the Community Services Directorate) commenced a project to:

... undertake a public procurement process to engage an entity with the skills and resources necessary to provide value for money total facilities management services for the Commissioner's portfolio of dwellings for at least five years.

1.7 The Community Services Directorate's *2016-17 Annual Report* provided further information on the intention of Housing ACT to tender for the TFM contract in 2017-18. The Community Services Directorate's *2016-17 Annual Report* states:

The Total Facilities Management (TFM) contract is in place to ensure that social housing properties are maintained in a safe, secure and functional condition. In August 2016, the Minister for Housing, Community Services and Social Inclusion announced that Housing and Community Services (HACS) would re-tender the TFM contract to ensure the best possible value for money and service delivery to tenants. This tender process will occur in the 2017-18 financial year and seeks to deliver improved services to tenants, greater value for money, and enhanced performance management, quality assurance and risk management processes. In 2016-17, HACS successfully renegotiated an extension to the current TFM contract with Spotless, until 31 October 2018 - to allow for the procurement process.

1.8 The *Total Facilities Management Project Plan* (September 2016) identified that 'by outsourcing total facilities management, the social housing system will be managed efficiently and cost effectively, and provide the best value for money services to Housing ACT and the ACT community'. The *Total Facilities Management Project Plan* (September 2016) also noted that 'there is scope to potentially improve the current TFM model and its contract management processes' in accordance with findings and recommendations of the ACT Audit Office's *Maintenance of Public Housing* performance audit report (Report No. 2/2016).

1.9 The *Total Facilities Management Project Plan* (September 2016) set out Housing ACT's processes for the TFM procurement. Key features of this process were:

- a pre-procurement and design process. This process involved:
  - a comprehensive consultation process with key stakeholders (including tenants, community agencies, peak bodies, Unions, and officials across ACT Government directorates);
  - the development of a scope of services; and
  - engagement with the ACT Government Solicitor's Office with respect to the scope of services, contract design, legal matters and probity.
- the request for tender process. This process included:
  - further pre-tender consultation with stakeholders;
  - the development of RFT documentation;
  - the promotion of the RFT;
  - industry briefings; and
  - the evaluation of tenders.

- a transition planning process. This process included considerations for the transition to a potential new supplier, including the implementation ‘transition’ plans.
- an implementation planning process. This process included negotiation meetings with the preferred tenderer to: identify risks, agree on the processes and timelines, confirm staff and roles, finalise the contract management plan and finalise administrative arrangements.

### Purpose and objectives of the TFM procurement

- 1.10 The *Request for Tender No 28556.110.01* (the RFT) was issued on 13 November 2017 through the TendersACT website. The RFT sought responses for a six year contract with the potential for two extensions of four years each. Due to the potential length of the contract (maximum of 14 years) and the estimated total value of the contract (including indexation) of \$800 million (GST inclusive) the TFM contract is one of the Territory’s largest ongoing contracts.
- 1.11 The *Request for Tender No 28556.110.01* (November 2017) stated that the objective of the TFM procurement was to:
- ... engage a Contractor for the provision of Total Facilities Management (TFM) Services for Housing ACT, Community Services Directorate. Total Facilities Management is a model of providing one point of responsibility for the provision of outsourced services. The model delivers an integrated management system of all support services associated with public housing assets.
- 1.12 The *Request for Tender No 28556.110.01* (November 2017) also noted that Housing ACT was committed to delivering quality improvements in the delivery of maintenance services by partnering with a Total Facilities Manager, particularly through:
- a) viable and sustainable improvements that leverage resources across the service to respond to current, emerging and future demand;
  - b) bringing innovation and efficiency to the workplace;
  - c) being adaptive to evolving changes, needs and knowledge; and
  - d) streamlining and reducing inefficiencies in order to reduce the cost per service episode.
- 1.13 Optional information sessions for prospective tenderers were held on 6 and 7 December 2017 and were attended by representatives from 12 organisations. The RFT closed on 2 February 2018 and eight tenders were received by the due date (and none were received after the due date).

### Outcome of the TFM procurement

- 1.14 The procurement delegate (Director-General of the Community Services Directorate as the Commissioner for Social Housing) authorised Housing ACT to enter into contract negotiations with the preferred tenderer (Programmed Facility Management Pty Ltd) on 18 April 2018. The *Total Facilities Management Services Agreement* was signed by

Programmed Facility Management Pty Ltd and the Director-General of the Community Services Directorate on 17 October 2018.

- 1.15 At the time contract negotiations were undertaken, the estimated total sum of the contract (including indexation) was \$800 million (GST inclusive) over 14 years. Programmed Facility Management Pty Ltd commenced providing services on 1 November 2018.

### Risks and challenges in the TFM procurement

- 1.16 Procurement processes need to be tailored to the risk, value and complexity of the procurement. Table 1-1 provides an assessment of the risk, value and complexity of the TFM procurement against the Australian National Audit Office's 2007 *Fairness and Transparency in Purchasing Decisions Better Practice Guide*. The Australian National Audit Office's guidance is only one of many better practice guides for procurement and is broadly representative of them.

**Table 1-1 Assessment of the risk of the TFM procurement**

ANAO Indicator	Assessment of the TFM procurement	Risk Rating
The expected value of the procurement is high.	\$800 million (GST inclusive) over 14 years is significant.	High
There is limited experience in either the nature of the procurement or the market.	<ul style="list-style-type: none"> <li>Housing ACT has conducted previous procurements for TFM and a number of experienced staff was available to assist with this procurement.</li> <li>There was a number of known providers in the market currently providing TFM services.</li> </ul>	Low
The procurement process is inherently complex (technically, legally or financially).	<ul style="list-style-type: none"> <li>The length of time of the contract (an initial period of six years, with provision for up to two extensions of four years) for a maximum period of 14 years adds complexity.</li> <li>The number of external stakeholders (i.e. non ACT Government) involved with the procurement process adds complexity.</li> <li>The services being purchased and the social outcomes associated with the services being purchased add complexity.</li> </ul>	High
The procurement is potentially controversial or politically sensitive.	<ul style="list-style-type: none"> <li>The TFM contract directly impacts the safety and well-being of approximately 22,000 Housing ACT tenants, which leads to broad community interest.</li> <li>There is also a high degree of community and ACT Legislative Assembly interest in the management of services to ACT public housing tenants.</li> <li>Previous ACT Audit Office reports have made findings and recommendations in relation to the management of the TFM contract.</li> </ul>	High

Source: Australian National Audit Office (ANAO) "Fairness and Transparency in Purchasing Decisions Better Practice Guide (2007)"



- 1.17 Based on the analysis in Table 1-1, the TFM procurement is considered to be complex, high value and high risk. Accordingly, it was incumbent on Housing ACT to conduct a procurement process that was tailored to the risk, complexity and value of the procurement.

## Procurement legislation and guidance

### Legislation and regulation

- 1.18 The statutory framework for procurement activities in the Territory is established by the *Government Procurement Act 2001* (the Procurement Act) and supported by the *Government Procurement Regulation 2007* (the Procurement Regulation). Under section 2A of the *Government Procurement Act 2001* a 'procurement':

- (a) means the process of acquiring goods, services, works or property by purchase, lease, rental or exchange; and
- (b) includes the process of disposing of goods, works or property including by sale.

- 1.19 When undertaking any procurement, it is essential that all Territory entities pursue a value for money outcome. Subsection 22A(1) of the *Government Procurement Act 2001* states 'value for money means the best available procurement outcome'. In pursuing value for money, subsection 22A(3) of the Act states:

The entity must have regard to the following:

- a) probity and ethical behaviour
- b) management of risk
- c) open and effective competition
- d) optimising whole of life costs, and
- e) anything else prescribed by regulation.

- 1.20 The *Government Procurement Regulation 2007* provides additional detail on key aspects of ACT Government procurement including practices that must be followed regarding quotation and tender thresholds. Importantly, section 9 of the *Government Procurement Regulation 2007* states:

A territory entity must invite public tenders for the procurement of goods, services or works if the total estimated value of the procurement is \$200 000 or more.

- 1.21 Also, under section 11 of the *Government Procurement Regulation 2007*, the Government Procurement Board must review territory entities' procurement proposals under certain circumstances including a procurement proposal that has a total estimated value of \$5 million or more unless the proposal is covered by an endorsed strategic procurement plan. The TFM procurement exceeded the \$5 million procurement threshold and required review by the Government Procurement Board.

## Policy and procedural guidance

1.22 A range of policy and procedural guidance has been developed for ACT Government agencies managing procurement processes. These are available on the *Shared Services Goods and Services Procurement Portal* and include:

- *Procurement Policy Circular PC01: ACT Government Procurement Framework – An Overview*. This circular ‘provides information on the legislation and Government policies that underpin procurement practice in the ACT’. It provides information on the legislative framework for procurement, including the *Government Procurement Act (2001)* and *Government Procurement Regulation (2007)*, as well as the roles and responsibilities of Shared Services Procurement and Territory entities involved in procurement;
- *Procurement Policy Circular PC21: Probity and Ethical Behaviour*. This circular ‘provides guidance on Territory entities’ responsibilities in meeting the requirements of the procurement principle of probity and ethical behaviour’; and
- *Procurement Policy Circular PC24: Risk Management*. This circular ‘outlines the importance of applying effective risk management techniques when undertaking government procurement’.

## Roles and responsibilities

1.23 A range of ACT Government agencies and bodies had a role in the procurement.

### Housing ACT

1.24 Housing ACT, part of the Community Services Directorate, was responsible for the conduct of the TFM procurement, including administrative processes associated with the management of the procurement.

### Delegate

1.25 The Delegate for the TFM procurement was the Director-General of the Community Services Directorate in their capacity as Commissioner for Social Housing.

### Procurement and Capital Works

1.26 At the time of the TFM procurement, Procurement and Capital Works, within the Chief Minister, Treasury and Economic Development Directorate, comprised six branches including three Infrastructure Procurement branches and a Goods and Services Procurement Branch. These branches were responsible for delivering procurement and tender services on behalf of the ACT Government.

- 1.27 Procurement and Capital Works were involved, and worked with Housing ACT, in the TFM procurement process including:
- commenting on procurement documents;
  - facilitating consultation with the Government Procurement Board;
  - facilitating the consultation with relevant unions' representatives; and
  - communicating with tenderers, including receiving tenders and issuing requests for clarification.
- 1.28 The Goods and Services Procurement Branch of Procurement and Capital Works (now Procurement ACT) assists Directorates by providing a range of specialist and general functions; however, responsibility for the procurement activities rests with the Delegate of the responsible Directorate or agency. The level of support sought from the Goods and Services Procurement Branch may depend upon the procuring Directorate's view of its capability to undertake the procurement, having regard to the value, risk and complexity of the procurement.

## The Government Procurement Board

- 1.29 The Government Procurement Board reviews and gives advice to ACT Government entities, Directors-General and Ministers on procurement issues and practices in the Territory, and reviews procurement proposals in accordance with procurement regulations.
- 1.30 The Government Procurement Board considered the proposal for the TFM procurement and gave its endorsement for the procurement to proceed and the RFT to be issued.

## Audit objective and scope

### Audit objective

- 1.31 The objective of this audit is to provide an independent opinion to the ACT Legislative Assembly on the effectiveness of Housing ACT's procurement processes for the Total Facilities Management contract for ACT social housing maintenance.

### Audit scope

- 1.32 The audit examined the TFM procurement and related processes.
- 1.33 Specific areas examined during the audit include:
- the planning, governance and administrative arrangements for the TFM procurement; and
  - the conduct of the procurement, including Housing ACT's:

- compliance with ACT Government procurement requirements, as identified in legislation and other guidance; and
- recognition and implementation of processes to promote probity and ethical behaviour in the procurement process, including whether there were effective arrangements for the management of risk, effective market testing and fair and consistent tender evaluation.

## Out of Scope

1.34 The audit did not consider:

- the ACT Government's decision to undertake a procurement process for the TFM contract;
- the proposed management of the TFM contract, or the day to day functioning of the TFM contract, including the delivery of housing maintenance services under the contract; and
- the effectiveness or otherwise of the TFM contract's redesigned Performance Management System and its incorporation in the new TFM contract. (This system is used to evaluate the TFM contractor's performance during the term of the contract.)

1.35 The ACT Audit Office also did not assess the tenders that were received as part of the TFM procurement, nor did the Office review the decision made by the Delegate (on the basis of the Tender Evaluation Team's recommendation) to enter into negotiations with Programmed Facilities Management Pty Ltd.

## Audit criteria, approach and method

### Audit criteria

1.36 To form a conclusion against the objective, the following criteria were used:

- **Criterion 1:** The TFM procurement was conducted in accordance with ACT Government procurement legislation and policies.
- **Criterion 2:** Housing ACT's procurement processes promoted the achievement of value for money.
- **Criterion 3:** Effective arrangements were in place for the integrity and probity of the TFM procurement.

## Audit approach and method

1.37 The audit approach and method consisted of:

- reviewing key ACT Government procurement legislation and policies;
- examining documentation associated with the TFM procurement;
- interviews with relevant staff and stakeholders, including staff from Procurement and Capital Works within the Chief Minister, Treasury and Economic Development Directorate, the TFM Procurement Steering Committee, the Tender Evaluation Team and Special Advisors to the procurement project;
- engagement of a professional services firm with procurement and probity experience (McGrathNicol) to assist in the conduct of the audit; and
- an engagement quality control review.

1.38 The audit was performed in accordance with *ASAE 3500 – Performance Engagements*. The audit adopted the policy and practice statements outlined in the Audit Office’s *Performance Audit Methods and Practices (PAMPr)* which is designed to comply with the requirements of the *Auditor-General Act 1996* and *ASAE 3500 – Performance Engagements*.

1.39 In the conduct of this performance audit the ACT Audit Office complied with the independence and other relevant ethical requirements related to assurance engagements.



