



Auditor-General for the Northern Territory  
Auditing for Parliament

# August 2017

## Report to the Legislative Assembly



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**Auditor-General for the Northern Territory**  
Auditing for Parliament

## **August 2017 Report to the Legislative Assembly**

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**Auditor-General for the Northern Territory**  
Auditing for Parliament

The Honourable Speaker of the Legislative  
Assembly of the Northern Territory  
Parliament House  
Darwin NT 0800

24 August 2017

Dear Madam Speaker,

Accompanying this letter is my report to the Legislative Assembly on matters arising from audits, reviews and assessments conducted during the six months ended 30 June 2017 and I request that you table the report in the Legislative Assembly.

This report presents the results of compliance audits that were performed to assess the adequacy of controls over the administration of public monies and audits of information technology systems that were undertaken to assess whether access to those systems together with controls over data maintained within such systems were adequate.

The findings from data analysis conducted upon accrued employee annual leave and long service leave balances across all NT Government agencies and entities are included within this report. Also included is a summary of the results from a fraud controls assessment survey conducted at 22 Northern Territory Government agencies.

This report presents findings from performance management system audits; audits conducted under section 14 of the *Audit Act*; and the results of audits of financial statements for those entities that are required to report on a calendar year basis.

I have also reported upon my inquiry into the awarding of tenders related to Alice Springs Town Camp Tenancy Management.

My report contains my findings relating to three matters referred under the *Public Information Act*.

Yours sincerely,

Julie Crisp  
Auditor-General for the Northern Territory

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# Auditor-General's Overview

## Audits Included in this Report

This report outlines the results of 40 separate audits and other tasks conducted during the period 1 January 2017 to 30 June 2017. This report summarises the results of the following types of audits and legislated tasks conducted during the period:

- Statutory Audits of Financial Statements;
- Information Technology Audits;
- Controls and Compliance Audits;
- Performance Management Systems Audits
- Data Analysis;
- Inquiries into Selected Referred Matters; and
- *Public Information Act* Referrals.

The report presents the results of compliance audits that were performed to assess the adequacy of controls over the administration of public monies. Findings arising from these audits have been reported to the audited agencies to enable them to address control weaknesses as required. Agency compliance audits address a wide range of topics however the audit focus for many of these audits is compliance with the Treasurer's Directions and the *Financial Management Act*. Beyond identifying control weaknesses within selected agencies, these audits also identified instances where the Treasurer's Directions themselves require updating to ensure that appropriate and clear guidance is provided and references are correct. The Department of Treasury and Finance is presently continuing its review of the suite of Treasurer's Directions.

The findings from data analysis conducted upon accrued employee annual leave and long service leave balances across all NT Government agencies and entities are included within this report. Additional analysis was undertaken at five selected agencies. Also included is a summary of the results from a fraud controls assessment survey conducted at 22 Northern Territory Government agencies.

During the period 1 January 2017 to 30 June 2017, the performance management systems relating to the recording and monitoring of offers of gifts and benefits were evaluated at four agencies.

## Auditor-General's Overview cont...

The results of audits of financial statements for those entities that are required to report on a calendar year basis are presented within this report.

There were a number of interim audit visits undertaken between January 2017 and June 2017 to support the 30 June 2017 financial year audits however the results of these visits are usually only reported to management to enable any matters identified to be addressed prior to year-end.

There were three *Public Information Act* referrals received for consideration during the period 1 January 2017 to 30 June 2017. My findings related to each referral are contained within this report.

Upon referral of matters from the Minister for Housing and Community Development and the Member for Araluen, I undertook an inquiry into the awarding of tenders related to Alice Springs Town Camp Tenancy Management. The findings from my inquiry are included in this report.

Agencies and entities are provided with the opportunity to comment on any of the matters reported in relation to their audit results. Where they choose to do so, their responses are detailed at the end of a particular section.

The legislative requirement is for the Auditor-General to report to the Legislative Assembly on at least an annual basis. It has become established practice for the Auditor-General to report twice within each calendar year.

# The Role and Responsibilities of the Auditor-General

The Auditor-General's powers and responsibilities are established in the *Audit Act* by the Northern Territory's Parliament, the Legislative Assembly. The Auditor-General is required to report to the Legislative Assembly at least once each year on any matters arising from the exercise of the auditing powers established in that Act.

In doing so, the Auditor-General is providing information to the Parliament to assist its review of the performance of the Executive Government, particularly the Government's responsibility for the actions of the public sector entities which administer its financial management and performance management directives. The Parliament has a responsibility to conduct this review as the representative of the people of the Northern Territory.

The Auditor-General is also able to report to management of public sector entities on matters arising from the conduct of audits.

Reports provided to Parliament and public sector managers should be recognised as a useful source of independent analysis of Government information, and of the systems and controls underpinning the delivery of that information.

The Auditor-General is assisted by personnel of the Northern Territory Auditor-General's Office who plan audits and tasks conducted by private sector Authorised Auditors.

The requirements of the *Audit Act* in relation to auditing the Public Account and other accounts are found in:

- Section 13, which requires the Auditor-General to audit the Public Account and other accounts, with regard to:
  - the character and effectiveness of internal control; and
  - professional standards and practices.
- Section 25, which requires the Auditor-General to issue a report to the Treasurer on the Treasurer's Annual Financial Statement.

## The Public Account

The Public Account is defined in the *Financial Management Act* as:

- The Central Holding Authority; and
- Operating accounts of Agencies and Government Business Divisions.

# The Role and Responsibilities of the Auditor-General cont...

## Audits of Financial Statements

Using information about the effectiveness of internal controls identified in the overall control environment review, agency compliance audits and financial statement audits, an audit approach is designed and implemented to substantiate balances disclosed in the Treasurer's Annual Financial Statement are in accordance with the disclosure requirements adopted by the Treasurer, and are within acceptable materiality standards.

The audit report on the Treasurer's Annual Financial Statement is issued to the Treasurer. The Treasurer then tables the audited Treasurer's Annual Financial Statement to the Parliament as a key component of the accountability of the Government to the Parliament.

Statutory bodies, Government Owned Corporations and Government Business Divisions are required by various Acts of Parliament to prepare annual financial statements and to submit those statements to the Auditor-General for audit. Those statements are audited and audit opinions issued accordingly. The opinions are included in the various entities' annual reports that are tabled in the Legislative Assembly. If matters of concern were noted during the course of an audit, specific comment is included in my report to the Legislative Assembly.

In addition, the Northern Territory Government controls, either directly or indirectly, a small number of companies that have been incorporated pursuant to the Commonwealth *Corporations Act 2001*. These audits are performed subject to the provisions of the Commonwealth legislation, with the Auditor-General being deemed by the *Corporations Act 2001* to be a Registered Company Auditor.

Audits by my Office are conducted in accordance with Australian Auditing Standards. Those standards are issued by the Australian Auditing and Assurance Standards Board, a Commonwealth statutory body established under the *Australian Securities and Investments Commission Act 2001*. Auditing standards issued by the Board have the force of law in respect of audits of corporations that fall within the ambit of the *Corporations Act 2001*, while the *Audit Act* also requires that I have regard to those standards.

# The Role and Responsibilities of the Auditor-General cont...

## Audit of Performance Management Systems

### Legislative Framework

A Chief Executive Officer, as an Accountable Officer, is responsible to the appropriate Minister under section 23 of the *Public Sector Employment and Management Act* for the proper, efficient and economic administration of his or her agency. Under section 13 (2)(b) of the *Financial Management Act*, an Accountable Officer shall ensure that procedures “*in the agency are such as will at all times afford a proper internal control*”. Internal control is further defined in section 3 of the *Financial Management Act* to include “*the methods and procedures adopted within an agency to promote operational efficiency, effectiveness and economy*”.

Section 15 of the *Audit Act* complements the legislative requirements imposed on Chief Executive Officers by providing the Auditor-General with the power to audit performance management systems of any agency or other organisation in respect of the accounts of which the Auditor-General is required or permitted by a law of the Territory to conduct an audit.

A performance management system is not defined in the legislation, but section 15 identifies that: “*the object of an audit conducted under this section includes determining whether the performance management systems of an agency or organisation in respect of which the audit is being conducted enable the Agency or organisation to assess whether its objectives are being achieved economically, efficiently and effectively.*”

### Operational Framework

The Northern Territory Auditor-General's Office has developed a framework for its approach to the conduct of performance management system audits, which is based on the premise that an effective performance management system would contain the following elements:

- identification of the policy and corporate objectives of the entity;
- incorporation of those objectives in the entity's corporate or strategic planning process and allocation of these to programs of the entity;
- identification of what successful achievement of those corporate objectives would look like, and recording of these as performance targets;
- development of strategies for achievement of the desired performance outcomes;
- monitoring of the progress toward that achievement;

# The Role and Responsibilities of the Auditor-General cont...

- evaluation of the effectiveness of the final outcome against the intended objectives; and
- reporting on the outcomes, together with recommendations for subsequent improvement.

Performance management system audits can be conducted at a corporate level, a program level, or at a category of cost level, such as capital expenditure. All that is necessary is that there is a need to define objectives for intended or desired performance.

## **Timing of Auditor-General's Reports to the Legislative Assembly**

The *Audit Act* requires the Auditor-General to report to the Legislative Assembly at least once each year. Established practice has been for reports to be submitted twice each year.

Each report may contain findings from financial statement audits, agency compliance audits, information technology audits, controls and compliance audits, performance management system audits and findings from any special reviews conducted.

Where there are delays in Agencies or entities completing financial statements and resultant delays occur in the associated audit, it is sometimes necessary to comment on these activities in the next report.

Results of any reviews of referred information under the *Public Information Act* are included when the reviews are concluded.

The approximate timing and the contents of these reports are:

- First half of the calendar year – contains commentary on Agencies and entities with a 30 June financial year-end being 30 June of the previous calendar year. Material is included depending on when each audit is completed. The report also contains commentary on the Auditor-General's audit of the Treasurer's Annual Financial Statement.
- Second half of the calendar year – contains commentary on Agencies and entities with a 31 December year-end being 31 December of the previous calendar year together with the results of information technology audits, compliance audits and audits of performance management systems. Material is included depending on when each audit is completed.

# Guide to Using this Report

## **Auditing**

There are two general varieties of auditing undertaken in the Northern Territory Public Sector, independent auditing and internal auditing. Only independent audits are undertaken through the Office of the Auditor-General. I, and my Principal Auditors (as my representatives), do attend meetings of Agencies' audit and risk committees where invited, but only in the role of observer.

### **Independent Audit (also known as External Audit)**

Independent audits are generally undertaken in order for an entity to achieve compliance with statutory or legal arrangements. Independent audits may be mandated by legislation or be required by a contractual arrangement. The audit work and resultant opinion is undertaken by an individual or entity independent of the agency or entity subjected to audit. These audits can take the form of financial statements audits, compliance audits or performance audits.

