

MEDIA RELEASE**18 January 2019****Total Facilities Management Procurement**

Acting Auditor-General, Mr Ajay Sharma, today presented a report on the **Total Facilities Management Procurement** to the Speaker for tabling in the ACT Legislative Assembly.

Mr Sharma says 'the Total Facilities Management procurement was effectively planned and managed by Housing ACT; effective administrative arrangements were put in place for a procurement that was complex, high value and high risk'.

The audit found that Housing ACT developed and implemented an appropriately structured procurement governance framework for the Total Facilities Management procurement which was supported by clear management and leadership roles and well-organised and comprehensive project documentation and record-keeping of key activities and decisions, including the Total Facilities Management tender evaluation process.

Mr Sharma says 'a sound, documented framework was established for the management of probity in the Total Facilities Management procurement and probity in decision-making was promoted through the establishment of, and adherence to, the administrative processes for the procurement'. The audit found that the probity arrangements would have been further enhanced by a clearer articulation of the role of the Probity Adviser and a more timely provision of written assurance with respect to the probity of the procurement process.

The summary of the **Total Facilities Management Procurement** audit, with audit conclusions, key findings and one recommendation is attached to this media release.

Copies of **Total Facilities Management Procurement: Report No. 01/2019** are available from the ACT Audit Office's website www.audit.act.gov.au . If you need assistance accessing the report please phone 6207 0833 or go to 11 Moore Street, Canberra City.

EXTRACT OF SUMMARY CHAPTER

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</p>	2.58

improved the knowledge of potential tenderers of Housing ACT's TFM contract requirements.

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. 2.75

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 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

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