## 2 PROCUREMENT GOVERNANCE

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- 2.1 This chapter considers the governance arrangements for the TFM procurement, including the definition and articulation of roles and responsibilities, project management and governance documentation, such as risk management documentation, and arrangements for early and ongoing consultation with stakeholders.
- 2.2 Governance refers to how the TFM procurement was controlled and operated, and the accountability mechanisms by which it, and staff managing the process, were held to account. Ethics, risk management, compliance and administration are all elements of governance.<sup>1</sup>
- 2.3 Governance arrangements should be commensurate with the risks associated with the procurement. As discussed in paragraphs 1.16 to 1.17, the TFM procurement was a complex, high value and high risk procurement. It was incumbent on Housing ACT to implement appropriate governance arrangements that were commensurate with the risks associated with the procurement and fit for purpose.

### Summary

### Conclusion

Housing ACT developed and implemented an appropriately structured procurement governance framework for the TFM procurement, which was supported by well-organised and comprehensive project documentation and record-keeping of key activities and decisions. The governance arrangements included clear management and leadership roles and responsibilities, an experienced Project Manager, oversight by a Project Steering Committee with a broad range of experience, and proactive and early engagement with key stakeholders.

### Key findings

Housing ACT allocated and implemented clear roles and responsibilities for the management and administration of the TFM procurement. This included appropriate senior leadership and oversight through a Project Steering Committee, which met on a monthly basis (and more regularly as needed) and senior leadership roles including a Project Sponsor, Project Director and Senior Project Manager, who was responsible for the day-to-day management of the procurement.

Paragraph

2.21

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<sup>1</sup> This definition of Governance has been derived from the Governance Institute of Australia.  
<https://www.governanceinstitute.com.au/resources/what-is-governance/>

In accordance with the *Government Procurement Regulation 2007*, and Housing ACT's timely and appropriate submissions to the Government Procurement Board, the ACT Government Procurement Board reviewed and endorsed the TFM procurement through a two-stage process. 2.29

Procurement and Capital Works (now Procurement ACT), in the Chief Minister, Treasury and Economic Development Directorate, was involved, and worked with Housing ACT, in the TFM procurement process through: a Procurement and Capital Works representative sitting on the Steering Committee; commenting on procurement documents; facilitating consultation with the Government Procurement Board; facilitating consultation with relevant unions' representatives; and communicating with tenderers, including receiving tenders and issuing requests for clarification. The central and ongoing role initially envisaged for Procurement and Capital Works in the *Procurement Overview* document (October 2016) was not followed for the duration of the project. It is apparent that Housing ACT considered the extensive governance arrangements established for the TFM procurement meant that Procurement and Capital Works' ongoing involvement was not necessary. 2.35

Housing ACT developed appropriate project documentation to plan for, and execute, the TFM procurement. Key documents used to plan and execute the TFM procurement were comprehensive and developed and approved in a timely manner. 2.41

Housing ACT developed a systematic and comprehensive approach to effectively engage key stakeholders throughout the procurement process, including a *Stakeholder Engagement Strategy* underpinned by a *Communication and Engagement Plan* that set out key protocols and communication activities. 2.52

Communication with industry and prospective tenderers was effective and included a pre-tender consultation and briefing session on 3 March 2017 and information sessions for potential tenderers, following the issue of the RFT, on 6 and 7 December 2017. Early and effective engagement with industry and potential tenderers improved the knowledge of potential tenderers of Housing ACT's TFM contract requirements. 2.58

Housing ACT developed and implemented a robust and comprehensive risk management framework which covered each stage of the TFM procurement. A *TFM Procurement Risk Management Plan* was prepared, which comprised of a comprehensive risk register prepared in accordance with the ACT Insurance Authority template. Procurement risk management workshops were conducted and facilitated by an external facilitator and the *TFM Procurement Risk Management Plan* 2.75



was reviewed regularly by the procurement Steering Committee and updated by the procurement team.

Housing ACT maintained a comprehensive record of the TFM procurement including decisions, processes and communications associated with the procurement. These documents were filed and retained in a systematic and comprehensive manner and facilitated transparency and accountability. 2.78

## Procurement governance structure

- 2.4 Housing ACT developed and implemented a systematic and comprehensive governance structure comprising senior experienced procurement staff, and multiple assurance controls.
- 2.5 Accountability for decision-making and the delivery of the TFM procurement rested with the Director-General of the Community Services Directorate in their capacity as the Delegate for the project.
- 2.6 Key features of the *Total Facilities Management Procurement Governance Structure* are:
- the Delegate (the Commissioner, Director-General Community Services Directorate);
  - a Steering Committee comprising senior staff from across ACT Government including: the Community Services Directorate; the Chief Minister, Treasury and Economic Development Directorate (including Procurement and Capital Works); the Transport Canberra and City Services Directorate; the Justice and Community Safety Directorate; and Housing ACT;
  - a dedicated procurement administration function to oversee the TFM procurement. This administrative function included: the Project Sponsor (Executive Director, Housing ACT); the Project Director (Senior Director, Chief Operating Officer, Housing ACT); and the Senior Project Manager (Senior Manager, Housing ACT);
  - an experienced and senior Tender Evaluation Team including representatives from: the Environment, Planning and Sustainable Development Directorate; the Chief Minister, Treasury and Economic Development Directorate; the Transport Canberra and City Services Directorate; Housing ACT; and the New South Wales Department of Family and Community Services;
  - experienced Specialist Advisors who supported the Delegate and the Tender Evaluation Team with specialist advice; and
  - a Probity Adviser and Legal Advisor from the ACT Government Solicitor's Office to provide probity and legal advice as required.

- 2.7 The governance and administrative arrangements for the TFM procurement also included a role for the ACT Government Procurement Board. Under Section 11 of *Government Procurement Regulations 2007*, a procurement proposal that has a total estimated value of \$5 million or more, must be reviewed by the ACT Government Procurement Board.

## The Delegate

- 2.8 The Delegate for the TFM procurement was the Director-General of the Community Services Directorate in their capacity as Commissioner for Social Housing. The *Procurement Overview* document (October 2016) provides some insight into the authority and responsibility of the Delegate, noting the Delegate:
- ‘may at any time require [any person] to provide information or clarification in relation to the procurement activity, whether in relation to confidential information, conflicts of interest or any other matters’;
  - ‘must ensure that Territory personnel who participate in making recommendations in relation to, or participate in the taking of a decision, are appropriately qualified and experienced’;
  - ‘may authorise any appointment or replacement of Evaluation Team members from time to time’.
- 2.9 In addition to the consultative and decision-making roles of the Delegate, the Delegate may have also had responsibility for administrative, financial and other matters as prescribed under statute and other instruments.
- 2.10 The Delegate was independent of the Tender Evaluation Team and was responsible for approving the Tender Evaluation Team’s recommendation of the preferred tenderer.

## Steering Committee

- 2.11 A Steering Committee for the TFM procurement was also established. The *Procurement Overview* document (October 2016) identified that ‘the purpose of the [Steering Committee] is to effectively and efficiently monitor and provide advice and make recommendations in developing the Project’ and:
- The Steering Committee will do this by:
- a) Providing oversight of the project plan and delivery of the project.
  - b) Monitoring project risks and endorse mitigation strategies.
  - c) Providing advice and make recommendations to the Project Team.
  - d) Seeking advice from a subject matter expert when required.
- 2.12 The Steering Committee comprised:
- the Deputy Director-General, Community Services Directorate (Chair)
  - the Housing ACT Executive Director (Project Sponsor);

- the Chief Operating Officer of Housing ACT (Project Director);
- the Director, Business and Capital, Housing ACT;
- a Housing ACT senior manager (Senior Project Manager);
- the Finance Manager, Housing ACT (Senior Project Manager);
- the Senior Director, Finance and Budget, Community Services Directorate (Member);
- Executive Director, Procurement Projects, Procurement and Capital Works Division (position title subsequently changed to Executive Director, Operations, Infrastructure Finance and Capital Works Division), Chief Minister, Treasury and Economic Development Directorate (Member);
- Director, Social Policy Branch, Chief Minister, Treasury and Economic Development Directorate (Member);
- Director, Light Rail Contract Management Office, Transport Canberra and City Services Directorate (Member);
- a representative from the ACT Government Solicitor's Office, Justice and Community Safety Directorate (Observer); and
- a Housing ACT project officer (Secretariat).

2.13 The Project Sponsor reported monthly to the Steering Committee and the Committee met on a monthly basis and then more frequently as the project progressed.

## Procurement project administration

2.14 In practice, the management and oversight of the TFM procurement was undertaken by the Project Management Team. Key roles in the Project Management Team were:

- the Project Sponsor;
- the Project Director; and
- the Senior Project Manager. (Two Senior Project Managers were identified and appointed to the Steering Committee. In practice the day-to-day management and administration of the TFM procurement was undertaken by one of the Senior Project Managers).

### *Project Sponsor*

2.15 The Executive Director of Housing ACT was the Project Sponsor. According to the *Procurement Overview* document (October 2016):

The Project Sponsor will:

- a) Provide clear direction for the project and how it links with HACS' overall strategy.
- b) Secure project resources.
- c) Ensure the project is on time, on budget and on scope.

- d) Provide feedback on status reports and making sure they reach the necessary stakeholders.
- e) Champion the project at the executive level.

### *Project Director*

2.16 The *Procurement Overview* document (October 2016) advises that:

The procurement process is overseen by ... Senior Director/Chief Operating Officer ...

2.17 The Senior Project Manager reported to the Project Director who in turn reported to the Project Sponsor.

2.18 The Project Director was a member of the Steering Committee and was also one of the Specialist Advisors to the Evaluation Team providing Overarching TFM knowledge.

### *Senior Project Manager*

2.19 In practice the day-to-day management of the TFM procurement was undertaken by a Housing ACT Senior Project Manager. It is apparent that this included:

- the day-to-day management of the procurement process;
- acting as Housing ACT's co-ordinating officer for arrangements and communications relating to the procurement process and clarification of probity queries;
- fulfilling a role as a member of the Steering Committee; and
- the day to day coordination and logistical activities related to the evaluation process and overseeing the Evaluation Support Team (refer to paragraph 3.24).

2.20 It is evident from the TFM procurement documentation and other records associated with the procurement process that the Senior Project Manager fulfilled their responsibilities, was proactively involved in each stage of the procurement process and effectively managed the procurement process to its completion.

2.21 Housing ACT allocated and implemented clear roles and responsibilities for the management and administration of the TFM procurement. This included appropriate senior leadership and oversight through a Project Steering Committee, which met on a monthly basis (and more regularly as needed) and senior leadership roles including a Project Sponsor, Project Director and Senior Project Manager, who was responsible for the day-to-day management of the procurement.

## **Government Procurement Board**

2.22 The Government Procurement Board's functions include reviewing and giving advice to ACT Government entities on procurement issues and practices in the Territory and reviewing procurement proposals in accordance with the *Government Procurement Regulation 2007*.

- 2.23 Under the *Government Procurement Regulation 2007*, the Government Procurement Board must review ‘a procurement proposal that has total estimated value of \$5 million or more, unless the proposal is covered by an endorsed strategic procurement plan’.
- 2.24 The Government Procurement Board considered the TFM procurement twice during 2017:
- the first occasion followed the completion of the consultation and design phase of the TFM procurement with key stakeholders (First Pass). The Government Procurement Board endorsed the *Strategic Procurement Submission* on 31 January 2017; and
  - the second occasion followed the conclusion of the pre-tender consultation process (Second Pass). The Government Procurement Board reviewed the *Procurement Review Submission* (including the Procurement Plan, the Risk Management Plan and the Evaluation Plan). The Government Procurement Board endorsed the *Procurement Review Submission* on 24 October 2017.

#### *First Pass consideration*

- 2.25 On 31 January 2017, Housing ACT made its First Pass presentation to the Government Procurement Board. In responding to the presentation, the Government Procurement Board suggested that, amongst other considerations:

The Board **suggested** that the proponent consider the following issues in developing the detailed proposal:

...

(iv) opportunities to leverage from and connect with the WHOG TFM arrangement (benefit from learning’s and possible efficiencies)

...

- 2.26 At the time, ACT Government agencies were involved in a process to progress a whole-of-government total facilities maintenance contract for the maintenance and management of a range of Territory-owned assets across a range of directorates and agencies. The whole-of-government total facilities maintenance procurement had not been finalised as at November 2018.
- 2.27 Housing ACT advised the Government Procurement Board, in information attached to the Second Pass submission to the Board, that Housing ACT and Procurement, Property and Venues of the Chief Minister, Treasury and Economic Development Directorate were meeting. This was ‘... for both parties to share and benefit from learning and possible efficiencies with WHOG TFM and the Housing ACT’s TFM arrangements’.

#### *Second Pass consideration*

- 2.28 On 24 October 2017 Housing ACT made its Second Pass presentation to the Government Procurement Board. The Government Procurement Board made some suggestions for additional material associated with the TFM procurement and endorsed the issuing of the RFT by Housing ACT.

- 2.29 In accordance with the *Government Procurement Regulation 2007*, and Housing ACT's timely and appropriate submissions to the Government Procurement Board, the ACT Government Procurement Board reviewed and endorsed the TFM procurement through a two-stage process.

## Procurement and Capital Works

- 2.30 At the time of the audit, Procurement and Capital Works, within the Treasury stream of the Chief Minister, Treasury and Economic Development Directorate, comprised six branches: three Infrastructure Procurement branches, a Goods and Services Procurement branch, as well as Executive Support and Procurement Projects and Finance branches.

- 2.31 The Goods and Services Procurement Branch of Procurement and Capital Works (now Procurement ACT) assists Directorates by providing a range of specialist and general functions; however, responsibility for procurement activities rests with the Delegate of the responsible Directorate or agency. The level of support sought from the Goods and Services Procurement Branch may depend on the procuring Directorate's view of its capability to undertake the procurement, having regard to the value, risk and complexity of the procurement.

- 2.32 The *Procurement Overview* document (October 2016) states:

Procurement and Capital Works will be working with the HACS Project Management Team to facilitate the procurement process.

...