### **Internal Audit**

Treasurer's Direction Part 3, Section 2 requires an Accountable Officer to ensure his or her Agency has an adequate internal audit capacity. Internal audit is a management tool designed to provide assurance to the Accountable Officer that systems and internal controls operating within Agencies are adequate and effective. It carries out its functions by undertaking audits, reviews and other related tasks for improving the performance of organisations. The selection of audit topics, risk management and audit framework and delivery of internal audit services are the responsibility of the Accountable Officer.

# Guide to Using this Report cont...

## **Types of Financial Reports**

Financial reports submitted for independent audit are prepared under either a general purpose or special purpose framework.

### **General Purpose Financial Report**

A general purpose financial report comprises a complete set of financial statements, including the related notes, and an assertion statement by those responsible for the financial report, prepared in accordance with a financial reporting framework designed to meet the common financial information needs of a wide range of users. The financial reporting framework may be a fair presentation framework or a compliance framework.

### **Special Purpose Financial Report**

A special purpose financial report comprises a complete set of financial statements, including the related notes, and an assertion statement by those responsible for the financial report, prepared in accordance with a special purpose framework. The requirements of the applicable financial reporting framework determine the format and content of a financial report prepared in accordance with a special purpose framework.

## **Types of Assurance Engagements**

The amount of audit work performed, and the resultant independent opinion, varies between an audit and a review. The level of assurance provided by the opinion is either reasonable or limited.

### **Reasonable Assurance**

A reasonable assurance engagement is commonly referred to as an audit. A reasonable assurance engagement is an assurance engagement where the auditor is required to perform sufficient work to reduce the risk of misstatement to an acceptably low level in order to provide a positive form of conclusion.

### **Limited Assurance**

A limited assurance engagement is commonly referred to as a review. A limited assurance engagement is an assurance engagement where the assurance practitioner's objective is to perform sufficient audit procedures to reduce the risk of misstatement to a level that is acceptable in the circumstances but where the risk is not reduced to the level of a reasonable assurance engagement. A negative opinion is provided that states that nothing has come to the attention of the reviewer that indicates material misstatement or non-compliance with established criteria.



# Guide to Using this Report cont...

## Audit Opinions

There are two overarching categories of audit opinion, an unmodified audit opinion (sometimes referred to as a “clean” opinion) and a modified audit opinion.

### Unmodified Audit Opinion

Unmodified opinions provide a reasonable level of assurance from the auditor that the financial statements present a true and fair reflection of an entity’s results for the period reported.

Notwithstanding an audit opinion may positively attest to the truth and fairness of the financial statements, additional paragraphs may be included in the audit opinion in relation to a matter the auditor believes requires emphasis.

An “Emphasis of Matter” paragraph means a paragraph included in the auditor’s report that refers to a matter appropriately presented or disclosed in the financial report that, in the auditor’s judgement, is of such importance that it is fundamental to users’ understanding of the financial report. The inclusion of an emphasis of matter paragraph in the audit opinion is intended to draw the reader’s attention to the relevant disclosure in the financial report.

An “Other Matter” paragraph means a paragraph included in the auditor’s report that refers to a matter other than those presented or disclosed in the financial report that, in the auditor’s judgement, is relevant to users’ understanding of the audit, the auditor’s responsibilities and/or the auditor’s report.

### Modified Audit Opinion

Australian Auditing Standard ASA705 *Modifications to the Opinion in the Independent Auditor’s Report*, paragraph 2, establishes three types of modified opinions, namely, a qualified opinion, an adverse opinion, and a disclaimer of opinion. The decision regarding which type of modified opinion is appropriate depends upon:

- a) The nature of the matter giving rise to the modification, that is, whether the financial report is materially misstated or, in the case of an inability to obtain sufficient appropriate audit evidence, may be materially misstated; and
- b) The auditor’s judgement about the pervasiveness of the effects or possible effects of the matter on the financial report.

## Guide to Using this Report cont...

### *Qualified Opinion*

An auditor shall express a qualified opinion when:

- a) The auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are material, but not pervasive, to the financial report; or
- b) The auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion, but the auditor concludes that the possible effects on the financial report of undetected misstatements, if any, could be material but not pervasive. [ASA705, paragraph 7]

### *Adverse Opinion*

An adverse opinion is expressed when the auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial report. [ASA705, paragraph 8]

### *Disclaimer of Opinion*

An auditor shall disclaim an opinion when the auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion, and the auditor concludes that the possible effects on the financial report of undetected misstatements, if any, could be both material and pervasive. [ASA705, paragraph 9]

The auditor shall disclaim an opinion when, in extremely rare circumstances involving multiple uncertainties, the auditor concludes that, notwithstanding having obtained sufficient appropriate audit evidence regarding each of the individual uncertainties, it is not possible to form an opinion on the financial report due to the potential interaction of the uncertainties and their possible cumulative effect on the financial report. [ASA705, paragraph 10]

# Guide to Using this Report cont...

## **Assurance Engagements Conducted by the Auditor-General**

The types of assurance engagements conducted through the Auditor-General's Office include:

- Statutory Audits of Financial Statements;
- End of Year Reviews;
- Information Technology Audits;
- Controls and Compliance Audits; and
- Performance Management System Audits.

### **Statutory Financial Statements Audits**

Statutory audits of financial statements are conducted on the full financial reports of government business divisions, government owned corporations and other government controlled entities that prepare statutory financial statements. The Treasurer's Annual Financial Statement is subjected to audit.

Agencies are required, by Treasurer's Directions issued pursuant to the *Financial Management Act*, to prepare financial statements that comply with Australian Accounting Standards. However, Agencies are not required to submit those statements to the Auditor-General unless directed to do so by the Treasurer pursuant to section 11(3) of the *Financial Management Act*. As no such direction has been given, Agencies' financial statements are not audited separately, but are reviewed as part of the audit of the Public Account and of the Treasurer's Annual Financial Statement.

In the case of a financial statement audit, an 'unqualified audit opinion' means that I am satisfied that the Agency or entity has prepared its financial statements in accordance with Australian Accounting Standards and other mandatory financial reporting requirements or, in the case of acquittal audits, the relevant legislation or the agreement under which funding was provided. It also means that I believe that the report is free of material error and that there was nothing that limited the scope of my audit. If any of these conditions should not be met, I issue a 'modified audit opinion' and explain why.

The audit opinion and summaries of key findings represent the more important findings. By targeting these sections, readers can quickly understand the major issues faced by a particular agency or entity or by the public sector more broadly.

# Guide to Using this Report cont...

## **Information Technology Audits**

Information technology audits are undertaken as stand-alone audits of key agency or across-government systems. Each of the systems selected for audit during the six months ending 30 June 2017 plays an important role in processing data and providing information for the purposes of financial management and, more particularly, for the purposes of financial reporting and the preparation of the Treasurer's Annual Financial Statement.

## **End of Year Reviews**

The end of year review provides an audit focus on year end balances particularly within agencies. The nature of the review is determined annually whilst planning the audit of the Treasurer's Annual Financial Statement and includes testing of transactions occurring around year end to provide a degree of confidence about the data provided to Treasury and which will form part of the overall reporting on the Public Account.

## **Controls and Compliance Audits**

Controls and compliance audits are conducted of selected systems or accounting processes to determine whether the systems and processes achieve compliance with legislated or otherwise mandated requirements. These audits are intended to assist me in my audit of the Public Account.

## **Performance Management System Audits**

The audit process determines whether existing systems or practices, or management controls over systems, are adequate to provide relevant and reliable performance information that will assist intended users of the information make decisions relating to accountability and achieving results. These audits are also intended to assist me in my audit of the Public Account.

## **Public Information Act Referrals**

The *Public Information Act* requires the Auditor-General, upon receipt of a written request of an Assembly member, or on the Auditor-General's initiative, to conduct a review of particular public information to determine whether the Act is contravened in relation to the information. If review of the information suggests a contravention, I issue a preliminary opinion to the public authority that gave the relevant public information. When preparing my report about the review, I take into consideration any comments provided by the public authority following my preliminary opinion. The reports on referrals are included in my reports to the Legislative Assembly.

## **Reports on the Results of Audit, Reviews and Assessments**

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# Batchelor Institute of Indigenous Tertiary Education

## **Audit findings and analysis of the financial statements for the year ended 31 December 2016**

### **Background**

The Batchelor Institute of Indigenous Tertiary Education (the Institute) is established under the *Batchelor Institute of Indigenous Tertiary Education Act*. Section 46 of the Act requires the Institute to prepare financial statements within three months of the end of the Institute's financial year (31 December) and to submit those to the Auditor-General.

### **Audit Opinion**

The audit of the financial statements of the Institute for the year ended 31 December 2016 resulted in an unmodified independent audit opinion. That opinion was issued on 16 June 2017.

### **Key Findings**

#### *Financial analysis*

The financial performance and financial position of the Institute are illustrated in the following tables.

# Batchelor Institute of Indigenous Tertiary Education cont...

## Financial Performance for the year

	2016	2015
	\$'000	\$'000
<b>Revenue from continuing operations</b>		
Australian Government financial assistance	16,648	18,004
NT Government financial assistance	16,430	16,511
Other revenues	6,676	6,782
<b>Total revenue from continuing activities</b>	<b>39,754</b>	<b>41,297</b>
<b>Less expense from continuing activities</b>		
Employee expenses	(29,626)	(28,739)
Depreciation	(1,646)	(1,631)
Other	(15,362)	(14,113)
<b>Total expenses from continuing activities</b>	<b>(46,634)</b>	<b>(44,483)</b>
<b>Deficit before income tax expense</b>	<b>(6,880)</b>	<b>(3,186)</b>
Income Tax Expense	-	-
<b>Deficit after income tax expense</b>	<b>(6,880)</b>	<b>(3,186)</b>

The Institute reported a deficit of \$6.9 million for the year ended 31 December 2016, in comparison to a deficit of \$3.2 million in the prior year. The Institute will need to focus on managing its results to reduce the risks associated with the corresponding reduction in equity.

Whilst there was a decrease in Australian Government financial assistance predominantly within 'Other Australian Government financial assistance projects' of \$1.4 million and a decrease in consultancy and contract income of \$0.4 million these were partially offset by an increase in fees and charges (\$0.3 million) and other revenue (\$0.3 million).

Expenses increased by \$2.1 million. Of this \$2.1 million increase, \$0.9 million relates to increased employee related costs. This increase is due to the anticipated salary increase related to the Enterprise Bargaining Agreement in place at the Institute. \$1.2 million relates to an increase in repairs and maintenance.



# Batchelor Institute of Indigenous Tertiary Education cont...

## Financial Position at year end

	2016	2015
	\$'000	\$'000
Cash and cash equivalents	5,340	15,916
Receivables and other current assets	5,066	2,592
Less current liabilities	(6,617)	(7,503)
<b>Working Capital</b>	<b>3,789</b>	<b>11,005</b>
Add non-current assets	33,274	33,060
Less non-current liabilities	(917)	(984)
<b>Net Assets</b>	<b>36,146</b>	<b>43,081</b>
Represented by:		
Reserves	30,338	30,393
Retained earnings	5,808	12,688
<b>Equity</b>	<b>36,146</b>	<b>43,081</b>

# Charles Darwin University

## **Audit findings and analysis of the financial statements for the year ended 31 December 2016**

### **Background**

Charles Darwin University (the University) is established under the *Charles Darwin University Act*. The University controls three subsidiary entities: the Menzies School of Health Research; the Charles Darwin University Foundation, a company limited by guarantee and which acts as trustee of the Charles Darwin University Foundation Trust; and CDU Amenities Limited, which is also a company limited by guarantee.

The University provides both higher education and vocational education and training (VET). Higher education funding is provided to the University by the Commonwealth Government through direct grants and through the proceeds of student loans under the auspices of the HECS-HELP Scheme. VET funding is provided by the Northern Territory Government through monies appropriated by the Legislative Assembly to the Department of Business.

The University is required by its enabling Act to prepare financial statements as at 31 December each year and to submit those statements to the Auditor-General by 31 March each year.

### **Audit Opinion**

The audit of the financial statements of Charles Darwin University for the year ended 31 December 2016 resulted in an unmodified audit opinion. That opinion was issued on 4 May 2017.

### **Key Findings**

#### *Financial analysis*

The financial performance of the University, as measured by its operating result, was a deficit of \$21.9 million (a deficit of \$22.1 million was recorded for 2015). The higher education component of the University achieved a surplus of \$6.3 million for the year, which was offset by a \$28.2 million deficit on the part of the VET component with employee related expenses for the VET program increasing by \$2.9 million.

## Charles Darwin University cont...

### Financial Performance of the University for the year – excluding controlled entities

	2016	2015
	\$'000	\$'000
<b>Revenue from continuing operations</b>		
Financial assistance and grants from the Commonwealth	117,673	106,333
Financial assistance from the NT Government	62,100	63,805
Other revenue (HECS, fees, interest, etc)	98,274	98,714
<b>Total revenue from continuing operations</b>	<b>278,047</b>	<b>268,852</b>
<b>Less expense from continuing operations</b>		
Employee expenses	(162,290)	(154,034)
Administration, operational and other expenses	(134,491)	(136,966)
<b>Total expenses from continuing operations</b>	<b>(296,781)</b>	<b>(291,000)</b>
<b>Deficit before income tax</b>	<b>(18,734)</b>	<b>(22,148)</b>
Income tax expense	-	-
<b>Deficit after income tax</b>	<b>(18,734)</b>	<b>(22,148)</b>
Loss on disposal of discontinued operation	(3,183)	-
<b>Net result for the year</b>	<b>(21,917)</b>	<b>(22,148)</b>

The University reported a net operating deficit of \$21.9 million for the year ended 31 December 2016. The improvement of \$0.2 million compared to the prior year was attributed to the increase in total revenue from continuing operations of \$9.2 million being partially offset by a decrease in total expenses from continuing operations of \$5.8 million and further offset by the loss on disposal of the net assets recorded by the University in respect of the Centre for Remote Health of \$3.2 million. Details of significant movements are discussed below.

- Grant and Commonwealth / NT Government Assistance increased by \$9.6 million attributed primarily to increases in funding from the Commonwealth Grants Scheme and the Commonwealth Partnership and Participation program combined with a slight increase in student numbers when compared to the prior year.
- Student fees and charges increased by \$6.3 million mainly attributed to an increase in fees from the prior year. In addition to this, there was a slight increase in domestic and international fee paying student numbers by approximately 7% and 4% respectively.

## Charles Darwin University cont...

- Consultancy and contracts increased by \$3.3 million attributed to an increase in the number of projects undertaken during the year.
- Other revenue decreased by \$8.9 million, this was attributed to two major factors:
  - A decline in income from joint operations (The Heights Durack Project) of \$3.6 million due to weak demand for real estate. As a result of this, expenses also decreased by \$4.1 million (refer comments noted in expenses below); and
  - Included in the prior year balance was \$2.2 million relating to Centre for Remote Health revenue. As the Centre for Remote Health joint venture was discontinued effective from 1 January 2016, the current year balance is \$nil. In addition, discontinued operations resulted in a loss of \$3.2 million (refer comments noted in Discontinued Operations below).
- Employee related costs increased by \$8.3 million mainly attributed to an increase in the number of full-time equivalent employees by 42 from 31 December 2015 and a 3% increase in accordance with Employee Bargaining Agreement.
- Losses on disposal of assets increased by \$3.7 million attributed to the loss on disposal of common areas in respect of The Heights Durack Project.
- Other expenses decreased by \$6.7 million attributed to a decline in expenses relating to joint operations (The Heights Durack Project) from \$10.7 million in the prior year to \$6.6 million in the current year.

### *Discontinued Operations*

The loss on discontinued operations of \$3.2 million is attributed to disposal of net assets recorded by the University in respect of the Centre for Remote Health joint venture which was discontinued effective from 1 January 2016.

## Charles Darwin University cont...

### Financial Position of the University at year end – excluding controlled entities

	2016	2015
	\$'000	\$'000
Cash and cash equivalents	94,576	101,711
Receivables and other current assets	29,397	29,625
Less current liabilities	(72,559)	(69,568)
<b>Working Capital</b>	<b>51,414</b>	<b>61,768</b>
Add non-current assets	474,842	491,163
Less non-current liabilities	(5,721)	(7,085)
<b>Net Assets</b>	<b>520,535</b>	<b>545,846</b>
Represented by:		
Restricted and accumulated funds	293,733	307,138
Reserves	226,802	238,708
<b>Equity</b>	<b>520,535</b>	<b>545,846</b>

Cash and cash equivalents decreased by \$7.1 million attributable to the current year losses incurred by the University.

Receivables increased by \$2.7 million. This is primarily as a result of a receivable of \$1.8 million from the Durack Heights Project which represents 50% of the Project's undistributed funds as at 31 December 2016.

Non-current assets held for sale decreased by \$5.0 million due to a number of lots being sold at the Durack Heights project during the year.

Liabilities increased by \$2.8 million largely due to the Menzies School of Health Research investment of an additional \$2.0 million to the University as part of the group strategy to pool term deposits. The University invests funds on behalf of the group (recorded as assets) and records a corresponding liability to recognise the funds belonging to the Menzies School of Health Research.

# CDU Amenities

## **Audit findings and analysis of the financial statements for the year ended 31 December 2016**

### **Background**

CDU Amenities Limited is a company limited by guarantee with the liability of each member being limited to an amount of \$20. The sole member of the company is Charles Darwin University.

CDU Amenities Limited was formed in March 2007 to coordinate support activities for students and student organisations.

CDU Amenities controls three subsidiary entities: Cairns Language Centre Pty Limited; Cairns Business College Pty Limited; and Cairns Education Australia Pty Limited.

### **Audit Opinion**

The audit of the financial statements of CDU Amenities Limited for the year ended 31 December 2016 resulted in an unmodified independent audit opinion. That opinion was issued on 4 May 2017.

### **Key Findings**

#### *Financial analysis*

On 11 November 2016, CDU Amenities Limited (the Company) acquired three entities in Cairns, these being Cairns Language Centre Pty Limited; Cairns Business College Pty Limited; and Cairns Education Australia Pty Limited (hereafter referred to as subsidiaries). As a result of the acquisitions, CDU Amenities Limited is required to prepare consolidated financial statements for the year ended 31 December 2016 and subsequent years.

The consolidated revenue for the year ended 31 December 2016 was \$797,815. Included in this was revenue of \$590,882 generated by the Company while the balance of \$206,933 was mostly related to student fees and accommodation revenue generated by Cairns Language Centre Pty Limited and Cairns Business College Pty Limited.

Consolidated expenses (excluding income tax) for the year ended 31 December 2016 were \$898,145. Included in this balance were expenses of \$670,671 incurred by the Company while the balance of \$227,474 relates to expenses incurred by the subsidiaries. The major expenses incurred by the subsidiaries include employee related expenditure; depreciation of fixtures, fittings and equipment; rent; and miscellaneous expenses (which includes commission paid, transportation and bank charges).

## CDU Amenities cont...

### *Going Concern*

In addition to incurring a consolidated operating loss after income of \$112,755, the Company has a net asset deficiency of \$183,088 (2015: \$70,333) at year end meaning that liabilities exceeded assets at that date. As such, the Company and Group is dependent upon continued financial support for its operations from Charles Darwin University, the ultimate parent entity. The parent entity has provided a letter of support to the Company and its controlled entities stating that the University will provide financial assistance to enable the payment of debts as and when they fall due.

As a result of the parent undertaking to extend continued financial support to the Company and its controlled entities and, in the absence of any other issues identified as a result of the audit, I have issued an unmodified audit opinion.

Although the ultimate parent entity has undertaken to provide financial support, I recommended that the Company continue to assess the ongoing viability of its future operations.

## CDU Amenities cont...

### Financial Performance for the year – including controlled entities

	2016	2015
	\$'000	\$'000
<b>Income</b>		
CDU grant	320	259
Gym sales and other	251	271
Student fees and accommodation	196	-
Facility and equipment hire	31	28
<b>Total Income</b>	<b>798</b>	<b>558</b>
<b>Less expenditure</b>		
Employee related costs	(570)	(422)
Administration, operational and other expenses	(328)	(165)
<b>Total expenditure</b>	<b>(898)</b>	<b>(587)</b>
<b>Deficit before income tax expense</b>	<b>(100)</b>	<b>(29)</b>
Income tax expense	(13)	-
<b>Deficit after income tax expense</b>	<b>(113)</b>	<b>(29)</b>



## CDU Amenities cont...

### Financial Position at year end – including controlled entities

	2016	2015
	\$'000	\$'000
Cash and cash equivalents	195	1
Receivables and other current assets	312	15
Less current liabilities	(1,006)	(86)
<b>Working Capital</b>	<b>(499)</b>	<b>(70)</b>
Add non-current assets	336	-
Less non-current liabilities	(20)	-
<b>Net Assets</b>	<b>(183)</b>	<b>(70)</b>
Represented by:		
Accumulated losses	(183)	(70)
<b>Equity</b>	<b>(183)</b>	<b>(70)</b>

# Charles Darwin University Foundation

## **Audit findings and analysis of the financial statements for the year ended 31 December 2016**

### **Background**

The Charles Darwin University Foundation (the Foundation) is a company limited by guarantee that acts as trustee of the Charles Darwin University Foundation Trust (the Trust). The Foundation incurs liabilities on behalf of the Trust and discharges those liabilities out of the assets of the Trust.