A dedicated officer from Procurement and Capital Works will be the Territory officer appointed to undertake the role of Contact Officer for this procurement. Procurement and Capital Works will provide advice about or manage the procurement process.

The role of the Contact Officer is potentially quite extensive especially in relation to re-directing and handling communications, and documenting communications and confidentiality deeds, undertaking and disclosures.

...

- 2.33 Procurement and Capital Works was involved, and worked with Housing ACT, in the TFM procurement process through:

- a Procurement and Capital Works representative on the Steering Committee;
- commenting on procurement documents;
- facilitating consultation with the Government Procurement Board;
- facilitating consultation with relevant unions' representatives; and
- communicating with tenderers, including receiving tenders and issuing requests for clarification.

- 2.34 The central and ongoing role for Procurement and Capital Works set out in the *Procurement Overview* document (October 2016) was not followed for the duration of the project and Procurement and Capital Works did not have a significant role in the management and

administration of the TFM procurement after it was endorsed by the Government Procurement Board. It is apparent that Housing ACT considered the governance arrangements in place for the procurement did not necessitate the involvement of Procurement and Capital Works in the procurement as initially envisaged.

- 2.35 Procurement and Capital Works (now Procurement ACT), in the Chief Minister, Treasury and Economic Development Directorate, was involved, and worked with Housing ACT, in the TFM procurement process through: a Procurement and Capital Works representative sitting on the Steering Committee; commenting on procurement documents; facilitating consultation with the Government Procurement Board; facilitating consultation with relevant unions' representatives; and communicating with tenderers, including receiving tenders and issuing requests for clarification. The central and ongoing role initially envisaged for Procurement and Capital Works in the *Procurement Overview* document (October 2016) was not followed for the duration of the project. It is apparent that Housing ACT considered the extensive governance arrangements established for the TFM procurement meant that Procurement and Capital Works' ongoing involvement was not necessary.

## Procurement documentation

- 2.36 Housing ACT developed a suite of project documentation to guide the management of the TFM procurement, from pre-procurement and design through to implementation planning. This documentation included:
- a *Procurement Overview* document (October 2016). This document, produced early in the procurement process, provided an overview of the expected governance and administrative arrangements and expectations for the conduct of the procurement (refer to paragraphs 2.37 to 2.38);
  - a *Total Facilities Management Project Plan* (September 2016). This document provided an overview of the procurement project and administrative arrangements for the conduct of the procurement. It described oversight arrangements for the procurement, information on key stakeholders and dependencies and timing associated with the procurement, as well as information on resource management for the procurement, including a project budget (refer to paragraphs 2.39 to 2.41);
  - a *Procurement Plan Minute* (October 2017). This document identified and articulated the purpose of the procurement, its estimated value and timing as well as administrative requirements for the conduct of the procurement including consultation processes, risk management and evaluation processes;
  - a *Stakeholder Engagement Strategy* (October 2016). This document identified more detailed processes for stakeholder engagement including information on the target audience(s), approaches to engagement, outcomes to be achieved, key messages to be conveyed and responsibilities for engagement (refer to paragraphs 2.44 to 2.47);

- a *Communication and Engagement Plan* (October 2016). This document identified more detailed processes for communication with stakeholders during the procurement including information on the objectives for communication with stakeholders, a framework for engagement and responses and requirements for communication sign-offs and protocols. This document was included as an attachment to the *Stakeholder Engagement Strategy* (October 2016) (refer to paragraphs 2.48 to 2.52);
- a *TFM Procurement Risk Management Plan* (refer to paragraphs 2.66 to 2.75);
- a *Total Facilities Management Probity Plan* (November 2016) (refer to paragraphs 4.16 to 4.23);
- the *Request for Tender No 28556.110.01* (November 2016) (refer to paragraphs 3.9 to 3.13); and
- the *Tender Evaluation Plan* (August 2017) (refer to paragraphs 3.5 to 3.8).

### Procurement Overview document

2.37 The *Procurement Overview* document (October 2016) provided a comprehensive overview of the TFM procurement to ACT Government participants in the project, including the Tender Evaluation Team and the Steering Committee.

2.38 The *Procurement Overview* document (October 2016) established expectations for the conduct of the TFM procurement early in the procurement process and provided a useful and consolidated description of the management and administration of the project, which served as a reference document for the duration of the project.

### Project Plan

2.39 The *Total Facilities Management Project Plan* (September 2016) states:

This Project Plan is the high-level management document that prescribes the project methodology to develop and implement the delivery of Total Facilities Management (TFM) Services for Housing and Community Services (HACS). This project plan template is owned, maintained and applied by the Community Services Directorate (CSD) Project Management Office to ensure the delivery of the defined project outcomes.

HACS will review and amend this plan to account for changed conditions or objectives during the life of the project.

2.40 The *Total Facilities Management Project Plan* (September 2016) clearly established the project methodology and associated timing to be followed for the conduct of the TFM procurement. Similarly to the *Procurement Overview* document (October 2016), the *Total Facilities Management Project Plan* (September 2016) established expectations for the conduct of the TFM procurement early in the procurement process and provided a useful and consolidated description of the methodology for the project, which served as a reference document for the conduct of the project.



- 2.41 Housing ACT developed appropriate project documentation to plan for, and execute, the TFM procurement. Key documents used to plan and execute the TFM procurement were comprehensive and developed and approved in a timely manner.

## Stakeholder engagement

- 2.42 The ACT Government seeks to improve stakeholder engagement through the principles of Open Government. The ACT Government publication *Engaging Canberrans: a guide to community engagement* notes:

The ACT Government is committed to the principles of 'Open Government', which means:

- a) transparency in process and information;
- b) participation by citizens in the governing process; and
- c) public collaboration in finding solutions to problems and participation in the improved well-being of the community.

Accordingly, the ACT Government is committed to engaging effectively with its citizens in a meaningful, accountable, responsive and equitable way.

- 2.43 Consistent with the principles of Open Government, as well as the broader social policy objectives of the procurement, Housing ACT engaged with and consulted with a broad range of stakeholders throughout the TFM procurement. These stakeholders included:

- tenants;
- community agencies;
- peak bodies;
- Unions; and
- industry.

## Stakeholder Engagement Strategy and Communication and Engagement Plan

- 2.44 Housing ACT developed a *Stakeholder Engagement Strategy* (October 2016) and *Communication and Engagement Plan* (October 2016) in order to provide a systematic approach to stakeholder engagement and communication throughout the procurement.

### *Stakeholder Engagement Strategy*

- 2.45 The purpose of the *Stakeholder Engagement Strategy* (October 2016) was identified as follows:

... to prescribe the general method by which Housing and Community Services (HACS) will inform and consult with stakeholders likely to be affected by the operation of the next Total Facilities Management Contract (TFM Contract).

- 2.46 The *Stakeholder Engagement Strategy* (October 2016) was aligned with the principles of Open Government, specifically the ACT Government publication *Engaging Canberrans: a guide to community engagement*, and therefore the need for broader stakeholder, including community, participation in the TFM procurement.
- 2.47 The benefits of implementing the *Stakeholder Engagement Strategy* (October 2016) are described in outcome terms as:
- (a) a robust framework that promotes effective stakeholder engagement;
  - (b) identification of all stakeholders who are integral to assisting HACS in designing an improved outcomes focused TFM contract;
  - (c) clear description of communication objectives and outcomes to facilitate open and productive communication between TFM Contract stakeholders;
  - (d) strong and productive stakeholder relationships through strengthened community engagement;
  - (e) optimised understanding by HAC's of the operational effect of the TFM contract on its stakeholders and community;
  - (f) refinement of the TFM Contract deliverables that address deficiencies in current services, and optimise future service efficiency;
  - (g) learning and innovation; and
  - (h) identification of new opportunities.

#### *Communication and Engagement Plan*

- 2.48 The *Stakeholder Engagement Strategy* (October 2016) was underpinned by a detailed *Communication and Engagement Plan* that sought to 'prescribe the detail of the communications delivery'.
- 2.49 The purpose of the *Communication and Engagement Plan* (October 2016) was identified as follows:
- ... to prescribe the most appropriate engagement methods by which Housing and Community Services (HACS) will inform and consult with each stakeholder likely to be materially affected by, or contributory to, the procurement of the Total Facilities Management (TFM) services or operation of the next Total Facilities Management Contract for Housing and Community Services.
- 2.50 Communication protocols were developed, tailored and implemented for each stage of the procurement process. These protocols recognised the different communication channels needed for each stakeholder group and identified the various stakeholders and their communication needs including the Project Steering Committee, tenants, UnionsACT, Housing ACT and Community Services Directorate staff, the general community, industry and potential tenderers and Shared Services ICT staff. These protocols clearly identified communication responsibilities, the purpose of engaging with each stakeholder, key communication tasks for each stakeholder group, the entity responsible for the communication task, as well as a time period for the communication activities.

2.51 Housing ACT consulted widely across all the stakeholders specified in the *Total Facilities Management Project Plan* (September 2016). Specifically, Housing ACT:

- engaged Housing ACT tenants through surveys and meetings and provided tenants with the opportunity to present at an industry briefing;
- developed advertising aimed at industry, prepared and advertised a pre-tender consultation paper, and conducted industry briefings;
- engaged with union representatives and provided UnionsACT with the opportunity to present at an industry briefing; and
- corresponded with other key stakeholders through media releases and direct correspondence (email, letters and frequently asked questions).

2.52 Housing ACT developed a systematic and comprehensive approach to effectively engage key stakeholders throughout the procurement process, including a *Stakeholder Engagement Strategy* underpinned by a *Communication and Engagement Plan* that set out key protocols and communication activities.

### Industry consultation

2.53 *Procurement Circular 2007/11 Industry Briefings and Site Inspections for a Procurement Process (after advertising for respondents)* provides further information in relation to industry briefings and site inspections, noting:

Where appropriate, industry briefings and/or site inspections provide suppliers with information on an advertised procurement. This practice accords with the promotion of the procurement principle of *open and effective competition* as shown in Part 2A, subsection 3(c) of the *Government Procurement Act 2001*.

2.54 *Procurement Circular 2007/11 Industry Briefings and Site Inspections for a Procurement Process (after advertising for respondents)* also notes:

The briefings or inspections may assist by:

- communicating the scope of the project and the expected outcomes;
- providing potential respondents with information on the procurement method, timetables and the evaluation criteria;
- communicating any unusual, hazardous, technical, contractual or risk issues e.g. Occupational Health and Safety;
- providing an opportunity for potential respondents to request additional information or seek clarification of the requirements;
- creating an environment where all potential respondents can proceed on an equal basis;
- improving the quality of offers received;
- obtaining value for money by developing a competitive market and stimulating interest in the requirement; and
- avoiding the potential criticism that procurement specifications were unclear.

- 2.55 Early input received from stakeholders was included in two key presentations to industry representatives:
- a pre-tender consultation and briefing session of 3 March 2017; and
  - information sessions for potential tenderers, following the issue of the RFT, on 6 and 7 December 2017.
- 2.56 At the pre-tender consultation and briefing session of 3 March 2017, client satisfaction (i.e. Housing ACT tenants) was explicitly presented as a key contract principle. The presentation also included a session called *Tenant Experience* that provided information drawn from the Housing ACT Biennial Client Survey of 2015, a Tenant satisfaction survey and the Tenant Experience Survey of 2016.
- 2.57 The *Request for Tender No 28556.110.01* (November 2016) was advertised on 13 November 2017 and closed on 2 February 2018. Information sessions were convened by Housing ACT for potential tenderers on 6 and 7 December 2017 and were attended by 62 industry representatives, including some representatives who attended more than one session. The information sessions included presentations by three Housing ACT tenants, UnionsACT and the ACT Work Safety Commissioner.
- 2.58 Communication with industry and prospective tenderers was effective and included a pre-tender consultation and briefing session on 3 March 2017 and information sessions for potential tenderers, following the issue of the RFT, on 6 and 7 December 2017. Early and effective engagement with industry and potential tenderers improved the knowledge of potential tenderers of Housing ACT's TFM contract requirements.

### Union consultation

- 2.59 In March 2015, the ACT Government and UnionsACT signed an *Agreed Memorandum of Understanding on Procurement of Works and Services by the ACT Government* (the Unions Memorandum). The principles and requirements outlined in the Memorandum apply to all ACT Government agencies undertaking procurement activity under the *Government Procurement Act 2001*. The purpose of the Memorandum is to:
- Ensure that the providers/performers of works and services to the ACT Government comply with and enforce their employee and industrial relations obligations in respect of their employees, contractors and sub-contractors.
- 2.60 Clause 3.3 of the Memorandum sets out the obligations of providers and performers of works and services in relation to employee and industrial relations obligations. Clause 4 of the Memorandum states:
- ACT Government agencies must decline to award a tender proposal for ACT Government Works or Services where a tenderer does not provide an undertaking in their Submission that it will comply with the relevant obligations as set out in 3.3 of this MOU.

- 2.61 In practice, potential service providers submit an *Ethical Suppliers Declaration* as part of their response to requests for tender in order to meet this requirement. The *Ethical Suppliers Declaration* is a guarantee from the tenderer of past and present adherence to ethical working practices.
- 2.62 Clause 4.3 of the Memorandum also commits ACT Government agencies to providing UnionsACT with a list of tendering firms before any contract is awarded:
- Prior to any contract being awarded:
- (i) The list of tenderers for each contract will be provided to UnionsACT and/or relevant Unions as identified by UnionsACT;
- (ii) Each relevant Union has not more that (sic) 10 working days from the receipt of the list in (i) to advise government of its views as to whether or not the applicant meets its WHS or employee and industrial relations obligations, (sic) If the Unions/s request a copy of the Ethical Suppliers Declaration (or its equivalent) and any other related documents as may be agreed between the parties in respect to the employee and industrial relations obligations, then such documents will be provided.
- 2.63 In accordance with clause 4.3 of the *Agreed Memorandum of Understanding on Procurement of Works and Services by the ACT Government* dated 28 March 2015, UnionsACT participated in aspects of the TFM procurement as follows:
- the Project Management Team met with UnionsACT prior to the release of the Request for Tender to assist the Project Management Team’s understanding of industrial and workplace safety issues; and
  - UnionsACT was invited to, and did, provide a presentation at the TFM Industry Information Session, conducted on 6 December 2017, on affiliated unions’ expectations of tenderers in relation to industrial and workplace safety issues.
- 2.64 UnionsACT received the business names of the tenderers and their *Ethical Suppliers Declarations* in an email dated 2 February 2018 from the Tenders ACT Team (Procurement, Property and Venues in the Chief Minister, Treasury and Economic Development Directorate). An affiliated union provided comments on the tenderers using a *Comment Form – Employee and Industrial Relations and Work Health and Safety* proforma on 12 February 2018. Following receipt of the affiliated union’s comments, two ‘Request for Clarification’ forms, dated 14 February 2018, were issued to two tenderers regarding work, health and safety and employment matters. The Request for Clarification Responses were attached to the *Tender Evaluation Report* (April 2018).