The Foundation and the Trust were established as the fundraising arm of the University and both are controlled entities of the University within the meaning of section 41 of the Charles Darwin University Act.

The purpose of the Foundation is to enhance the relationship between the University and the wider Northern Territory community, and to raise funds for the University. In pursuit of this objective, the Foundation seeks donations and other contributions while also providing assurance to donors that bequests and donations will be applied in accordance with the wishes of the testator or donor.

### **Audit Opinion**

The audit of the financial statements of the Foundation and the Trust for the year ended 31 December 2016 resulted in unmodified independent audit opinions for both entities. These audit opinions were issued on 21 March 2017.

### **Key Findings**

#### *Financial Analysis:*

The Trust's total revenue increased from \$1.9 million in 2015 to \$2.0 million in 2016. The increase is primarily attributable to an increase in donations received.

The total expenses of the Trust decreased from \$1.5 million in 2015 to \$1.4 million in 2016 mainly due to a reduction in trust donations disbursed during the year when compared to the prior year.

The Trust recorded a net surplus of \$0.6 million in 2016.

## Charles Darwin University Foundation cont...

### *Cash donations:*

The Trust has determined that it is impractical to establish control over the collection of cash donations received 'over the counter' prior to recording of the donation within its financial records. My understanding is that the only control regarding the receipt of cash donations is that donors generally request a receipt for tax purposes, however, this is not always the case.

As the evidence available to me regarding revenue from this source was limited, my audit procedures with respect to over the counter cash donations had to be restricted to the amounts recorded in the financial records. As the number of individual cash donations made to the Trust is not significant, I feel that it is not necessary to issue a modified audit opinion in relation to completeness of revenue.

## Charles Darwin University Foundation cont...

### Financial Performance for the year

	2016	2015
	\$'000	\$'000
<b>Income</b>	<b>1,969</b>	<b>1,924</b>
<b>Less expenditure</b>		
Trust donations disbursed	(1,383)	(1,486)
Increase/(Decrease) in market value of investment property	15	(15)
Donations in kind – operational	-	(7)
Other	(6)	(6)
<b>Total expenditure</b>	<b>(1,374)</b>	<b>(1,514)</b>
<b>Surplus before income tax expense</b>	<b>595</b>	<b>410</b>
Income tax expense	-	-
<b>Surplus after income tax expense</b>	<b>595</b>	<b>410</b>

## Charles Darwin University Foundation cont...

### Financial Position at year end

	2016	2015
	\$'000	\$'000
Cash and cash equivalents	724	952
Receivables and other current assets	2	2
Less current liabilities	(9)	(18)
<b>Working Capital</b>	<b>717</b>	<b>936</b>
Add non-current assets	5,669	4,864
<b>Net Assets</b>	<b>6,386</b>	<b>5,800</b>
Represented by:		
Investment revaluation reserve	175	185
Retained earnings	6211	5,615
<b>Total Trust Funds</b>	<b>6,386</b>	<b>5,800</b>

# Department of Health

## **eMedication**

### **Background**

'MedChart' provides an electronic platform that streamlines medication prescribing, pharmacy reviews and nursing administration to reduce medication errors and improve coordination between clinical teams. The NT Government has two separate instances of the MedChart medication management system:

- The Acute Care Medication Management System (eMMA) solution is currently being used at the Royal Darwin Hospital (RDH), Alice Springs Hospital, Katherine Hospital, Gove District Hospital and Tennant Creek Hospital.
- The Medication Management System (PCIS MedChart) is a different version of the electronic medication management system and has been implemented across Remote Health Centres, Terrace Gardens Aged Care Facility and NT correctional facilities in Darwin and Alice Springs.

The eMMA system was initially implemented between 2006 to 2010 across RDH, the Katherine Hospital and the Gove District Hospital.

Due to a range of issues related to inadequate infrastructure, insufficient systems support and resourcing and systems governance issues, the use of eMMA at RDH ceased in December 2010. In 2011, the Department of Health engaged the Department of Corporate and Information Services and iSoft to fix issues related to the eMMA infrastructure and application respectively. From 2011, the improved version of eMMA has been progressively implemented across the Tennant Creek Hospital, RDH and the Alice Springs Hospital.

The functionality in eMMA is continuing to be expanded and enhanced, with further rollout initiatives planned. Changes will continue to be made to the eMMA solution, including integration of new modules (e.g. infusions module), mobility and enhanced data integration to new health systems and platforms.

# Department of Health cont...

## Scope

The scope of the audit included review of selected aspects of the eMMA and PCIS MedChart systems.

### *Acute Care Medication Management System (eMMA)*

Selected aspects of the review addressed:

- Follow up of issues raised as part of the post implementation review conducted by the Agency on Acute Care Medication Management System in 2015;
- Information security management;
- User access management;
- Systems change management;
- Data interface controls; and
- Backup and recovery.

### *Remote Healthcare Medication Management System PCIS MedChart (PCIS Medchart)*

The review involved obtaining a high level understanding of information technology controls implemented over the PCIS Medchart system.

The findings are based on a review of documentation, system configuration and discussions with relevant Agency personnel.

## Key Findings

Information technology general computer controls have been implemented in relation to the electronic medication management systems, however significant opportunities for improvement were identified in relation to strengthening information security, access management and change management.

### Information Security (eMMA environment)

The application is supported by role based security with privileged access limited to a small number of support personnel. User identification and authentication controls have been implemented at all layers of the environment and user access management processes exist for the application, database and operating system.

### Systems Change Management (eMMA environment)

The eMMA system is a vendor provided product and is subject to full vendor product support and patching. My Authorised Auditors noted that, as a result of the limitations of the vendor system, some critical Windows patches were not applied to the underlying operating system implemented on the servers that host eMMA. Opportunities for improvement exist around vulnerability and patch management for the supporting technology.

## Department of Health cont...

### Data Interface Controls (eMMa environment)

The eMMa system has three key data interfaces with two systems, those being CARESYS and Clinical WorkStation. Key data interfaces are encrypted and completeness of data transfers is monitored and resolved through manual processes performed regularly by eMMa system administrators.

### Backup and Recovery (eMMa environment)

eMMa and PCIS MedChart have formal backup processes conducted on a daily basis. Both systems have formal disaster recovery plans that are tested following major system upgrades. A business continuity plan involving the use of hardcopy medication charts, currently stored in key areas of the NT hospitals has also been tested and its operability has been confirmed.

### Follow up of Issues Raised from the previous Internal Audit

An internal audit was undertaken in early 2016 in relation to a Post Implementation Review of eMMa. The eleven actions raised as part of this internal audit are currently being actively tracked by the eMMa governance group. Two of these actions are complete, with the remainder expected to be completed by December 2017.

### User Access Termination

Deficiencies were noted in user access revocation and review processes across all systems where testing performed over user access termination identified instances where employment has terminated but access remains across the various systems within the scope of this audit.

### User Access Reviews

PCIS MedChart administrators facilitate monthly reviews of privileged and sensitive user access. This review also includes identification of inactive user accounts. As part of the privileged and sensitive user access reviews, a list of users with access to sensitive functions or data is sent to relevant business stakeholders for review and confirmation.

Within eMMa, privileged user access (Administration access) is reviewed on an ad-hoc informal basis and there is no periodic review of sensitive user access.

None of the user access reviews include review of appropriateness or validity of broader user access, including the validation of whether users are current NT Health employees.

There are no formal processes to ensure that checks are performed of privileged user access within operating systems or databases.



## Department of Health cont...

### Inadequate system security logging and monitoring

Both PCIS Medchart and eMMA capture audit trails of activities performed by system administrators and business users however there is no system logging or monitoring strategy that defines risk based requirements for monitoring user activity or security events.

Exception reports relating to the prescription of restricted medication are captured and reviewed.

### Password configuration

The password configuration within eMMA is not aligned with NT Government Password Policy.

### Inadequate management of third party organisations providing systems support

Support of both eMMA and PCIS MedChart systems is largely dependent on third party organisations to manage the eMMA and PCIS MedChart infrastructure, database and application.

There are no established processes at the Agency to formally monitor and review the service level performance of third party organisations or to evaluate the security and other risks associated with third party service delivery.

### Inadequate processes are in place for managing changes to eMMA

IT change management seeks to ensure that all changes to eMMA and PCIS MedChart are assessed, approved, tested, implemented and monitored in a controlled standardised manner in order to preserve the integrity of underlying programs and data. The following weaknesses exist within the change management system:

- The NT Health IT change management team is not notified or involved in the management of changes made to eMMA infrastructure and database. These changes are therefore not subject to review and endorsement by the NT Health Change Advisory Board.
- Most changes applied to eMMA in this financial year were retrospectively approved rather than being approved prior to a change being applied.
- Formal procedures have not been defined for governing changes being applied directly to data within the database.
- Testing processes for project and system changes relating to eMMA and PCIS Medchart are inconsistent. A consistently applied testing approach and governance model has not been established to ensure that all direct and indirect impacts of changes are appropriately considered during test planning.

## Department of Health cont...

### Data protection control weaknesses exist in relation to both eMMa and PCIS Medchart

Data stored within eMMa and PCIS MedChart contains highly sensitive personal medical information. Basic policy level controls exist to define principles to staff around obligations relating to patient information privacy. This includes a requirement for staff and third parties with access to sensitive information to sign a non-disclosure agreement.

Limited control strategies exist to enforce consistent data protection across the environment, including practices such as information classification; restricting communication of patient information via public email; and encrypting sensitive information on mobile storage devices.

### There is insufficient testing of systems recovery for PCIS MedChart

As the dependency on eMMa and PCIS MedChart increases within the Department of Health, the requirements for system availability and continuity also increase. A review of the disaster recovery testing approach for these systems identified that a disaster recovery test was performed in late 2015 for PCIS MedChart as part of a major upgrade project, however no testing was performed in 2016 or to date in 2017.

## Department of Health cont...

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**The Department of Health has commented:**

*The NT electronic Medication Management Working Group (NT eMMWG), through its reporting lines, will prioritise and allocate resources to support the eMMa system; meeting the audit recommendations and clinical needs of patients and clinicians. The NT eMMWG will review user access to ensure there are adequate processes in place for additions, removals, security and auditing within eMMa. The NT eMMWG will maintain the change processes that allow for auditability of all changes within the eMMa system, ensuring changes meet clinical needs and priorities.*

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# Department of Housing and Community Development

## **Alice Springs Town Camps Tenancy Management Contract Inquiry**

### **Scope and Objectives**

During July 2017, I conducted an inquiry into the processes surrounding the probity activities around the Requests for Tender issued in 2015 and 2017 in relation to the Provision of Tenancy Management Services in the Alice Springs Town Camps.

The objectives of this inquiry were to understand and document the shortcomings identified in the processes associated with the procurement of:

- Request for Tender A15-0031 Provision of Tenancy Management Services in the Alice Springs Town Camps (A15-0031) and to determine to what extent those shortcomings had been addressed at the time of my inquiry; and
- Request for Tender A17-0010 Provision of Tenancy Management Services in the Alice Springs Town Camps (A17-0010).

### **Background**

The former Department of Housing issued Request for Tender A15-0031 Provision of Tenancy Management Services in the Alice Springs Town Camps in October 2015. A probity advisor [hereafter referred to as "Probity Advisor 1"] was appointed in October 2015 to provide probity advisory services in relation to the evaluation of responses to Request for Tender A15-0031.

Following Machinery of Government changes in September 2016, the Department of Housing became the Department of Housing and Community Development. For the purposes of this report both the former Department of Housing and the Department of Housing and Community Development will be referred to as "the Agency".

In March 2017, following media reports of concerns relating to the probity processes related to Request for Tender A15-0031, the Agency engaged Merit Partners to conduct a probity audit relating to Request for Tender A15-0031.

The Agency issued Request for Tender A17-0010 Provision of Tenancy Management Services in the Alice Springs Town Camps in March 2017. A probity advisor [hereafter referred to as "Probity Advisor 2"] was appointed in relation to Request for Tender A17-0010.

The Member for Araluen, in a letter addressed to the Auditor-General dated 16 May 2017, posed the following questions in relation to Request for Tender A15-0031 Provision of Tenancy Management Services in the Alice Springs Town Camps:

# Department of Housing and Community Development cont...

1. What were the internal problems with the procurement and assessment process?
2. What are the *“steps in the procurement process that can be improved in line with the Northern Territory Government Procurement Directions and Best Practice Guidelines”* identified in the probity audit?
3. What were the *“series of recommendations which the department accepts in full”*?
4. What have been the consequences for staff not properly executing their roles as per the *“Northern Territory Government Procurement Directions and Best Practice Guidelines”*?
5. Given that numerous Northern Territory businesses that [sic] were unsuccessful in winning this particular contract in question (won by Zodiac Business Services in 2015), what recourse do these businesses have in appealing this procurement process?
6. Why did the Northern Territory Government choose not to make the findings of the probity audit public? What are they hiding?
7. The probity report, completed by Merit Partners, highlights *“aberrant pricing”*, *“failure to appropriately investigate an allegation of bias”* and non-compliance *“in relation to the objectivity of panel members”* over the contract which was won by Zodiac Business Services in late 2015. What exactly is being done to address these concerns? What are the details around these findings?

The Minister for Housing and Community Development, in a letter addressed to the Auditor-General dated 24 May 2017, referred for consideration the awarding of tender A17-0010 for the contract for Tenancy Management Services in Alice Springs Town Camps.

In considering both of these referred matters:

- I have not undertaken an audit or review of the processes leading to the award of contracts under either of the two Requests for Tender A15-0031 or A17-0010.
- I have made inquiries of the Chief Executive Officer of the Department of Housing and Community Development.
- I have requested and been provided documentation pertaining to the award of contracts under each of the two Requests for Tender A15-0031 and A17-0010.
- I have considered the content of the documentation pertaining to the award of contracts under each of the two Requests for Tender A15-0031 and A17-0010.
- I have been provided and considered the content of the probity reports pertaining to the award of contracts under each of the two Requests for Tender A15-0031 and A17-0010.

# Department of Housing and Community Development cont...

## Recommendations

Whilst I have not undertaken either an audit or a review into the referred matters, responses to my inquiries and consideration of documentation provided to me resulted in the following observations as reported to the Chief Executive of the Agency for consideration:

- The current contract relating to A17-0010 Provision of Tenancy Management Services in the Alice Springs Town Camps was awarded for a period of 13 months (with no option for a further period) and thus is due to conclude in June 2018. It is my expectation that the tendering and assessment processes associated with any subsequent contract/s for the provision of Housing and Tenancy Management Services will comply with the Procurement Framework effective at the time, including any subsequent amendments effective at the time of procurement, without exception.
- It is not the role of the Auditor-General to undertake probity audit services for the purposes of the Northern Territory Government. The tendering and assessment processes associated with any subsequent contract/s for the provision of Housing and Tenancy Management Services are likely to attract additional public scrutiny as a result of the exceptions identified within the probity audit report issued by Merit Partners. As such, I recommended the Agency appoint an experienced and suitably qualified probity advisor/auditor with a comprehensive knowledge of the Procurement Framework to evaluate the Agency's compliance with the Procurement Framework at the time of the procurement.
- Future tender evaluation panels for all tenders should be comprised of personnel who have undertaken training in relation to the Procurement Framework, are experienced in the evaluation of Northern Territory Government Tenders and who have no actual or perceived conflict of interest. Whilst I acknowledge that personnel who have operational involvement in the delivery of services being procured may have the best understanding of what is required under the contract, the Specific Procurement Activity Plan and Tender Assessment Plan should be sufficiently comprehensive to enable any appropriately qualified and experienced evaluation panel to reach the same conclusion as to the preferred tenderer. The knowledge of personnel who have operational involvement in the existing delivery of services should be captured comprehensively within documented Contractor Performance Reports retained by the Agency and made available to the evaluation panel. Relevant operational personnel can be contacted for reference purposes by the tender evaluation panel.

# Department of Housing and Community Development cont...

- Involvement of the Department's internal audit division may be beneficial. Such involvement could incorporate the review of tender evaluation documents completed by the tender evaluation panel to evaluate whether there is sufficient documentary evidence to support the evaluation panel's assessment, actions and decisions. Where such a review is planned to occur, it should be undertaken prior to the announcement of any successful tendering party as further evaluation or documentation may be required.

## Conclusion

From examination of documentation and inquiry of the Chief Executive Officer of the Agency, I concluded that there remain areas for improvement in relation to the Agency's procurement processes. It should be noted that this inquiry did not constitute an audit.

## Findings and Observations

### *Response to the matter referred by the Member for Araluen*

Based upon my consideration of the documentation received and the responses to my inquiries, I respond to the questions put to me by the Member for Araluen as follows:

#### *1. What were the internal problems with the procurement and assessment process?*

As reported in the probity audit report issued by Merit Partners, which was publically released in full on 19 May 2017, the following matters were identified as representing non-compliance with Northern Territory Government (NTG) Procurement Directions and best practice guidelines applicable at the time:

- non-compliance with Best Practice Guidelines for Tender Assessment Fact Sheet 21: Aberrant Pricing (aberrant pricing refers to the circumstance where a tendered price is considered unusual by being 20% or more above or below the median tender price);
- non-compliance with NTG Procurement Direction PO8.11 in relation to clarification questions;
- failure to properly investigate an allocation of bias; and
- non-compliance with NTG Procurement Direction PO8.4 in relation to the objectivity of certain panel members.

#### *2. What are the "steps in the procurement process that can be improved in line with the Northern Territory Government Procurement Directions and Best Practice Guidelines" identified in the probity audit?*

# Department of Housing and Community Development cont...

My interpretation, based on the findings within the probity audit report issued by Merit Partners of the “*steps in the procurement process that the Department could improve upon in line with the Northern Territory Government Procurement Directions and Best Practice Guidelines*” include demonstrated adherence to all elements within:

- NTG Best Practice Guidelines for Tender Assessment FS4 Probity;
- NTG Best Practice Guidelines for Tender Assessment FS6 Due Diligence;
- NTG Best Practice Guidelines for Tender Assessment FS17 Scoring Tenders;
- NTG Best Practice Guidelines for Tender Assessment FS19 Communication during assessment;
- NTG Best Practice Guidelines for Tender Assessment FS20 Conflict of Interest;
- NTG Best Practice Guidelines for Tender Assessment FS21: Unusual or Aberrant Pricing;
- NTG Procurement Principle F2.1, 5.II.C;
- NTG Procurement Direction PR4 Procurement Process for Tier 4 Activity;
- NTG Procurement Direction PO1 Value for Money Procurement;
- NTG Procurement Direction PO3 Procurement Planning;
- NTG Procurement Direction PO7 Conflict of Interest Disclosure; and
- NTG Procurement Direction PO8 Quotation/Tender Assessment.

3. *What were the “series of recommendations which the department accepts in full”?*

The recommendations from Merit Partners, which the Chief Executive Officer of the Agency stated had been accepted in full, were:

- Ensuring decisions made during the procurement process are documented and retained.
- Ensuring formal decisions are made and documented in relation to possible aberrant pricing following an investigation into the prices tendered.
- Providing greater guidance to tenderers in relation to Indigenous Development Plan Proposals and Indigenous Employment Strategies.
- Investigations into alleged bias or conflicts of interest should be conducted in a timely manner and relevant procurement activities should pause until the outcome of the investigation is known. Outcomes should be documented and the party raising the allegation or complaint should be advised of the outcome in a timely manner.



# Department of Housing and Community Development cont...

- Appropriate due diligence should be conducted into tenderer claims including obtaining referee reports and contractor performance reports.
- Tender Assessment Plans should be utilised for all procurements other than select tenders issued to a single vendor.
- Enhancing documentation and retention strategies to ensure key discussions and decisions in the procurement process are recorded and retained.

4. *What have been the consequences for staff not properly executing their roles as per the “Northern Territory Government Procurement Directions and Best Practice Guidelines”?*

It is my understanding that no disciplinary action had been taken at the time of my inquiry. It is not the role of the Auditor-General to be involved in employment related matters of agencies other than the Northern Territory Auditor-General’s Office. As such, I have not undertaken further enquiries in relation to addressing this question. I have however, outlined below, the legislative framework applicable to the procurement processes associated with Request for Tender A15-0031.

- The Procurement Directions in existence at the time Request for Tender A15-0031 was issued and the responses evaluated were effective from 1 July 2014. Procurement Directions are promulgated under the *Procurement Act* (as at 1 April 1995) that was in existence at the time the procurement process occurred and remains in existence. Section 11(1) of the *Procurement Act* states “*The Minister may, from time to time, issue directions with respect to the principles, practices and procedures to be observed in the procurement of supplies by and on behalf of the Territory and Agencies.*” Section 11(2) of the *Procurement Act* requires all Accountable Officers and employees to comply with the Procurement Directions. There are no provisions relating to non-compliance with the *Procurement Act* contained within the *Procurement Act*.