## Procurement risk management

- 2.65 ACT Government *Procurement Policy Circular PC: 24 Risk Management* states:

Risk management involves the systematic application of management policies, procedures and practices to the tasks of establishing the context, analysing, evaluating, treating, monitoring and communicating risk.

This applies to all procurement activities regardless of value, with the requirement to prepare Risk Management Plans for all proposed procurement activities with an estimated value of \$25,000 or more.

Risk should be considered at the earliest stages of planning. Risk Management Plans and activities should be an integral part of an agency's management processes.

Good Risk Management Planning involves documenting the risk assessment, the management strategies and the processes implemented to manage risk for all stages of the procurement activity. Risk Management Plans should be reviewed on a regular basis and updated as necessary.

## Risk management framework

- 2.66 Housing ACT developed a risk management framework that addressed each stage of the TFM procurement process including: the pre-procurement and design process; the request for tender process; the transition process; and the implementation process. This framework comprised:
- procurement risk assessments;
  - risk monitoring;
  - risk workshops; and
  - a process for ensuring that senior procurement staff reviewed all procurement risks.
- 2.67 A *TFM Procurement Risk Management Plan* was developed and provided to the Steering Committee and discussed by the Committee at its meeting on 12 October 2016.
- 2.68 The *TFM Procurement Risk Management Plan* primarily comprised a risk register, which was prepared using the ACT Insurance Authority template; it stated 'The risk register is consistent with the AS/NZS ISO 31000:2009 risk management standard and the [Chief Minister, Treasury and Economic Development Directorate] Risk Management Framework and Policy Statement; and Risk Management Policy'. The risk register identified:
- a description of the risk;
  - the consequences of the risk;
  - controls in place to manage the risk;
  - an identified risk owner; and
  - a rating for the risk.
- 2.69 In October 2016 the *TFM Procurement Risk Management Plan* identified 30 risks across a range of procurement and project management issues.
- 2.70 The Steering Committee agreed on 12 October 2016 that risks would be considered at each Steering Committee Meeting and that risks would be identified and reviewed at risk points throughout the project.

- 2.71 Procurement risk management workshops involving internal stakeholders were conducted on 2 and 9 November 2016 and facilitated by an external facilitator. Eighteen senior Housing ACT staff and Steering Committee representatives registered to attend the workshops.
- 2.72 The first procurement risk management workshop covered risk identification and risk ratings. The follow up workshop identified risk treatments, allocating the treatments to individuals and re-rating the risk on the basis of the treatment.
- 2.73 The Steering Committee noted on 10 November 2016 that the *TFM Procurement Risk Management Plan* contained risks identified in the risk workshops as well as risks identified by Housing and Community Services Senior Managers.
- 2.74 The *TFM Procurement Risk Management Plan* was included in the submission for the Government Procurement Board's endorsement in October 2017 and was regularly reviewed and updated by the procurement team.
- 2.75 Housing ACT developed and implemented a robust and comprehensive risk management framework which covered each stage of the TFM procurement. A *TFM Procurement Risk Management Plan* was prepared, which comprised of a comprehensive risk register prepared in accordance with the ACT Insurance Authority template. Procurement risk management workshops were conducted and facilitated by an external facilitator and the *TFM Procurement Risk Management Plan* was reviewed regularly by the procurement Steering Committee and updated by the procurement team.

## Procurement record-keeping

- 2.76 Housing ACT maintained a comprehensive record of the decisions, processes and communications associated with the TFM procurement, which facilitated transparency and accountability.
- 2.77 Housing ACT filed and retained key procurement documents (refer to paragraph 2.36) and other key records in a systematic and comprehensive manner, which accorded with the requirements of the *Territory Records Management Act 2002*. As part of the work undertaken for the audit, over 40 hardcopy files were inspected. These files were maintained in chronological order and cross-referenced and the files demonstrated the key administrative processes associated with the TFM procurement, as well as decision-making.
- 2.78 Housing ACT maintained a comprehensive record of the TFM procurement including decisions, processes and communications associated with the procurement. These documents were filed and retained in a systematic and comprehensive manner and facilitated transparency and accountability.





## 3 TENDER EVALUATION

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- 3.1 This chapter considers the tender evaluation processes for the TFM procurement. For the purpose of this report, tender evaluation refers to the method used by Housing ACT to identify and articulate its requirements for a TFM provider and assess tender responses against the assessment criteria to identify a preferred tenderer.

### Summary

#### Conclusion

Housing ACT developed a well-structured and comprehensive TFM evaluation method, which reflected the evaluation criteria specified in the TFM *Request for Tender*. An appropriately experienced Tender Evaluation Team was established with clear roles and responsibilities. The Tender Evaluation Team was supported by a well-organised evaluation process and Specialist Advisors.

#### Key findings

	Paragraph
A series of documents, including the <i>Procurement Overview</i> document (October 2016), the <i>Total Facilities Management Project Plan</i> (September 2016), the <i>Tender Evaluation Plan</i> (August 2017) and the <i>Request for Tender No 28556.110.01</i> (November 2016) provided a sound and documented framework for the management of the tender evaluation component of the TFM procurement. Collectively, these documents identified and articulated the tender evaluation processes to be applied to prospective tenders. Although each document served a different purpose, and had different types of information at different levels of detail, they were consistent and aligned.	3.13
Housing ACT's TFM evaluation documentation, as articulated in the <i>Tender Evaluation Plan</i> (August 2017), demonstrated a well-structured and comprehensive TFM evaluation method that reflected the overall procurement objective detailed in the <i>Total Facilities Management Project Plan</i> (September 2016) and the evaluation criteria specified in the <i>Request for Tender No 28556.110.01</i> (November 2016).	3.18
A Tender Evaluation Team was established for the TFM procurement, which comprised experienced ACT Government executives and senior staff and a representative from the New South Wales Department of Family and Community Services. The seniority and experience of the Tender Evaluation Team, as well as the breadth of experience, was appropriate given the complexity, high value and high risk of the TFM procurement. The roles and responsibilities of the Tender Evaluation	3.25

Team were established in key procurement documents including the *Tender Evaluation Plan* (August 2017).

Specialist Advisors provided input and expertise into the tender evaluation process in a range of areas including TFM knowledge, information computer technology, local industry participation, finance, quality assurance, performance management and workplace, health and safety. Specialist Advisors were provided with relevant extracts of tenderers' responses, on which they provided a written report to the Tender Evaluation Team. The use of Specialist Advisors during the tender evaluation process, and the means by which they were provided with information and how they provided their input to the tender evaluation, were effective. 3.30

The documentation developed and maintained by the Tender Evaluation Team demonstrates that the tender evaluation process was conducted in accordance with the *Request for Tender No 28556.110.01* (November 2016) and the *Tender Evaluation Plan* (August 2017). The rationale for the assessment of each tender was documented adequately. 3.34

In April 2018, the Tender Evaluation Team prepared the *Tender Evaluation Report*, which provided a comprehensive assessment of the tenders that were received and the rationale for the selection of the preferred tender, in accordance with the requirement of the *Tender Evaluation Plan* (August 2017). Through the *Tender Evaluation Report* (April 2018), and supporting documentation, Housing ACT provided a comprehensive and well-documented evaluation which provided the rationale behind the assessment of each tender, the ranked order of tenders and a value for money assessment. 3.44

## Tender evaluation documentation

3.2 A range of TFM procurement documents provided a framework for the management of the tender evaluation component of the TFM procurement, including:

- the *Procurement Overview* document (October 2016);
- the *Total Facilities Management Project Plan* (September 2016);
- the *Tender Evaluation Plan* (August 2017); and
- the *Request for Tender No 28556.110.01* (November 2016).

### Procurement Overview document

3.3 The *Procurement Overview* document (October 2016) identified a series of principles and practical requirements for the tender evaluation component of the TFM procurement. It outlined the services to be sought from the TFM procurement, and practical requirements for various components including the conduct of an industry briefing 'once the tender has been released'. The *Procurement Overview* document (October 2016) identified the

potential benefits and outcomes to be achieved from the industry briefing and approval processes to be followed for presenters involved in the industry briefing.

## Project Plan

3.4 The *Total Facilities Management Project Plan* (September 2016) identified a series of principles and practical requirements for the tender part of the TFM procurement including a public 'two-envelope' process. According to the *Total Facilities Management Project Plan* (September 2016):

The staged tender evaluation process, which includes the use of two envelope process, supports the commitment to applying the best value for money procurement principle that recognises that the lowest price is not necessarily value for money.

## Tender Evaluation Plan

3.5 The *Tender Evaluation Plan* (August 2017):

... sets out the evaluation methodology and assessment criteria by which Tenders submitted in response to the Request for Tender (RFT) for the provision of Total Facilities Management Services for Housing ACT will be evaluated by the Territory.

3.6 The *Tender Evaluation Plan* (August 2017) was a comprehensive document that identified:

- the Tender Evaluation Team members, their skills and experience;
- processes for the management of 'actual, perceived or apparent' conflicts of interest for the Tender Evaluation Team (all members of the Tender Evaluation Team signed Conflict of Interest and confidentiality undertakings);
- the role and providers of probity and specialist advice for the purpose of the tender evaluation component of the TFM procurement;
- processes for the lodgement of tenders and the management of late tenders;
- the assessment criteria to be applied to tenders; and
- the detailed evaluation methodology, i.e. guidance on the assessment criteria and how it is to be applied to prospective tenders.

3.7 The *Tender Evaluation Plan* (August 2017) states:

The Tender Evaluation Team (TET) will evaluate Tenders submitted in response to the RFT.

... The members of the TET are required to disclose any actual, perceived or apparent conflict of interest and take steps to avoid any conflict of interest, as required by the Probity and Ethical Behaviour Circular (PC21). The responsibility lies with each TET member to promptly identify and disclose to the Chair or delegate (as the case may be) any actual, perceived or potential conflict of interest involving themselves, their immediate family or any other relevant relationship.

All disclosures of a conflict of interest will be fully documented.

3.8 The *Tender Evaluation Plan* (August 2017) further states:

Consistent with Section 22A of the *Government Procurement ACT 2001*, in evaluating Tenders, the Territory has as its objective the attainment of best 'value for money' and not necessarily the lowest tender price.

Value for money is a comprehensive assessment that takes into account cost represented by a price assessment and value represented by the technical assessment of the Tender offer, and also considering the risk to the Territory of the Tenderer and their Tender.

The Territory will evaluate Tenders in accordance with the provisions of the published RFT and this Tender Evaluation Plan. If there is any inconsistency between the requirements of the published RFT and this Tender Evaluation Plan, the published RFT prevails to the extent of the inconsistency.

## Request for Tender

3.9 The *Request for Tender No 28556.110.01* was issued on 13 November 2017, with a closing date of 2 February 2018. The *Request for Tender No 28556.110.01* established an overarching requirement of a prospective TFM provider in the *Section 3 Statement of Requirements* as follows:

Housing ACT is seeking a Total Facilities Manager to support Housing ACT in its commitment to delivering quality improvements in the delivery of services, particularly through:

- a) Viable and sustainable improvements that leverage resources across the service to respond to current, emerging and future demand;
- b) Bringing innovation and efficiency to the workplace;
- c) Being adaptive to evolving changes, needs and knowledge; and
- d) Stream-lining and reducing inefficiencies in order to reduce the cost per service episode.

3.10 The *Request for Tender No 28556.110.01* (November 2017) also provided a schematic view of the TFM contract objective, key service principles and key contract outcomes, which may be summarised as follows:

- Key Objective: 'That the amenity, safety, security and condition of housing dwellings are preserved and improved, for the benefit of current and future tenants, at the best possible value for money';
- Key Service Principles: Achieve efficiency and Value for Money; Provide Best Customer Experience; Promote Social Outcomes; Continuously Improve Quality; Innovate; and
- Key Contract Outcomes: detailed outcomes in support of each of the key service principles including: value for money improvements to quality and cost, positive collaborative relationships and 'one team' culture with Housing ACT and subcontractors, respond to policy priorities and tenant needs, provide continuous quality improvement of services, deliver strategic approach to Total Facilities Management.

- 3.11 The *Request for Tender No 28556.110.01* (November 2017) included a detailed Statement of Requirements, which included definitions of key terms, a history and background of ACT public housing, principles to be applied in the delivery of the services, relevant laws and policies and a detailed description of the services to be provided including facts and figures on the number and composition of public housing stock.
- 3.12 The *Request for Tender No 28556.110.01* (November 2017) also set out the Assessment Criteria by which tenders were evaluated, including the Threshold Assessment Criteria, Weighted Assessment Criteria, Non-weighted Assessment Criteria and the 'two-envelope' process that was to be applied.
- 3.13 A series of documents, including the *Procurement Overview* document (October 2016), the *Total Facilities Management Project Plan* (September 2016), the *Tender Evaluation Plan* (August 2017) and the *Request for Tender No 28556.110.01* (November 2016) provided a sound and documented framework for the management of the tender evaluation component of the TFM procurement. Collectively, these documents identified and articulated the tender evaluation processes to be applied to prospective tenders. Although each document served a different purpose, and had different types of information at different levels of detail, they were consistent and aligned.