# Department of Housing and Community Development cont...

- Section 16 of the *Public Sector Employment and Management Act* empowers the Commissioner for Public Employment to issue Employment Instructions. Employment Instruction Number 12 is the Northern Territory Public Sector Code of Conduct which must be adhered to by all Public Sector Officers. Public Sector Officers include the Commissioner for Public Employment, Chief Executive Officers and employees. Section 9 of the Code of Conduct states that all Public Sector Officers must, in addition to other elements, “*be familiar with and comply with the requirements of the [Public Sector Employment and Management] Act, the Financial Management Act and other legislative, industrial or administrative requirements relevant to his or her official responsibilities*”; and “*have regard to all official guidelines concerning the performance of his or her assigned duties*”. The Procurement Act, Regulations and Directions are encompassed within this definition. There are no provisions relating to non-compliance with the Code of Conduct contained within the Code of Conduct.
  - Sections 49 and 49A of the *Public Sector Employment and Management Act* provide that the Chief Executive Officer may take disciplinary action where the Chief Executive Officer is satisfied, on reasonable grounds, that an employee in the Agency has committed a breach of discipline. It is the role of the Chief Executive Officer and the Commissioner for Public Employment to consider such matters and follow due process.
5. *Given that numerous Northern Territory businesses that (sic) were unsuccessful in winning this particular contract in question (won by Zodiac Business Services in 2015), what recourse do these businesses have in appealing this procurement process?*
- There were three Northern Territory businesses that submitted a response to Request for Tender A15-0031. It should be noted that Procurement Direction PO10, which was relevant at the time of the Request for Tender A15-0031, required a de-brief to be held with unsuccessful tenderers in the event that the unsuccessful tenderer seeks a de-brief. Of the two businesses that were not successful in being awarded a contract under tender A15-0031, only one sought a de-brief from the former Department of Housing.
  - Procurement Direction PO11, which was relevant at the time of the Request for Tender A15-0031, established a process relating to complaints. Accordingly, any business that was unsuccessful in being awarded a tender was able to lodge an appeal with the Procurement Review Board by following the guidance available in Procurement Direction PO11. Whilst one tenderer did correspond with the Agency during the tender evaluation process (15 October 2015) in relation to a number of concerns held by the tenderer, a formal complaint was not received by the Agency or the Procurement Review Board.

# Department of Housing and Community Development cont...

- Section 6A of the Procurement Regulations establishes the following functions of the Procurement Review Board:
    - a) to determine appeals in relation to the eligibility or admissibility of a quote or tender in accordance with the procurement directions; and
    - b) to review or audit an Agency's procurement procedures or procurement activity; and
    - c) to advise the Minister, the Agency or any other person in relation to procurement procedures or procurement activity in an Agency.
  - It is not the role of the Auditor-General to be involved in the appeals process pertaining to procurement outcomes of agencies other than the Northern Territory Auditor-General's Office. As such, I have not undertaken further enquiries in relation to addressing this question.
6. *Why did the Northern Territory Government choose not to make the findings of the probity audit public? What are they hiding?*
- In response to the first of these questions, the probity audit report issued by Merit Partners, was publically released in full on 19 May 2017 following clearance from Merit Partners to release the report. It should be noted that the report was prepared "*solely for the information and internal use of the Department, and is not to be used for any other purpose or distributed to any other part without Merit Partners prior written consent.*" I do not consider the time taken by the Department to review the findings of the report, determine what action could be taken, seek and obtain clearance from Merit Partners and release the report publically to be overly excessive.
  - I consider the second question to be rhetorical and accordingly, provide no comment.
7. *The probity report, completed by Merit Partners, highlights "aberrant pricing", "failure to appropriately investigate an allegation of bias" and non-compliance "in relation to the objectivity of panel members" over the contract which was won by Zodiac Business Services in late 2015. What exactly is being done to address these concerns? What are the details around these findings?*
- In response to the first question, I have been advised by the Chief Executive Officer of the Department of Housing and Community Development that the actions taken to address the findings include:
    - undertaking a organisational restructure that strengthens the independence and oversight of the Chief Procurement Officer;

## Department of Housing and Community Development cont...

- fostering a more collaborative approach between the procurement function and program areas to improve the way the Department plans and designed its tender processes;
  - commencing targeted training for officers involved in procurement including participation in whole of government Certificate IV and Diploma level training programs and technical skills courses being facilitated through the Department of Trade, Business and Innovation;
  - strengthening the support and guidance that is provided to employees involved in tender assessment panels to ensure they fully understand procedural, probity and confidentiality requirements;
  - instructing the Chief Procurement Officer to start working more closely with the senior executive team to drive cultural change in how the Department uses the procurement function, redesigning existing processes and improving monitoring and compliance activities in higher risk areas; and
  - forming a new Executive Management Board responsible for overseeing the agency corporate governance framework which includes the Chief Procurement Officer to ensure there is a strong focus on procurement compliance, performance and risk mitigation at a whole of agency level.
- In response to the second question, the details resulting in the findings have been provided in the probity audit report issued by Merit Partners, which was publically released in full on 19 May 2017 and, given the length and availability of the report, it is not my intention to restate those details in full within my report.
  - I have not undertaken a review of procurement activity undertaken by the Department of Housing and Community Development to determine if the actions have been effective in addressing the findings raised by the probity audit report issued by Merit Partners. The reason for this is that the probity audit report, including the recommendations, was issued by Merit Partners on 11 April 2017. This matter was referred to me on 16 May 2017. It is unlikely that the Department would be able to demonstrate that the proposed actions were fully implemented by the time of the referral to me. This comment is supported by the fact that a subsequent probity report issued in relation to A17-0010 also identified some instances of non-compliance with the Procurement Directions in effect at the time.

# Department of Housing and Community Development cont...

## *Response to the matter referred by the Minister for Housing and Community Development*

In relation to the referral by the Minister for Housing and Community Development of Request for Tender A17-0010, I make the following observations:

- The Department engaged independent Probity Advisor 2 in relation to evaluation of the responses to the Request for Tender A17-0010. Probity Advisor 2 identified three instances of non-compliance with the Procurement Directions effective at the time of the tender evaluation.
- Non-compliance matter 1: The Accountable Officer had not approved the Project Specific Procurement Plan. The Project Specific Procurement Plan had been approved only by the Chief Procurement Officer. The reason the Chief Procurement Officer provided for solely approving the Project Specific Procurement Plan was to *“ensure a completely independent and unbiased procurement process was undertaken”*.
- The Project Specific Procurement Plan provides the detail pertaining to the tender scope, budget, risk management and tender evaluation process. Given that the Accountable Officer is wholly accountable for the procurement activity of the Department; is wholly accountable for operating within the Departmental budget; and ultimately accountable for risk management within the Department, in my opinion, the Accountable Officer should have reviewed and approved the Project Specific Procurement Plan.
- Non-compliance matter 2: When issuing the Request for Tender, the Department had provided special conditions associated with the contract that had been used in the previous contract for the provision of tenancy management services to Alice Springs Town Camp. Notwithstanding that the special conditions had been previously used, no evidence of appropriate approvals, as required by the Procurement Directions, was able to be provided to Probity Advisor 2.
- Given that the contract awarded in relation to A17-0010 will end during 2018, I encourage the Department to be proactive in seeking review and approval of the special conditions prior to initiating any procurement activity in relation to any future contract.

## Department of Housing and Community Development cont...

- Non-compliance matter 3: The Department did not provide sufficient time between advertising the Future Tender Opportunity (FTO) and releasing the Request for Tender. I note the Department's explanation that *"the decision to call public tenders was made in mid-February following our internal review of the procurement process of the 2015 tender so at that stage it would not have been possible to issue the FTO in advance without also extending the current contracts."*
- The contract associated with A15-0031 was always scheduled to conclude in June 2017 irrespective of the findings from the Department's internal review or any other review. Appropriate planning including the preparation of a timeline developed by working back from the conclusion of the contract in place at the time would have identified that the FTO would have needed to be released in January 2017 at the latest if the Request for Tender was to be issued in March 2017. NT Government agencies have been required to prepare an annual Agency Procurement Management Plan (APMP) since 1 July 2016. The APMP is intended to raise awareness of forthcoming procurement activity to ensure both compliance with procurement requirements and appropriate management of the Agency's budget. I also note the Agency's comments that additional steps to raise market awareness of the forthcoming tender included:
  1. *"contacting existing service providers by telephone to advise them of the Department's decision to call a public tender";* and
  2. *"conducting an industry briefing session in Alice Springs a week after the tender was released".*

Whilst contacting existing services providers may have raised the awareness of those contacted, it does not provide equal advice to all prospective service providers in the market and may in fact be perceived by those not already providing services as further advantaging those already providing services to the Department. The benefits to prospective tenderers of being notified through the FTO process is to enable them to undertake research, apply for necessary approvals and identify key employees and processes relevant to delivering the services. Similarly, an industry briefing is intended to demonstrate what is required by the Department in relation to specific aspects of the scope of services. It is not a substitute for notification through the FTO process.

- In summary, Probity Advisor 2 noted some procedural non-compliance associated with A17-0010 notwithstanding that less matters were identified than in the tender process associated with A15-0031. As I have not conducted an audit or review of either tender process, I can only conclude that there remain areas of improvement for the Department in respect of its procurement processes.

# Department of Housing and Community Development cont...

## **Probity Advisory and Probity Audit Services**

My consideration of the referred procurement activities lead me to make some observations in relation to the level of assurance provided as a result of probity activity. In my experience as an auditor, and past experience delivering probity audit and probity advisory services, the actual level of assurance provided to stakeholders as a result of probity activity is often inconsistent with the level of assurance expected by the agency/entity when procuring the probity service. This section highlights differences between probity advisory and probity audit services and the level of assurance provided to agencies and other parties through the resulting reports.

When seeking probity services, agencies/entities often do not differentiate between probity advisory services and probity audit services. I have sought to differentiate between the two types of services below.

### *Probity Advisory Services*

Probity advising involves the engagement of a probity adviser, who is external to and independent of a procurement process (this may be an external advisor; an internal auditor; a representative from the agency's procurement function or a representative from the across-government Contracts and Procurement Services group). A probity advisor provides scrutiny (by way of observing and reviewing) of the procurement process to assist the agency/entity in adhering to prescribed processes and to provide advice on probity issues which may arise before and during the procurement process. A probity advisor may provide a report that the concluded procurement process has met all probity principles, or that, except for some identified matters, the concluded procurement process has met all probity principles.

### *Probity Audit Services*

A probity auditor will assess the concluded procurement process against established procurement criteria and issue an opinion that the concluded procurement process has met all probity requirements promulgated by the prescribed processes. A probity auditor should be independent of the procuring agency. The audit role does not involve advising the procuring entity on how to adhere to the prescribed processes as this would present a conflict of interest for the auditor by becoming involved in management of the process. As a result, a probity auditor is perceived as having greater independence. If appointed following the conclusion of the procurement process, the auditor can only base their opinion on discussions with management, corroborated by what is documented as having been done. Where the documentation is poor, or management's assertions are unsubstantiated, the probity auditor may be unable to provide an opinion. There can never be absolute assurance that the agency has complied with all procurement criteria as the auditor cannot be certain as to what conversations may have been held between agency management, evaluation panel members and prospective tenderers before or during the tender evaluation process whilst not under observation by the auditor.

# Department of Housing and Community Development cont...

## *Probity Conclusions*

The Auditing Standards issued by the Australian Auditing Standards Board (AuASB) do not contain a standard relating to probity audit services. There is however the Australian Standard on Assurance Engagements ASAE 3100 which applies to compliance engagements, including both reasonable assurance and limited assurance engagements, on an entity's compliance with requirements as measured by the suitable criteria. The purpose of this ASAE is to establish mandatory requirements and to provide explanatory guidance to practitioners for performing and reporting on compliance engagements. A probity audit or review can be conducted in accordance with this standard. The standard uses the terms "reasonable assurance engagement" and "limited assurance engagement" to distinguish between the two types of compliance engagements that an assurance practitioner may perform.

The objective of a compliance engagement is to enable the assurance practitioner to express a conclusion on whether an entity has complied in all material respects, with requirements as measured by the suitable criteria.

A "Limited Assurance Engagement" is defined in ASAE 3100 as an *"assurance engagement where the assurance practitioner's objective is a reduction in compliance engagement risk to a level that is acceptable in the circumstances of the assurance engagement but where that risk is greater than that for a reasonable assurance engagement, as the basis for a negative form of expression of the assurance practitioner's conclusion. A limited assurance engagement is commonly referred to as a review."*

A "Reasonable Assurance Engagement" is defined in ASAE 3100 as an *"assurance engagement where the assurance practitioner's objective is a reduction in compliance engagement risk to an acceptably low level in the circumstances of the compliance engagement as the basis for a positive form of expression of the assurance practitioner's conclusion. Reasonable assurance means a high, but not absolute, level of assurance. A reasonable assurance engagement is commonly referred to as an audit."*

Requests for quotation to provide probity services, be they advisory or audit, are often generic requests based on an expectation that the probity services will be required for a limited time during the tender evaluation process.



# Department of Housing and Community Development cont...

For the probity services to provide any assurance to the agency or third party stakeholders:

- The procurement criteria should be clearly defined. The probity auditor is engaged to provide independent scrutiny of the procurement process and to express an objective opinion on whether prescribed procurement requirements have been met. Engaging the probity auditor to provide an opinion that the assessment process was “*fair, equitable, competitive*” is counterproductive as such terms can be interpreted differently and may not reflect instances of non-compliance by the agency that are not considered significant by the agency or the probity auditor. As an example, a procurement process may be seen to have been conducted, fairly and equitably even if a Project Specific Procurement Plan (currently a mandatory requirement for a Tier 4 procurement) has not been prepared.
- The appointed probity advisor/auditor should be able to demonstrate a strong understanding of the procurement criteria applicable to the agency. The procurement criteria applicable at the time of the evaluation of both A15-0031 and A17-0010 (noting that the Procurement Framework was substantially amended effective 1 July 2017) was contained within the: *Procurement Act*; Procurement Regulations; Procurement Code; Procurement Directions; and NTG Best Practice Guidelines for Tender Assessment. Unless the appointed probity advisor/auditor is familiar with all elements, there is an increased likelihood that non-compliance will not be detected and addressed during the procurement process. Furthermore, in the case of advisory services, a lack of awareness of all criteria may result in advice being provided to the agency that is not consistent with one or more criteria.
- The advisor/auditor should be appointed prior to releasing the Request for Tender that is the subject of the probity processes. Procurement criteria exist for the processes prior to a Request for Tender being issued. There is no ability for the probity advisor/auditor to add value prior to the Request for Tender being issued to mitigate the risk of non-compliance and no opportunity for the probity advisor/auditor to assess compliance through observation prior to tendering when their services are sought part-way through the process. Consequently, any opinion will necessarily exclude actions taken by the agency prior to the Request for Tender being released. Given the current requirement for Future Tender Opportunities to be released one to twelve months prior to the Request for Tender being released (in the absence of any exemption to comply) there is adequate time for agencies to consider the need for, and seek the services of, a probity advisor/auditor.

## Department of Housing and Community Development cont...

- The probity advisor/auditor should be present at all meetings held by the evaluation panel including clarification meetings with tenderers and de-brief sessions with unsuccessful tenderers. The content of discussions between evaluation panel members ultimately lead to the decision as to the preferred tenderer. Often those discussions are not well documented and thus are not evidenced by subsequent review of documents such the Tender Assessment Recommendation submitted to the Accountable Officer and Procurement Services. Non-attendance of the probity advisor/auditor at evaluation panel meetings may result in limitations being contained in any consequent opinion and result in the veracity of the evaluation process being questioned at a later date.
- The output sought from the probity advisor/auditor should include a comprehensive response as to whether the agency has complied with each mandatory element of the procurement criteria. Requiring a comprehensive response as to whether the agency has complied with each mandatory element of the procurement criteria may assist the agency in identifying controls weaknesses and break downs in controls and facilitate corrective action. The assurance value obtained by the agency is derived from both receiving assurance that the actions taken by the agency should have resulted in the tender being awarded to the most appropriate tenderer (opinion paragraph) and that risks associated with the agency's procurement processes have been identified and addressed (comprehensive report of findings).

Appointment of the probity advisor/auditor does not transfer accountability from management. Accountable Officers and public sector employees are responsible for ensuring that systems, policies, processes and procedures are in place within the agency to ensure the integrity of the procurement process.

The initial probity advisory report issued by Probity Advisor 1 on 19 October 2015 in respect of A15 0031 contained the following paragraph under the heading "Findings":

*"Based on our observations during meetings of the tender assessment panel to make their Procurement Assessment Recommendations to the Department of Housing, we believe that the assessment process supported an open, fair and competitive tender process".*

# Department of Housing and Community Development cont...

Probity Advisor 1's probity advisory report makes no reference to the criteria against which the tender evaluation was conducted and provides no conclusion as to the agency's compliance with the procurement criteria. Consequently, Probity Advisor 1's probity advisory report provides no assurance in relation to the probity associated with the tender process applicable to A15-0031. The footer of the report makes reference to an engagement letter dated 28 January 2015 yet the chronology presented in the probity audit report subsequently issued by Merit Partners records the date of engagement of Probity Advisor 1 for probity advisory services as 9 October 2015. The tender period had already closed and contact had already been made with at least one tenderer prior to the appointment of Probity Advisor 1.

The probity audit report issued by Merit Partners, albeit sourced by the Department over 12 months after the tender was issued, is comprehensive in that the terms of reference of the audit were defined in the report. The probity audit report discloses that the probity audit was not conducted in accordance with standards issued by the AuASB and consequently no opinions or conclusions under AuASB are expressed. Given the length of time elapsed since the tender evaluation was concluded, the absence of an opinion is not inappropriate nor unusual. The report does however, provide a comprehensive schedule listing the specific requirements of Procurement Direction PR4: Procurement Process for Tier 4 Activity and whether evidence was obtained demonstrating compliance or non-compliance by the agency with each clause. Notwithstanding the absence of a formal conclusion, the probity audit report issued by Merit Partners, including all attachments to the report, clearly identifies a number of instances of non-compliance by the agency. Given the purpose of any audit is to gain some level of assurance through the provision of a conclusion, I consider the probity audit report issued by Merit Partners to represent a report of factual findings rather than a conventional probity audit report. Notwithstanding, there is sufficient information within the report for a reader to form their own opinion as to the level of compliance of the Agency.

## **Changes to the NT Government procurement requirements**

The Department of Trade, Business and Innovation has sought to simplify the procurement process applicable to the NT Government and has released a Procurement Governance Policy effective 1 July 2017. The Procurement Governance Policy describes the Procurement Framework which includes the Procurement Principles, Procurement Lifecycle approach and Procurement Governance Model. The procurement criteria applicable to the NT Public Sector are captured from 1 July 2017 in the following documents:

- *Procurement Act*
- Procurement Regulations
- Procurement Governance Policy

# Department of Housing and Community Development cont...

- Procurement Rules
- Procurement Circulars

These documents are supported by tools and templates released to support procurement planning, sourcing and contract management. The Agency and prospective probity advisors and auditors should familiarise themselves with the content of these documents. Given the extension of these requirements to contract management following awarding of tenders, the responsibility for ensuring awareness and understanding of the procurement requirements rests with all public sector employees not only those holding roles in procurement services or expected to be included in future evaluation panels.

The Procurement Review Board remains integral to the Procurement Governance Framework. The responsibilities of the Procurement Review Board as they relate to procurement activities include:

- providing advice to government on strategic opportunities and improvements to the procurement function aligned with the government's policy objectives;
- providing, where necessary, independent review or audit of an agency's procurement processes; and
- determining appeals in relation to the admissibility of a quotation or tender.

I have not captured all requirements of the NT Government's Procurement Governance Framework effective 1 July 2017 however some key mandatory requirements stipulated in the Procurement Governance Framework, which current procurement processes and procedures within agencies may not fully address, are listed below:

- the Accountable Officer **must** establish an internal audit program for their agency that incorporates the Value for Territory Assurance Program (effective 1 October 2017 per Procurement Circular – 2017-02);
- the Accountable Officer **must** have a procurement complaints management procedure for their agency (effective 1 January 2018 per Procurement Circular – 2017-02);
- the agency **must** develop an Agency Procurement Management Plan, to be approved by the Accountable Officer annually;
- the agency **must** develop and receive delegate approval of a Project Specific Procurement Plan for all Tier 3 and above procurement activity;
- the agency **must** ensure the local content assessment criteria are designed to elicit local benefit commitments from respondent's offers for all Tier 3 and above procurement activity;

## Department of Housing and Community Development cont...

- a Future Tender Opportunity **must** be advertised for Tier 4 and Tier 5 procurement activity between one and 12 months prior to the release of the request for offer;
- offers that do not comply with the mandatory requirements of the conditions of offer **must** be deemed inadmissible by the agency delegate;
- assessments **must** be undertaken by personnel with relevant skills and knowledge appropriate to the value and risk of the procurement activity;
- the agency **must** ensure a minimum of three members forms the assessment panel for all Tier 3 and above procurement activity;
- the agency **must** develop Contract Management Plans commensurate with the value and risk of a contract (effective 1 October 2017 per Procurement Circular – 2017-02);
- the agency **must** ensure it has systems, processes and resources assigned to adequately manage the agency's contracts;
- the agency **must** ensure that personnel who have a role in contract management have the necessary skills and training;
- the agency **must** complete contractor performance reports commensurate to the value and risk of a specific contract to all Tier 3 and above procurement activity;
- the agency **must** report on the contractor's performance against local benefit commitments;
- the contractor **must** be provided with performance feedback and given the opportunity to respond; and
- the agency **must** retain performance reports commensurate to the value and risk of the contract and on request, provide a copy of the performance reports to other agencies to assist in assessments.

The Agency should also ensure that relevant personnel are familiar with the specific classes of supplies listed under Public Procurement Exemption.