## Evaluation method

- 3.14 The evaluation method used for the TFM procurement by Housing ACT was specified in the *Request for Tender No 28556.110.01* (November 2016). This method comprised a five stage process:
1. Threshold Assessment Criteria. Tenders that did not meet the Threshold Assessment Criteria (i.e. Industrial Relations and Employment Certificate, Quality Management System, Locality of Office and Customer Service Centre, Ethical Suppliers Declaration and Work Health and Safety Declaration) may be regarded as non-conforming and may not be considered for further assessment;
  2. Weighted Assessment Criteria:
    - Experience, Past Performance, and Capacity;
    - Business and Stakeholder Management;
    - Service Delivery Methodology;
    - Transition;
    - Social Inclusion; and
    - Local Industry Participation.
  3. Non-Weighted Assessment Criteria:
    - Pricing; and
    - Referees - tenderers were requested to provide the details of two referees.
  4. Risk Assessment.
  5. Overall value for money.

3.15 Schedule 2 of the *Request for Tender No 28556.110.01* (November 2016) identified the key services principles under which the TFM service provider and Housing ACT were expected to operate. These principles related to the procurement objective identified in the *Total Facilities Management Project Plan* (September 2016):

The project objective is to undertake a public procurement process to engage an entity with the skills and resources necessary to provide value for money total facilities management services for the Commissioner's portfolio of dwellings for at least five years.

3.16 The *Tender Evaluation Plan* (August 2017) aligned with the five stage evaluation process. The criteria applicable to each stage of the evaluation process corresponded to the criteria specified in the *Request for Tender No 28556.110.01* (November 2016).

3.17 In addition, the *Tender Evaluation Plan* (August 2017) clearly articulated:

- the proposed Evaluation Team and their roles and responsibilities. The Evaluation Team selected for the TFM procurement (as detailed in the *Tender Evaluation Report*) was senior, experienced and included a member outside of the ACT Government and Housing ACT;
- requirements of Tender Evaluation Team members to declare conflicts of interests;
- processes for probity and specialist advice;
- a process for the receipt of late tenders;
- a scoring regime for the criteria, with a range of 0 (not able to assess response) through to 10 (outstanding), with each score in between assigned a quantitative description;
- the purpose and requirements of the specialist advisor reports and financial analysis report and the Tender Evaluation Report; and
- processes for a final evaluation of value for money.

3.18 Housing ACT's TFM evaluation documentation, as articulated in the *Tender Evaluation Plan* (August 2017), demonstrated a well-structured and comprehensive TFM evaluation method that reflected the overall procurement objective detailed in the *Total Facilities Management Project Plan* (September 2016) and the evaluation criteria specified in the *Request for Tender No 28556.110.01* (November 2016).

## Tender Evaluation Panel

3.19 As discussed in paragraphs 1.16 to 1.17, the TFM procurement was complex, high value and high risk. It required significant knowledge of: the challenges associated with providing and maintaining an extensive public housing portfolio; the concept of a Total Facilities Manager; ACT legislation and policy; and high value procurement processes. It was therefore essential that those individuals responsible for evaluating the tender responses, and their advisors, had the required expertise to make an informed value for money assessment.

3.20 The Tender Evaluation Panel comprised:

- the Tender Evaluation Team; and
- Specialist Advisors.

### Tender Evaluation Team

3.21 The responsibilities of the Tender Evaluation Team were outlined in the *Tender Evaluation Plan* (August 2017) as follows:

The [Tender Evaluation Team] will be responsible for:

- a) ensuring adherence to probity principles and maintaining probity during the procurement;
- b) evaluating Tenders in accordance with:
  - i) the published RFT (including any addenda); and
  - ii) the evaluation methodology set out in this Tender Evaluation Plan;
- c) seeking specialist, probity and/or legal advice (if required);
- d) documenting the tender evaluation process;
- e) contacting referees (if required);
- f) preparing a tender evaluation report for delegate approval;
- g) seeking delegate approval to negotiate with, and engage, the preferred Tenderer identified through the tender evaluation process; and
- h) upon request, debriefing unsuccessful Tenderers.

3.22 The responsibilities of the Tender Evaluation Team, as outlined in the *Tender Evaluation Plan* (August 2017), did not materially differ from the responsibilities outlined in the *Procurement Overview* document (October 2016).

3.23 Noting the importance and complexity, high value and high risk, Housing ACT established a Tender Evaluation Team of senior individuals with relevant experience. This team comprised:

- an Executive Director from the Environment, Planning and Sustainable Development Directorate (Chair);
- a senior staff member from the Asset Management Branch, Housing ACT, Community Services Directorate (Deputy Chair);
- a senior staff member from Asset Programs, New South Wales Department of Family and Community Services (Member);
- a senior staff member from the Chief Minister, Treasury and Economic Development Directorate (Member); and
- a senior staff member from Transport Planning and Active Travel, Transport Canberra and City Services Directorate (Member).

- 3.24 The Tender Evaluation Team was supported by an Evaluation Support Team. The Evaluation Support Team was responsible for administrative support, such as ensuring tenders were distributed to Tender Evaluation Team members. The Evaluation Support Team was overseen by the Senior Project Manager who was responsible for the day to day co-ordination and logistical activities related to the evaluation process.
- 3.25 A Tender Evaluation Team was established for the TFM procurement, which comprised experienced ACT Government executives and senior staff and a representative from the New South Wales Department of Family and Community Services. The seniority and experience of the Tender Evaluation Team, as well as the breadth of experience, was appropriate given the complexity, high value and high risk of the TFM procurement. The roles and responsibilities of the Tender Evaluation Team were established in key procurement documents including the *Tender Evaluation Plan* (August 2017).

### Specialist Advisors

- 3.26 The use of Specialist Advisors as part of the tender evaluation process was envisaged in the *Procurement Overview* document (October 2016) and the *Tender Evaluation Plan* (August 2017). The *Procurement Overview* document (October 2016) identified that:

Specialist Advisors will be responsible for providing Support Reports to the Evaluation Panel against specific components of the RFT to assist in the evaluation process. The areas of experience may include:

- a) technical analysis;
- b) financial assessment;
- c) probity; and
- d) legal issues.

- 3.27 The *Tender Evaluation Plan* (August 2017) noted 'the [Tender Evaluation Team] may seek specialist advice to assist in the tender evaluation process', including for: probity advice; legal advice; technical analysis/information, including procurement; financial analysis and assessment; Performance Management System; and administrative functions.

- 3.28 In relation to the role of Specialist Advisors, the *Tender Evaluation Report* (April 2018) noted:

Specialist Advisors were only provided with access to the relevant Tender components relating to their speciality.

If a Specialist Advisor required any clarification from Tenderers, the Advisor brought this matter to the attention of the Chair of the Tender Evaluation Team or appointed Delegate, through the Senior Project Manager. Specialist Advisors had no direct contact with Tenderers.

Evaluation templates and guides to assist the Tender Evaluation Team were prepared. Each Specialist Advisor Template was tailored to suit the elements of the Tender component being assessed and included a risk rating table ...

- 3.29 The Specialist Advisors that were engaged specialised in the areas of:
- overarching Total Facilities Management knowledge (three senior staff from Housing ACT);



- information computer technology (four senior staff from Housing ACT and the Chief Minister, Treasury and Economic Development Directorate);
  - local industry participation plan (a senior staff member from Housing ACT);
  - finance (two senior staff from Housing ACT and a professional services firm);
  - quality assurance (two senior staff from Housing ACT and Transport Canberra and City Services Directorate);
  - performance management (two senior staff from Housing ACT and a legal firm); and
  - workplace, health and safety (a professional services firm).
- 3.30 Specialist Advisors provided input and expertise into the tender evaluation process in a range of areas including TFM knowledge, information computer technology, local industry participation, finance, quality assurance, performance management and workplace, health and safety. Specialist Advisors were provided with relevant extracts of tenderers' responses, on which they provided a written report to the Tender Evaluation Team. The use of Specialist Advisors during the tender evaluation process, and the means by which they were provided with information and how they provided their input to the tender evaluation, were effective.

## Evaluation execution

- 3.31 The Tender Evaluation Team, with the support of Specialist Advisors, executed the tender evaluation in accordance with the *Request for Tender No 28556.110.01* (November 2016) and the *Tender Evaluation Plan* (August 2017).
- 3.32 Specifically the Tender Evaluation Team's objective in evaluating the tenders, with the support of the Specialist Advisors, was 'to attain value for money and not necessarily the lowest tendered price'. The tenders were assessed according to the evaluation methodology, including:
- Stage 1 – Compliance; the conformity of each tender with the requirements outlined in the *Request for Tender No 28556.110.01* (November 2016), including Threshold Assessment criteria, were considered;
    - in doing so the *Tender Compliance / Conformity Checklist* (20 January 2017) recorded the Tender Evaluation Team's assessment of factors including 'Tender submitted on Time' and Threshold Criteria (TC) 1 to 5, such as *TC1 Industrial Relations and Employment Certificate* and *TC2 Quality Management System to AS/NZ/ISO 9001:2015*.
    - two tenders did not fully comply with the requirement of the *Request for Tender No 28556.110.01* (November 2016). After the consideration of more information and Specialist Advisor advice, one tender was not considered further.
  - Stage 2 – Weighted/Technical Assessment Criteria 1 to 6 (refer to paragraph 3.14); the Tender Evaluation Team was responsible for assessing the tenders, first as

individual members and then agreeing a consensus score for the weighted assessment criteria per tender. The Tender Evaluation Team took into consideration Specialist Advisor reports and requests for clarifications from tenderers where necessary; this included written requests for clarification to two tenderers following consultation with relevant unions' representatives and following two tenderers' presentations;

- an example is *Request for Clarification/Information No 1 Request for Tender No. 28556.110.01* (14 February 2018); this document states '[u]nder clause 5 of the Standard Conditions of Tender for Request for Tender numbered 28556.110.01 (RFT), questions may be asked of Tenderers to clarify information in, or seek further information in relation to their Tenders'. The *Request for Clarification /Information No 1 Request for Tender No. 28556.110.01* (14 February 2018) invited a tenderer to provide further information in relation to workplace health and safety. The tenderer provided more information in response to the request for clarification.
- Stage 3 – Non-weighted Assessment Criteria (refer to paragraph 3.14)
  - Pricing Analysis – the Financial Specialist Advisor undertook a pricing analysis of the tenderers' *Returnable Pricing Schedule* and the resulting Financial Analysis report was provided to the Tender Evaluation Team for consideration.
- Stage 4 – Risk Assessment; the Tender Evaluation Team undertook an assessment of overall risk posed by the tenderers to the Territory. The risks included, but were not limited to, identification of shortfalls in terms of workforce capability and capacity, pricing analysis results and referee reports.
  - Tenderers' interviews or presentations; in accordance with the *Standard Conditions of Tender – Construction*, the Tender Evaluation Team could request presentations or interviews prior to determining the preferred tenderer; two tenderers were asked to give a presentations in March 2018. The presentations were observed by the Tender Evaluation Team, the Strategic Observers and ICT Specialist Advisors.
- Stage 5 – Value for Money Assessment; according to the *Tender Evaluation Report* (April 2018):
  - ... the Tender Evaluation Team undertook a value for money assessment, collectively taking into account
    - a) the results of the evaluation of Tenders against the weighted and non-weighted assessment criteria
    - b) offered pricing/whole life costs
    - c) referee reports
    - d) risk posed to the Territory and
    - e) offered innovations.

The Tenderer with the upper-most technical score, with an acceptable price rating for the whole-of-life proposal, was considered an overall low risk (subject to contract negotiations) and offered the best service model to be delivered in a manner that achieves the key objective

and the key service principles to the project was identified and recommended as the preferred Tenderer to the Delegate.

3.33 At the conclusion of the tender evaluation process, the Tender Evaluation Team prepared the *Tender Evaluation Report* (April 2018), which:

- summarised the individual and collective assessment of each tender;
- identified any matters relevant for consideration by the Delegate;
- identified potential gaps in service delivery and detailed those gaps, the risks and recommendations on how the risks could be managed;
- summarised the value for money assessment; and
- included a clear recommendation for the Delegate.

3.34 The documentation developed and maintained by the Tender Evaluation Team demonstrates that the tender evaluation process was conducted in accordance with the *Request for Tender No 28556.110.01* (November 2016) and the *Tender Evaluation Plan* (August 2017). The rationale for the assessment of each tender was documented adequately.

## Evaluation reporting and approval

3.35 A key element in documenting the outcomes of a procurement process and demonstrating transparency and accountability in decision-making is the preparation of a Tender Evaluation Report.

3.36 The *Tender Evaluation Plan* (August 2017) identified the need for a Tender Evaluation Report as follows:

The [Tender Evaluation Team] will prepare the following information for inclusion in the Tender Evaluation Report:

- (i) background to the procurement;
- ii) the evaluation process, including comments and scores against each Weighted Assessment Criterion;
- iii) the ranked order of Tenders;
- iv) value for money assessment (refer Section 7);
- v) proposed methods for managing risks;
- vi) any issues that will need to be resolved by negotiation; and
- vii) recommendations to the delegate for approval.

Consistent with Section 22A of the *Government Procurement Act 2001*, the [Tender Evaluation Team] will recommend to the delegate the Tenderer, (if any) that offers the best overall value for money outcomes.

3.37 The *Tender Evaluation Plan* (August 2017) described the requirements for the Tender Evaluation Report and that it must contain recommendations to the Delegate regarding a value for money outcome (which is consistent with section 22A of the *Government Procurement Act 2001*).

3.38 In April 2018, the Tender Evaluation Team prepared the *Tender Evaluation Report* (April 2018), which provided a comprehensive assessment of the tenders that were received and the rationale for the selection of the preferred tenderer, in accordance with the requirement of the *Tender Evaluation Plan* (August 2017). The *Tender Evaluation Report* (April 2018) was provided to the Delegate as part of a suite of documentation, which included a range of attached and supporting documentation such as:

- the Government Procurement Board's endorsement of Housing ACT's Strategic Procurement Submission;
- the *Endorsed Procurement Plan* (October 2017);
- documentation associated with the Request for Clarification that was sent to prospective tenderers;
- the Specialist Advisor reports;
- *Tender Financial Analysis Report* (April 2018);
- *Referee Reports*; and
- a detailed technical report on the evaluation of each tender by the Tender Evaluation Team.

#### *Tender Financial Analysis Report*

3.39 The *Tender Financial Analysis Report* (April 2018) provided an analysis of the tenderers' financial responses to the *Request for Tender No 28556.110.01* (November 2016). The *Tender Financial Analysis Report* (April 2018) did not make a recommendation on one tender over another, rather the report stated '[t]his analysis provides a better understanding of the financial risks associated with each Tenderer's Pricing response in order to assist the Tender Evaluation Panel determine the value for money for each Tenderer's response'. The *Tender Financial Analysis Report* (April 2018) used metrics to score the tenders, categorised the overall financial risks into three broad categories of acceptable, potentially acceptable and unacceptable and grouped the tenders in order of risk according to the analysis results.

3.40 According to the ACT Government's *Procurement Circular 2010/11 Optimising Whole of Life Costs*:

The *Government Procurement Act 2001* (the Act), Part 2A provides that a Territory entity undertaking a procurement must pursue value for money and that in pursuing value for money, Territory Entities must have regard to the following:

- probity and ethical behaviour;
- management of risk;
- open and effective competition;
- optimising whole of life costs; and
- anything else prescribed by regulation.

### Whole of Life Costs

In making a decision about which product or service offers the best value for money all significant costs and benefits associated with the purchase should be considered.

Whole of life costing takes into account all risks, costs and benefits incurred across the entire procurement cycle – including acquisition, maintenance, operating costs, training and disposal. This should also include costs associated with manufacturing, using and disposing of a product (or service) and its construction, maintenance, decommissioning and dismantling. The inclusion of these considerations should lead to the selection of the option that represents best value.

- 3.41 The *Tender Financial Analysis Report* (April 2018) included an assessment of whole of life costs and associated financial risks considerations.

### Value for Money Assessment

- 3.42 The *Tender Evaluation Report* (April 2018) included a section on the Tender Evaluation Team's Value for Money assessment (refer to paragraph 3.32). The section incorporated a table that ranked the tenders in order of preference, a risk rating for the tender and identified whether the cost of the tender was 'acceptable' or 'not acceptable'.

- 3.43 The Delegate endorsed the Tender Evaluation Report on 18 April 2018. The Tender Evaluation report stated:

The Tender Evaluation Team recommendation is **Approved** and Housing ACT is authorised to: enter into contract negotiations with the Preferred Tenderer.

- 3.44 In April 2018, the Tender Evaluation Team prepared the *Tender Evaluation Report*, which provided a comprehensive assessment of the tenders that were received and the rationale for the selection of the preferred tender, in accordance with the requirement of the *Tender Evaluation Plan* (August 2017). Through the *Tender Evaluation Report* (April 2018), and supporting documentation, Housing ACT provided a comprehensive and well-documented evaluation which provided the rationale behind the assessment of each tender, the ranked order of tenders and a value for money assessment.



## 4 PROBITY ARRANGEMENTS

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- 4.1 This chapter examines probity arrangements for the TFM procurement. The TFM procurement was a complex, high value and high risk procurement. Accordingly, it was important that appropriate probity arrangements were put in place and that the Delegate was provided with assurance that the procurement process was conducted in a fair, impartial and competitive manner and in accordance with ACT Government legislation and guidance.

### Summary

### Conclusion

A sound, documented framework was established for the management of probity in the TFM procurement and probity in decision-making was promoted through the establishment of, and adherence to, the sound administrative processes for the procurement identified in this report.

For a complex, high value and high risk procurement such as this, probity arrangements would have been enhanced by a clearer articulation of the role of the Probity Adviser (including the nature of the activities to be undertaken and services to be provided) and more timely provision of written assurance with respect to the probity of the procurement process.

### Key findings

	Paragraph
The <i>Total Facilities Management Procurement Risk Management Plan, Procurement Overview</i> document (October 2016) and the <i>Total Facilities Management Probity Plan</i> (November 2016) provided a sound, documented framework for the management of probity during the TFM procurement. Collectively, the documents identified and articulated probity objectives for the procurement as well as practical requirements for the management of probity during the procurement, including the use of deeds or undertakings of confidentiality by participants, and the role of the ACT Government Solicitor's Office in providing probity advice and support through a Probity Adviser.	4.23
In accordance with the requirement of the <i>Total Facilities Management Probity Plan</i> (November 2016), the Senior Project Manager maintained a separate file of signed <i>Confidentiality and Conflict of Interest Undertaking</i> forms, <i>Deed of Confidentiality and Conflict of Interest</i> forms and <i>Conflict of Interest – Status Disclosure</i> forms for participants in the TFM procurement, including the Project Management Team, the Tender Evaluation Team, Specialist Advisors and other participants in the procurement process.	4.30

The *Total Facilities Management Probity Plan* (November 2016) established the role and responsibilities of the Probity Adviser. The Plan established a specific and defined responsibility of the Probity Adviser to 'advise ... with respect to any probity issue notified by an Evaluation Chairperson or Delegate arising in relation to a procurement process or engagement with industry' and 'prepare a written report to the relevant Delegate' on any complaints received. The Plan then outlined a range of activities that the Probity Adviser *may* undertake in relation to the procurement, including 'attend any briefing given in connection with any process', 'observe the making of any decision that is likely to affect the conduct of a process and review any documents taken into account by a person making a decision' and 'review the process and provide a written report to the Evaluation Chairperson in relation to any core decision-making document, and make any observation in any probity report'. While these probity-related activities *may* be undertaken by the Probity Adviser, there was no documented statement, agreed by Housing ACT and the ACT Government Solicitor's Office, with respect to: the actual activities to be undertaken by the Probity Adviser and the input they would provide to the TFM procurement; or the circumstances in which they would undertake the discretionary activities identified in the Plan.

4.42

There was a number of procurement activities and meetings that the Probity Adviser did not attend. In particular, the Probity Adviser did not observe the presentations provided by shortlisted tenderers or attend the Tender Evaluation Team meetings. Assurance with respect to the activities of the Tender Evaluation Team and probity of decision making by the Tender Evaluation Team therefore depended on the Tender Evaluation Chairperson ensuring that the tender evaluation was undertaken in accordance with the *Tender Evaluation Plan* (August 2017) and the *Total Facilities Management Probity Plan* (November 2016). The Probity Adviser's attendance at the shortlisted tenderers' presentations and the Tender Evaluation Team meetings would have provided third party assurance of the probity of these processes.

4.56

On 16 November 2018 the Probity Adviser provided a probity statement to the TFM procurement Project Sponsor which included 'Based on the matters in relation to which my advice was sought, to my knowledge: the relevant officers involved in the Procurement Process discharged their responsibilities with due care and diligence; and there is no probity matter on that I advised, which to my knowledge, presents an unresolved probity risk to the Territory'. The provision of the probity statement in November 2018 was not timely, as it was provided after the conclusion of negotiations with the successful tenderer and after the services agreement had been signed, and it did not serve a purpose in providing assurance to the Delegate to assist in their decision-making associated with the evaluation of tenders and consideration of the *Tender Evaluation Report* (April 2018).

4.67



## Probity in decision-making

### ACT guidance

4.2 Procurement Policy Circular *PC21: Probity and Ethical Behaviour* ‘provides guidance on Territory entities’ responsibilities in meeting the requirements of the procurement principle of probity and ethical behaviour’.

4.3 Procurement Policy Circular *PC21: Probity and Ethical Behaviour* states:

Probity refers to uprightness, honesty, incorruptibility, proper and ethical conduct, and propriety in dealings. Within Government, the word “probity” is often used in a general sense to mean “good process”.

... Probity is best seen as the evidence of ethical behaviour in a particular process. Probity, as defined above, contributes to sound procurement processes that accord equal opportunities for all participants. A procurement process that conforms to the expected standards of probity is one in which clear procedures, consistent with ACT Government procurement policies and legislation and the legitimate interests of tenderers, is established, understood and observed by all parties from the beginning of the process. All prospective tenderers should be treated consistently and equitably in accordance with these procedures.

### Standards Australia guidance

4.4 In 2003 Standards Australia issued the AS 8000 suite of Australian Standards on governance. In 2008 the *HB 325-2008 Assuring probity in decision making* handbook was published as additional guidance to assist organisations implement the Standards. The Handbook states:

Probity means more than just the avoidance of corrupt or dishonest conduct. A decision-maker acting with probity makes decisions with integrity and honesty. Observing probity means making decisions with the right intentions and in good faith and employing appropriate policies and practices.

...

Good decisions can be explained, defended and substantiated on two levels:

- substance: the decision has merit because:
  - it is based on relevant information and expertise as needed
  - results validate the decision by achieving the objectives, or purpose for which the decision was made (at least in part – optimal decisions are rare)
- process: the decision has credibility. The means by which the decision was made:
  - meets all mandatory and expected process requirements
  - has considered the nature and extent of risk involved, and employed appropriate risk assessment techniques and risk management frameworks
  - generates confidence that the decision is soundly based.

### Use of specialist probity advisers

4.5 ACT guidance and Standards Australia guidance acknowledge the role of probity specialists for some processes.

4.6 Procurement Policy Circular *PC21: Probity and Ethical Behaviour* states:

Depending on the complexity and sensitivity of a procurement activity, it may be appropriate to engage either a probity adviser or a probity auditor. On some occasions it may be appropriate to engage both.

...

In general, a probity **adviser** provides probity advice **during the course** of the project. A report can be provided that indicates that the procedures as set out in a procurement plan and request for offer documents have been followed and that all of the adviser's suggestions have been implemented.

A probity **auditor** reviews, '**after** the event', the processes that have been undertaken, including the implementation of any probity advice that may have been given by others during the project.

Obtaining probity advice or conducting a probity audit should not be confused with seeking legal advice on implications relating to an issue arising during a procurement activity or in the conduct of contract negotiations. Whilst probity advice can be useful in relation to a given procurement activity, legal advice may be required in regard to the procurement but also in relation to the broader objective of safeguarding the Territory's interests.

4.7 The Standards Australia *HB 325-2008 Assuring probity in decision making* handbook states:

... However, some decisions are part of a long and complex chain, or are very complex in other ways. In those circumstances, the quality of decision-making can be enhanced through the use of probity specialists. ...

The use of probity specialists for major or complex decisions serves to provide stakeholders with third-party probity assurance. This can be very important for significant decisions, including but not restricted to, procurement decisions.

... probity specialists can add value in several ways. They can be engaged to provide advice in real-time. Given the complex and dynamic nature of many decision-making scenarios, this is a genuine and legitimate use of probity specialists. They can also be engaged to provide process review and compliance assurance services at defined points in the process, throughout the process or post-event.

## Probity governance and administration

4.8 A range of documents provided a framework for the management of probity during the TFM procurement, including:

- the *TFM Procurement Risk Management Plan*;
- the *Procurement Overview* document (October 2016); and
- the *Total Facilities Management Probity Plan* (November 2016).

## Procurement Risk Management Plan

4.9 The *TFM Procurement Risk Management Plan* identified the risk of a potential probity breach for the TFM procurement:

Probity Breach by a member of the Tender Evaluation Team, Steering Committee, Specialist Advisors, or staff because of:

- a) Lack of knowledge/experience of Tender Evaluation Team, Steering Committee, Specialist Advisor/s, or staff.
- b) Procurement process or Probity Plan not adhered to by the Tender Evaluation Team, Steering Committee or Specialist Advisor/s.
- c) Members of the Tender Evaluation Team, Steering Committee, Specialist Advisor/s not declaring actual and/or perceived conflict of interest.

4.10 Risk mitigation strategies for a potential probity breach, consisting of policies, procedures and actions, were identified, including:

The ACT Government Solicitor will prepare a robust probity plan. All Territory stakeholders administering any part of the procurement process will be required to comply.

Tender Evaluation Team has extensive experience in maintaining probity tender evaluation.

The Project Management Team will ensure all Territory stakeholders are aware of their probity obligations.

Any employee of the Australian Capital Territory or external to the Territory engaged to assist the procurement and involved in meetings, consultation, tender and/or other activities associated with this procurement or industry engagements will be required to sign a Deed of Confidentiality and a Declaration of Conflict of Interest.

ACT Government Solicitor will provide probity advice.

The Tender Evaluation Chairperson will ensure tender evaluation is undertaken in accordance with the Evaluation Plan and the Probity Plan.

4.11 The risk was identified as a Medium risk, with the controls in place identified as adequate.

### Procurement Overview document

4.12 The *Procurement Overview* document (October 2016) identified a series of practical requirements for the management of probity during the procurement. This included the use of deeds of confidentiality and conflict of interest declarations by participants, as well as a role for the ACT Government Solicitor's Office in providing probity advice and support.

4.13 The *Procurement Overview* document (October 2016) identified the appointment of the Deputy Chief Solicitor of the ACT Government Solicitor's Office as the Probity Adviser and identified that they would be 'assisting the Tender Evaluation Team by providing contractual advice, the Probity Plan and probity advice for the [procurement]' and would 'attend the pre-tender and the information session and discuss probity arrangements with interested Tenderers'. (The role of Probity Adviser was subsequently undertaken by another ACT Government Solicitor's Office representative because of the retirement of the initial Probity Adviser).

4.14 The *Procurement Overview* document (October 2016) also stated:

- 'all Territory officers and any other people who undertake any task (including the provision of technical advice to the Evaluation Team) or engage in any communication in relation to the project will be required to complete a Deed of Confidentiality';

- ‘other Territory officers or stakeholders who may have contact with the project but have no evaluation or advisory role may not be required to sign a Deed of Undertaking [but] this will be considered on a case by case basis’; and
- ‘members of the Evaluation Team, Subject Matters Experts and the Contact Officer will be provided with copies of the Probity Plan and any Probity Protocols and receive a briefing by the Probity Advisor before any Tenders to the RFT are distributed’.

4.15 The *Procurement Overview* document (October 2016) also identified processes for dealing with potential probity breaches:

Non-compliance with the Probity Plan or any Probity Protocols by Territory Personnel will be reported immediately to the Evaluation Chairperson in the first instance and if considered appropriate, to the Delegate. The Evaluation Chairperson and/or Delegate will address such non-compliance having regard to advice from the Probity Advisor.

### Total Facilities Management Probity Plan

4.16 The *Total Facilities Management Probity Plan* (November 2016) was developed by the Probity Adviser in consultation with the Senior Project Manager and the Project Director.

4.17 The *Total Facilities Management Probity Plan* (November 2016):

... provides the framework to govern probity matters associated with the conduct of procurement processes, communications and associated elements of the procurement.

4.18 The *Total Facilities Management Probity Plan* (November 2016) applied to all ‘Territory Personnel and to any other person nominated by the Delegate or Evaluation Chairperson’ and ‘[i]n the case of consultants and others who are not Territory Employees and who are engaged in the Project (in particular the evaluation process), the Plan applies in addition to any confidentiality, conflict disclosure or other relevant obligations set out in any contract or other document engaging those consultants and others’.

4.19 The *Total Facilities Management Probity Plan* (November 2016) outlined the probity objectives for the conduct of the procurement and roles and responsibilities associated with the management of probity for the procurement, specifically the Probity Adviser, as well as requirements for:

- the management of confidential information and documentation and record-keeping; and
- the management of potential conflicts of interest.

4.20 The *Total Facilities Management Probity Plan* (November 2016) also included a *Probity Protocol* for the management of communication with potential and actual respondents to the Request For Tender as well as the *Confidentiality and Conflict of Interest Undertaking* form, which was to be completed by Territory employees participating in the procurement.

## Probity Objectives

4.21 The *Total Facilities Management Probity Plan* (November 2016) identified a series of probity objectives for the procurement, including:

- the importance of consistency between the Request for Tender and Evaluation Plan;
- the need to assess all conforming proposals in accordance with the Request for Tender;
- the need to resolve ‘any irregularities, or alleged or perceived irregularities, with processes or any other matter described in the [Request for Tender] or Evaluation Plan [with] regard to the Probity Advisor’s advice’;
- the need to conduct the procurement in accordance with the *Government Procurement Act 2001* and any requirements of the ACT Government Procurement Board;
- the need for appropriate communication processes with respondents or potential respondents, in accordance with a *Communications Protocol* that was attached to the *Total Facilities Management Probity Plan* (November 2016); and
- the importance of documentation and record-keeping.

4.22 In relation to documentation and record-keeping the *Total Facilities Management Probity Plan* (November 2016) required:

All Territory Personnel who make a Decision must record in writing: the Decision (individually or collectively, as relevant); the names of advisers or other persons who were consulted before making the Decision; and the basis on which they made that Decision. The written record of Decisions must be securely stored ... and be made available to the Commissioner, Delegate or the Evaluation Chairperson (as appropriate) and the Probity Adviser, if requested by any of them.

4.23 The *Total Facilities Management Procurement Risk Management Plan, Procurement Overview* document (October 2016) and the *Total Facilities Management Probity Plan* (November 2016) provided a sound, documented framework for the management of probity during the TFM procurement. Collectively, the documents identified and articulated probity objectives for the procurement as well as practical requirements for the management of probity during the procurement, including the use of deeds or undertakings of confidentiality by participants, and the role of the ACT Government Solicitor’s Office in providing probity advice and support through a Probity Adviser.

## Conflicts of interest / confidentiality

4.24 The *Total Facilities Management Probity Plan* (November 2016) noted:

Public confidence in the integrity and honesty of all Territory Personnel is crucial to the administration of the Territory. A real or apparent conflict of interest can jeopardise that confidence. All disclosure of conflicts will be fully documented.

4.25 With respect to real or apparent conflicts of interest in the procurement process, the *Total Facilities Management Probity Plan* (November 2016) stated:

Any Territory Personnel (including any employees or subcontractors of any engaged consultants) who has actual, potential or perceived conflict of interest in relation to a decision which will/can reasonably be expected to affect the procurement process, must not take, or participate in the taking of, or provide any advice in relation to, that decision.

4.26 The *Total Facilities Management Probity Plan* (November 2016) defined Territory Personnel as 'all Territory employees, contracted consultants (including their employees) and all other persons who undertake any task or engage in any communication in relation to the procurement process for the Project'.

4.27 A requirement of the *Total Facilities Management Probity Plan* (November 2016) was that:

The Evaluation Chairperson [or a delegated officer] must maintain, in addition to a file that includes the original of each executed conflict of interest declaration, and for the duration of the procurement process, a log of conflicts of interest declared by Territory Personnel. The Evaluation Chairperson must report to the Delegate in writing if any Territory Personnel disclose an actual, potential or perceived conflict of interest in their conflict of interest deed, undertaking or conflict status disclosure, or subsequently notifies the Evaluation Chairperson of an actual or perceived conflict of interest, or if the Evaluation Chairperson has reasonable grounds to be concerned about such conflict.

4.28 While the maintenance of 'a log of conflicts of interest declared by Territory Personnel' and 'the original of each executed conflict of interest declaration' is a specific requirement of the *Total Facilities Management Probity Plan* (November 2016), the Probity Plan implies there is a discretion as to which Territory Personnel may be asked to complete such a form:

Territory Personnel may be required to complete a confidentiality deed (for non-Territory employees, in a form approved by the Probity Adviser) or undertaking (for Territory employees), and a conflict of interest status disclosure ...

4.29 In practice, Housing ACT sought the completion of:

- a *Confidentiality and Conflict of Interest Undertaking* form (for Territory employees);
- a *Deed of Confidentiality and Conflict of Interest* form (for non-Territory employees engaged to assist with the conduct of the procurement or invited to attend meetings or otherwise participate in a 'Project Activity' which may require access to documents and information that includes confidential or personal information); and
- (when appropriate) a *Conflict of Interest – Status Disclosure* form. This form was to be completed by relevant participants in the procurement process after tenders had been received. The form sought to confirm and update whether there were any potential conflicts of interest once the actual tenderers became known.

4.30 In accordance with the requirement of the *Total Facilities Management Probity Plan* (November 2016), the Senior Project Manager maintained a separate file of signed *Confidentiality and Conflict of Interest Undertaking* forms, *Deed of Confidentiality and Conflict of Interest* forms and *Conflict of Interest – Status Disclosure* forms for participants

in the TFM procurement, including the Project Management Team, the Tender Evaluation Team, Specialist Advisors and other participants in the procurement process.

## Probity Adviser

4.31 In October 2016, Housing ACT engaged the ACT Government Solicitor's Office to provide legal and probity advice for the TFM procurement. A Probity Adviser and a Legal Advisor were appointed and it was noted at the time that the Legal Advisor 'may undertake lower risk probity issues'. In its response to the draft proposed report, the ACT Government Solicitor's Office advised where it 'is instructed to act as probity adviser the relevant lawyer's role is to provide legal advice in respect of the risks that may arise from a failure to follow probity principles'. Accordingly, the advice on probity issues is provided as legal advice.

4.32 While there is no agreed and established approach to the provision of probity advice and assurance, probity processes to be implemented should be commensurate with the probity risks associated with the procurement.

4.33 The ACT Government's *Procurement Policy Circular PC21: Probity and Ethical Behaviour* provides advice on the role of a Probity Adviser:

A probity adviser may be needed for a complex or unusual procurement or where a procurement process is being developed with inexperienced personnel.

Probity advisers have extensive experience and skills in tendering and contracting and possess a good practical knowledge of probity issues. They may assist in developing probity plans, managing the contract with tenderers, handling conflict of interest issues and providing advice and training to staff on probity issues.

Probity advisers can be either in-house or external but should not previously have had direct involvement in the proposed procurement activity.

A probity adviser should provide a report at the completion of the procurement activity, or relevant stage of the project, identifying any relevant issues and stating what probity advice has been provided. The adviser's report should also state the extent to which all probity issues have been satisfactorily managed.

4.34 There is a range of guidance on the use of probity advisers across various Australian jurisdictions. The Australian Government Department of Finance's *Ethics and Probity in Procurement* (July 2014) states:

### Principles

Probity decisions should be:

- Helpful: Probity should be used to facilitate discussion of current approaches to market with suppliers in order to promote genuine engagement.
- Inclusive: Probity processes should be designed to enable innovative approaches to be adopted if required.
- Tailored: Probity roles can be tailored to the business need and range from using internal expertise through to engaging external specialist advice.
- Sensible: Each individual process may require a different approach; one size will not fit all.

- 4.35 New South Wales Government advice, ProcurePoint *PBD-2013-05 Engagement of probity advisers and probity auditors*, states:

**Use of probity advisers and auditors**

While there are circumstances in which it remains appropriate to employ an independent person to verify that processes followed by an agency are consistent with Government regulations and best practice principles, probity advisers and auditors should not be used as an 'insurance policy' to avoid accountability for decisions made, or be allowed to become a substitute for good management practices.

The Procurement Board confirms that the use of external probity advisers and auditors should be the exception rather than the rule.

Each Government agency should have internal mechanisms in place to ensure that probity considerations are routinely taken into account in their decision making process, so that all decisions can withstand public scrutiny.

Agencies should also ensure that staff involved with procurement and asset disposal activities are familiar with probity issues, and sufficiently trained in relevant NSW Government policies and procedures.

...

## Role of the Probity Adviser

- 4.36 The *Total Facilities Management Probity Plan* (November 2016) identified the role of the Probity Adviser as follows:

The Probity Adviser will:

- a) advise Territory Personnel with respect to any probity issue notified by an Evaluation Chairperson or Delegate arising in relation to a procurement process or engagement with industry and therefore monitor compliance with the Probity Plan and applicable laws; and
- b) attend such meetings in relation to a Project Activity as requested by the Evaluation Chairperson, Delegate or the Commissioner.

To the extent that the Probity Adviser will provide legal advice to the Delegate, in relation to the project or procedural aspects of a Project Activity, the Probity Adviser will have regard to this Probity Plan, and any relevant Probity Protocols, in the provision of [their] advice.

- 4.37 In relation to the responsibilities of the Probity Adviser, the *Total Facilities Management Probity Plan* (November 2016) stated:

The Probity Adviser may:

- a) review any file required to be maintained, or document required to be produced, under this Plan, or any file maintained by the Territory in relation to a Project Activity;
- b) interview any Territory Personnel or Consumer representative regarding probity issues, and notify an Evaluation Chairperson (with a copy to the Delegate) after becoming aware of circumstances that suggest that a process has been, or is being, conducted unfairly;
- c) recommend inspection by an independent, suitably experienced officer of the Territory or any other relevant person's ICT or other security systems for their suitability for the purpose of the processes for a Project Activity;
- d) attend any briefing given in connection with any process;
- e) observe the making of any decision that is likely to affect the conduct of a process and review any documents taken into account by a person making a decision;



- f) review the process and provide a written report to the Evaluation Chairperson in relation to any core decision-making document, and make any observation in any probity report; and
  - g) take any other action reasonably considered necessary in order to carry out probity functions under this Plan, including to recommend that any Project matter be briefed to a probity auditor.
- 4.38 The *Total Facilities Management Probity Plan* (November 2016) also specifically required the provision of all written complaints relating to the TFM procurement to be ‘referred in a timely way to the Probity Adviser for consideration and, if the Probity Adviser considers it appropriate, investigation, including audit’. In relation to the written complaints the *Total Facilities Management Probity Plan* (November 2016) stated ‘the Probity Adviser will prepare a written report to the relevant Delegate on each complaint’.
- 4.39 There was no documented statement, agreed by Housing ACT and the ACT Government Solicitor’s Office, of the actual activities to be undertaken by the Probity Adviser, the input they would provide to the TFM procurement or the circumstances in which they would undertake the discretionary activities identified in the *Total Facilities Management Probity Plan* (November 2016). The activities identified and outlined in the Probity Plan were described as activities the Probity Adviser *may* undertake. There was no guidance or articulation of the circumstances in which these activities would be performed or undertaken.
- 4.40 The ACT Government Solicitor’s Office advised that the work undertaken in providing probity and legal advice for the TFM procurement was encompassed by the definition of Territory legal work to be performed by the ACT Government Solicitor’s Office; therefore, no formal Letter of Engagement was required. In the absence of a Letter of Engagement, specifying the particular probity services to be provided by ACT Government Solicitor’s Office to the TFM procurement, the activities that the Probity Adviser may have done were described in the *Total Facilities Management Probity Plan* (November 2016).
- 4.41 In its response to the final proposed report, Housing ACT noted that ‘Housing ACT has worked with the [ACT Government Solicitor’s Office] on procurements for 15 years, [and] the procurement and probity process and the responsibilities of each party are well known to both parties’.
- 4.42 The *Total Facilities Management Probity Plan* (November 2016) established the role and responsibilities of the Probity Adviser. The Plan established a specific and defined responsibility of the Probity Adviser to ‘advise ... with respect to any probity issue notified by an Evaluation Chairperson or Delegate arising in relation to a procurement process or engagement with industry’ and ‘prepare a written report to the relevant Delegate’ on any complaints received. The Plan then outlined a range of activities that the Probity Adviser *may* undertake in relation to the procurement, including ‘attend any briefing given in connection with any process’, ‘observe the making of any decision that is likely to affect the conduct of a process and review any documents taken into account by a person making a decision’ and ‘review the process and provide a written report to the Evaluation

Chairperson in relation to any core decision-making document, and make any observation in any probity report'. While these probity-related activities *may* be undertaken by the Probity Adviser, there was no documented statement, agreed by Housing ACT and the ACT Government Solicitor's Office, with respect to: the actual activities to be undertaken by the Probity Adviser and the input they would provide to the TFM procurement; or the circumstances in which they would undertake the discretionary activities identified in the Plan.

- 4.43 The New South Wales Independent Commission Against Corruption (ICAC) publication *Probity and Probity Advising - Guidelines for Managing Public Sector Projects* (2005) identifies the need for clarity with respect to the scope of work and services to be provided by the Probity Adviser:

When appointing a probity adviser, an agreed scope of work should be drawn up and signed by both the client agency and the adviser. This scope should be flexible enough to be able to address unforeseen events but should not give the project manager or agency representative the ability to steer the probity adviser away from problem areas.

### Activities of the Probity Adviser

- 4.44 The Probity Adviser undertook a range of activities for the purpose of the TFM procurement including:

- preparing the *Total Facilities Management Probity Plan* (November 2016);
- developing and delivering probity briefings to stakeholders;
- providing probity advice in response to requests from the Project Management Team and Tender Evaluation Team (in particular advice regarding the compliance of tender responses); and
- providing a probity statement in relation to the TFM procurement (November 2018).

### Probity briefings

- 4.45 The Probity Adviser provided a probity briefing or a 'probity overview' at various stages of the procurement process including on:

- 3 March 2017 the Probity Adviser provided a 'probity overview' at a pre-tender consultation and briefing session to industry representatives;
- 6 December 2017 the Probity Adviser provided a 'probity overview' at information sessions with industry representatives following the release of the RFT; and
- 15 February 2018 the Probity Adviser provided a verbal probity briefing to the Tender Evaluation Team (and Subject Matter Experts supporting the Tender Evaluation Team), prior to the Tender Evaluation Team considering the tenders. The Probity Adviser also provided a Probity Briefing document (February 2018) to all the attendees at the briefing.

- 4.46 The Probity Briefing document (February 2018) was focused on the responsibilities of those personnel involved in evaluating the tenders and outlined the principles to be followed in the evaluation process:

This Probity Briefing assists person (**Programme Personnel**) involved in the above procurement process (**Procurement Process**) with the probity measures that they may need to apply when evaluating the Tenders. The information in this probity briefing is general and is not a substitute for specific advice in relation to a particular matter.

### Attendance at key meetings

- 4.47 The *Total Facilities Management Probity Plan* (November 2016) allows for the Probity Adviser to 'attend any briefing given in connection with any process' and 'observe the making of any decision that is likely to affect the conduct of a process'. Some guidance on probity advisers' attendance at key meetings during a procurement process may be found in the New South Wales Independent Commission Against Corruption (ICAC) publication *Probity and Probity Advising - Guidelines for Managing Public Sector Projects* (2005), which states:

... the ICAC urges agencies to require a few key services from their probity adviser: ...

Attend key meetings - a probity adviser cannot reasonably perform his or her job without attending key meetings and events. This may include meetings where the evaluation process is discussed and meetings of the evaluation committee itself. In particular, the probity adviser should be present at all meetings involving proponents.

- 4.48 The Government of Tasmania's *Probity Guidelines for Procurement* (April 2018) states:

Broadly, the role of a Probity Adviser should encompass the following:

*Examine and evaluate information and processes*

- Act as an independent observer and comment on all relevant aspects of the process from beginning to end, and at key stages throughout.

...

- 4.49 The Victorian Government *Engaging a probity practitioner - procurement guide* (2003) also notes:

The probity advisor should attend all project meetings to the extent necessary to fulfil their role.

- 4.50 There were a number of TFM procurement activities the Probity Adviser did not attend or participate in. Notably, the Probity Adviser did not observe the presentations provided by shortlisted tenderers or attend Tender Evaluation Team meetings.

- 4.51 The Probity Adviser advised the ACT Audit Office on 1 November 2018 that during the probity briefing to the Tender Evaluation Team on 15 February 2018:

Consistent with standard practice, I advised attendees that I would be available to consider any probity queries throughout the evaluation process. I was not requested to attend any specific Evaluation Team meeting.

4.52 Although it was open to the Probity Adviser to proactively advise the Delegate and/or the Tender Evaluation Team of their need to attend activities such as Tender Evaluation Team meetings or presentations from tenderers, the Probity Adviser did not attend these activities nor did the Tender Evaluation Team request that the Probity Adviser attend such activities.

4.53 In its response to the draft proposed report the ACT Government Solicitor's Office advised:

... the approach adopted in this instance by the probity adviser and other officers involved in the process was entirely consistent with the Probity Plan. The probity adviser (as opposed to a consultant providing a full probity assurance offering) was available to attend meetings as and when requested and was available to address any probity queries arising from such meetings, whether they were physically present at a meeting or not. In this instance the probity adviser provided a significant amount of probity advice to guide the procurement team.

4.54 In its response to the draft proposed report Housing ACT advised:

Consideration on whether the Probity Adviser is required to attend or participate in procurement activities is dependent upon the level of risk, the experience of the Chair and whether clear probity protocols were in place.

The risk management framework, governance structure, the probity protocols and a range of documents provided the framework for the management of probity [and] negated the need for attendance by the Probity Adviser at all procurement activities.

4.55 In its response to the final proposed report Housing ACT further advised:

Verbal discussions were held throughout the process with the Probity Advisor.

The Delegate was kept informed throughout the process and verbal confirmation was received from the Probity Advisor before the Delegate signed the Evaluation Report.

The Housing ACT Senior Project Officer assisted with probity overview (low level risks) with the Probity Advisor available to respond to any concerns or risks.

The Probity Advisor was kept informed of all procurement activities.

4.56 There was a number of procurement activities and meetings that the Probity Adviser did not attend. In particular, the Probity Adviser did not observe the presentations provided by shortlisted tenderers or attend the Tender Evaluation Team meetings. Assurance with respect to the activities of the Tender Evaluation Team and probity of decision making by the Tender Evaluation Team therefore depended on the Tender Evaluation Chairperson ensuring that the tender evaluation was undertaken in accordance with the *Tender Evaluation Plan* (August 2017) and the *Total Facilities Management Probity Plan* (November 2016). The Probity Adviser's attendance at the shortlisted tenderers' presentations and the Tender Evaluation Team meetings would have provided third party assurance of the probity of these processes.

### Probity sign-off and reporting

4.57 Procurement Policy Circular *PC21: Probity and Ethical Behaviour* states:

A probity adviser should provide a report at the completion of the procurement activity, or relevant stage of the project, identifying any relevant issues and stating what probity advice

has been provided. The adviser's report should also state the extent to which all probity issues have been satisfactorily managed.

#### *November 2018 probity statement*

4.58 On 16 November 2018 the Probity Adviser provided a probity statement to the TFM procurement Project Sponsor. The probity statement stated:

You have contacted our office to notify that a contract has now been executed with the successful tenderer and to seek a statement as to our office's role as probity adviser for the Procurement Process.

4.59 The November 2018 probity statement stated:

Based on the matters in relation to which my advice was sought, to my knowledge:

- the relevant officers involved in the Procurement Process discharged their responsibilities with due care and diligence; and
- there is no probity matter on that I advised, which to my knowledge, presents an unresolved probity risk to the Territory.

4.60 The provision of the probity statement in November 2018 was not timely, as it was provided after the conclusion of negotiations with the successful tenderer and after the services agreement had been signed. It did not serve a purpose in providing assurance to the Delegate to assist in their decision-making associated with the evaluation of tenders and consideration of the *Tender Evaluation Report* (April 2018).

4.61 The nature and frequency of documented probity sign-offs or reviews was questioned by an ACT Government officer who had been temporarily appointed to the procurement project in an acting capacity. On 19 August 2017, a member of the Steering Committee emailed the ACT Government Solicitor's Office and noted:

During one of our recent discussions on the management of the procurement for the new Total Facilities Manager [the ACT Government officer who had been temporarily appointed to the procurement project] ... suggested we should be seeking a Probity Sign-off at each stage of the Procurement Process as this will give added comfort to the Directorate as the procurement progresses.

Can you think about this and let me know whether we can achieve this for the TFM Procurement – I understand that [the ACT Government officer who had been temporarily appointed to the procurement project] had received this for procurements in [their] previous role ...

4.62 In relation to this communication, in advice to the ACT Audit Office for the purpose of the audit, the Probity Adviser responded:

... You will note from [the email] that [they were] not requesting a specific probity sign-off but canvassing the potential for the provision of sign-offs at various stages of the procurement process. My understanding is that in discussing this matter ... we canvassed the possibility of providing sign-off reports and that [they] would follow up with me if these were required. ... my understanding is that there was no further request from the Directorate for probity sign-offs at various stages.

4.63 In its response to the final proposed report Housing ACT advised that this demonstrated that ‘governance arrangements were in place and the procurement process was continually reviewed’ and ‘an example of the willingness of key stakeholders to ask questions which were reviewed and responded to by the Probity Advisor and considered by the Delegate and the Steering Committee’. Housing ACT further advised that:

- consideration was given to the suggestion, but that Housing ACT determined that individual sign off at each stage was not required; and
- in May 2017, following a request from the Deputy Director-General to the Solicitor-General for the ACT, the Acting Chief Solicitor ‘joined the Steering Committee to provide project oversight, immediate precautionary advice and an additional layer of governance’.

4.64 On 20 April 2018 (two days after the Delegate approved the Tender Evaluation Report) the Senior Procurement Manager emailed the Probity Adviser and noted that:

Our Director General has requested a letter be placed on the file from you confirming that probity was met (followed) during the procurement process.

Your assistance with this letter would be appreciated.

4.65 In relation to this communication, in advice to the ACT Audit Office for the purpose of the audit, the Probity Adviser advised:

I contacted [the Senior Procurement Manager] to discuss timing of the provision of the letter. My understanding is that we agreed that the letter would be provided at the completion of the procurement process.

Our office has now been advised that the procurement process is complete and we are in the process of preparing that letter.

4.66 In its response to the draft proposed report the ACT Government Solicitor’s Office advised:

It is appropriate that processes be tailored in each instance having regard to an assessment of risk balanced with the consideration of a range of other factors, including without limitation: complexity of the process; strengths and skills of the assembled procurement team; governance frameworks; the nature of the market and the proper prudent expenditure of public monies. This would include a consideration of whether probity sign offs are required of the probity adviser, and if so, when they may be required having regard to the above matters.

4.67 On 16 November 2018 the Probity Adviser provided a probity statement to the TFM procurement Project Sponsor which included ‘Based on the matters in relation to which my advice was sought, to my knowledge: the relevant officers involved in the Procurement Process discharged their responsibilities with due care and diligence; and there is no probity matter on that I advised, which to my knowledge, presents an unresolved probity risk to the Territory’. The provision of the probity statement in November 2018 was not timely, as it was provided after the conclusion of negotiations with the successful tenderer and after the services agreement had been signed, and it did not serve a purpose in providing assurance to the Delegate to assist in their decision-making associated with the evaluation of tenders and consideration of the *Tender Evaluation Report* (April 2018).

**RECOMMENDATION 1      PROCUREMENT AND PROBITY GUIDANCE**

Procurement ACT, in the Chief Minister, Treasury and Economic Development Directorate, should review and revise its procurement and probity information to provide more detailed guidance on, and clarity with respect to, the engagement of probity advice in a procurement process, including requirements for:

- a) a Probity Plan to specify the activities to be undertaken and services provided by a probity adviser; and
- b) the nature and timing of assurance to be provided by a probity adviser during a procurement process, including assurance through written reports.





## Reports

<b>Reports Published in 2018-19</b>	
Report No. 12 - 2018	2017-18 Financial Audits – Financial Results and Audit Findings
Report No. 11 - 2018	2017-18 Financial Audits – Overview
Report No. 10 - 2018	Annual Report 2017-18
Report No. 09 – 2018	ACT Health’s management of allegations of misconduct and complaints about inappropriate workplace behaviour
<b>Reports Published in 2017-18</b>	
Report No. 08 – 2018	Assembly of rural land west of Canberra
Report No. 07 – 2018	Five ACT public schools’ engagement with Aboriginal and Torres Strait Islander students, families and community
Report No. 06 – 2018	Physical Security
Report No. 05 – 2018	ACT clubs’ community contributions
Report No. 04 – 2018	2016-17 Financial Audits – Computer Information Systems
Report No. 03 – 2018	Tender for the sale of block 30 (formerly block 20) Section 34 Dickson
Report No. 02 – 2018	ACT Government strategic and accountability indicators
Report No. 01 – 2018	Acceptance of Stormwater Assets
Report No. 11 - 2017	2016-17 Financial Audits – Financial Results and Audit Findings
Report No. 10 – 2017	2016-17 Financial Audits - Overview
Report No. 09 – 2017	Annual Report 2016-17
Report No. 08 – 2017	Selected ACT Government agencies’ management of Public Art
<b>Reports Published in 2016-17</b>	
Report No. 07 – 2017	Public Housing Renewal Program
Report No. 06 – 2017	Mental Health Services – Transition from Acute Care
Report No. 05 – 2017	Maintenance of Selected Road Infrastructure Assets
Report No. 04 – 2017	Performance information in ACT public schools
Report No. 03 – 2017	2015-16 Financial Audits – Computer Information Systems
Report No. 02 – 2017	2016 ACT Election
Report No. 01 – 2017	WorkSafe ACT’s management of its regulatory responsibilities for the demolition of loose-fill asbestos contaminated houses
Report No. 11 – 2016	2015-16 Financial Audits – Financial Results and Audit Findings
Report No. 10 – 2016	2015-16 Financial Audits – Audit Reports
Report No. 09 – 2016	Commissioner for International Engagement – Position Creation and Appointment Process
Report No. 08 – 2016	Annual Report 2015-16
Report No. 07 – 2016	Certain Land Development Agency Acquisitions

These and earlier reports can be obtained from the ACT Audit Office’s website at <http://www.audit.act.gov.au>.