## Department of Housing and Community Development cont...

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**The Department of Housing and Community Development has commented:**

*The Department of Housing and Community Development acknowledges the findings and accepts the recommendations of this report. The department notes the report concurs with the observations made by the Probity Advisor Merit Partners in relation to tender A17-0100. The department will continue to improve its internal procurement processes and provide relevant training to ensure adequate knowledge and skills for staff undertaking assessments.*

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# Menzies School of Health Research

## **Audit findings and analysis of the financial statements for the year ended 31 December 2016**

### **Background**

The Menzies School of Health Research (the School) was established under the *Menzies School of Health Research Act* in 1985 and operates as a medical research institute within the Northern Territory. The School is deemed to be controlled by Charles Darwin University by virtue of Section 11(1) of the *Menzies School of Health Research Act* which, at the time of the audit, specified that the Vice-Chancellor and the Deputy Vice-Chancellor (Research) of the University will be ex officio members of the School's Board, and through Section 11(2)(d), specifies that five of the ten persons appointed to the Board by the Administrator are appointed on the nomination of the University.

### **Audit Opinion**

The audit of the financial statements of Menzies School of Health Research for the year ended 31 December 2016 resulted in an unmodified independent audit opinion, which was issued on 8 March 2017.

### **Key Findings**

The School reported a net operating result of \$3.9 million for the year ended 31 December 2016.

The decrease of \$4.1 million compared to the prior year reflects the net financial impact of:

- a one-off gain of \$8.9 million gain from the disposal of a constructed building recognised in the 2015 financial year;
- a \$1.7 million reduction in Australian Government Funding in the 2016 financial year; and
- an increase in total expenditure of \$1.5 million; offset by
- an increase in NT Government funding of \$5.1 million (relating to research to be undertaken over a five year period); and
- additional consultancy and contract research and other revenue of \$2.9 million.

## Menzies School of Health Research cont...

### Financial Performance for the year

	2016	2015
	\$'000	\$'000
<b>Income</b>		
Financial assistance from the Commonwealth	15,673	17,351
Financial assistance from the NT Government	9,787	4,640
Other revenue (Fees, interest, consultancy etc)	17,633	14,783
Gain on disposal of assets	-	8,902
<b>Total Income</b>	<b>43,093</b>	<b>45,676</b>
<b>Less expenditure</b>		
Employee expenses	(23,335)	(22,584)
Administration, operational and other expenses	(15,897)	(15,146)
<b>Total expenditure</b>	<b>(39,232)</b>	<b>(37,730)</b>
<b>Surplus before income tax</b>	<b>3,861</b>	<b>7,946</b>
Income tax expense	-	-
<b>Surplus after income tax expense</b>	<b>3,861</b>	<b>7,946</b>



## Menzies School of Health Research cont...

### Financial Position at year end

	2016	2015
	\$'000	\$'000
Cash and cash equivalents	10,646	5,526
Receivables and other current assets	25,982	24,244
Less current liabilities	(5,140)	(4,386)
<b>Working Capital</b>	<b>31,488</b>	<b>25,384</b>
Add non-current assets	32,427	34,651
Less non-current liabilities	(494)	(481)
<b>Net Assets</b>	<b>63,421</b>	<b>59,554</b>
Represented by:		
Reserves	6,832	6,077
Retained earnings	56,589	53,477
<b>Equity</b>	<b>63,421</b>	<b>59,554</b>

# Selected Agencies

## Agency Compliance Audits

### Audit Objectives and Scope

Agency compliance audits are intended to ascertain the extent to which Agencies' Accountable Officers have implemented and maintained procedures that assist in ensuring that the requirements set out in Acts of Parliament, and subordinate and delegated legislation, are adhered to.

### Background

The use of delegated legislation, for example Treasurer's Directions and Procurement Directions, devolve responsibility to Accountable Officers of line Agencies. That devolution has an accompanying requirement for accountability by Accountable Officers to their Ministers. Compliance audits are intended to assess how well that accountability is being discharged. The audits for this period concentrated on the extent to which Agencies had complied with promulgated requirements with respect to:

- the maintenance of registers of financial interests, contingencies, guarantees and indemnities;
- validation of accounts payable and claims for payment, including funds availability;
- compliance with the *Procurement Act*, Regulations made under that Act and Procurement Directions;
- the maintenance of registers of losses, and whether investigation, and reporting and recovery of losses accorded with the requirements of Treasurer's Directions;
- ensuring that expenditure on official travel, telephones and hospitality was properly authorised, recorded and acquitted;
- the recording and accounting for trust monies;
- the legal and statutory arrangements governing the recovery of certain debts, the retention of financial management records, the granting of ex-gratia payments, and the maintenance of Registers of Fees and Charges;
- the control of physical assets; and
- budget management, including financial and performance reporting.

## Selected Agencies cont...

Audits were performed in each of the following Agencies during the six months covered by this report:

- Aboriginal Areas Protection Authority;
- Department of Corporate and Information Services;
- Department of Education;
- Department of Environment and Natural Resources;
- Department of Health;
- Department of Housing and Community Development;
- Department of Infrastructure, Planning and Logistics;
- Department of Primary Industry and Resources;
- Department of the Attorney-General and Justice;
- Department of the Chief Minister;
- Department of the Legislative Assembly;
- Department of Tourism and Culture;
- Department of Trade, Business and Innovation;
- Department of Treasury and Finance;
- Northern Territory Electoral Commission;
- Northern Territory Police, Fire and Emergency Services;
- Office of the Commissioner for Public Employment;
- Ombudsman's Office; and
- Territory Families.

## Selected Agencies cont...

### Key Findings

A number of issues were raised as a result of the audits including:

- lack of compliance with Procurement Directions, and procurement policies;
- lack of compliance with Treasurers' Directions, particularly in relation to controls over telephones, hospitality and travel expenditure;
- deficiencies in controls over fixed assets;
- control weaknesses in relation to the use of corporate credit cards;
- incomplete registers of financial interests, contingencies, guarantees and indemnities;
- lack of internal audit capacity accompanied by weaknesses in internal audit procedures;
- no internal Information and Communications Technology Policies in place at the time of conducting the audit;
- inadequate processes in place to identify reciprocal and non-reciprocal grants;
- effectiveness of internal audit functions could be improved;
- two instances of inadequate segregation of duties where it was noted that the receipting, reconciliation and banking of funds functions were usually conducted by the same staff member, without independent review;
- source documents were not readily available for audit scrutiny; and
- incomplete Agency Accounting and Property Manuals that did not fully comply with Treasurer's Directions.

During the conduct of the Agency Compliance Audits, I noted that the Treasurer's Directions gave little guidance with regard to the definition of hospitality expenditure. This has resulted in each agency independently defining hospitality expenditure. As an example, one Agency included everything except coffee room biscuits as hospitality expenditure whilst another excluded morning and afternoon teas, light working lunches and food consumed during training courses.

As previously noted, some Treasurer's Directions are outdated (with some of them last being updated in May 1995), however the Department of Treasury and Finance are currently reviewing and updating the Treasurer's Directions.

## Selected Agencies cont...

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**The Department of Corporate and Information Services has commented:**

*The DCIS Agency Compliance Audit identified that a report provided for the agency fixed asset register was missing three required fields. DCIS has developed a new report that meets all asset register requirements.*

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**The Department of Education has commented:**

*The Department of Education acknowledges the single finding raised in the audit report in relation to the agency's fixed asset register. As the asset module used to record assets is maintained by the Department of Corporate and Information Services on behalf of our and other agencies, we note that this would be a system limitation across the NT Government.*

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**The Department of Housing and Community Development has commented:**

*The Department of Housing and Community Development will continue to enhance its controls to better meet legislation.*

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**The Department of Infrastructure, Planning and Logistics has commented:**

*The Department acknowledges the key findings and notes that actions are underway to address recommendations from this audit.*

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**The Department of Primary Industry and Resources has commented:**

*The Department of Primary Industry and Resources (DPIR) notes the Audit Opinion of the Auditor-General in relation to DPIR's Compliance Audit 'that in general the accounting and control procedures, as set out in the Treasurer's Directions and Procurement Regulations and Guidelines, will be met if those systems continue to operate in the manner identified in the audit'.*

*The Agency continues to reinforce the requirements under the Accounting and Property Manual through written notifications, reminders and in house training.*

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**The Department of Tourism and Culture has commented:**

*The Department of Tourism and Culture notes accounting and control procedures examined provide reasonable assurance responsibilities will be met if the systems continue to operate in the manner identified in the audit.*

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## Selected Agencies cont...

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**The Department of the Legislative Assembly has commented:**

*The Department of Legislative Assembly notes the Audit Opinion of the Auditor General in relation to Department's Compliance audit 'that accounting and control procedures examined provide reasonable assurance that the responsibilities of the Accountable Officer, as set out in Treasurer's Directions and Procurement Regulations and Guidelines, will be met if those systems continue to operate in the manner identified in the audit.'. The audit identified three issues relating to the DLA's registers and compliance with the Treasurer's Directions require attention. The Department notes the recommendations and will commence a program to address them.*

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# Selected Agencies

## Annual and Long Service Leave Entitlements

### Background

The objective of this analysis was to examine leave accruals for Northern Territory Government employees recorded in the Personnel Information and Payroll System at 28 February 2017 in order to identify any employees that had accumulated excessive leave accruals and to provide information about those employees to the entity's management for review and follow-up.

The entities included within the analytics were:

- Aboriginal Areas Protection Authority
- Batchelor Institute of Indigenous Tertiary Education
- Board of the Museum and Art Gallery Northern Territory
- Central Australia Health Service
- Data Centre Services
- Department of Corporate and Information Services
- Department of Education
- Department of Environment and Natural Resources
- Department of Health
- Department of Housing and Community Development
- Department of Infrastructure, Planning and Logistics
- Department of Primary Industry and Resources
- Department of the Attorney-General and Justice
- Department of the Chief Minister
- Department of the Legislative Assembly
- Department of Tourism and Culture
- Department of Trade, Business and Innovation
- Department of Treasury and Finance
- Land Development Corporation
- Northern Territory Auditor-General's Office
- Northern Territory Electoral Commission
- Northern Territory Legal Aid Commission
- Northern Territory Police, Fire and Emergency Services
- NT Fleet
- NT Home Ownership
- NT Treasury Corporation
- Office of the Commissioner for Public Employment
- Ombudsman's Office
- Power and Water Corporation
- Power Generation Corporation
- Power Retail Corporation
- Territory Families
- Territory Wildlife Parks
- Top End Health Services

## Selected Agencies cont...

### Overall Assessment

My review of the data related to leave highlights the necessity for entities to manage staff leave on a continual basis and ensure that staff take their leave entitlement in a timely manner.

The fact that the assessment has identified items, as reported in the key findings below, does not mean that there are not other matters of which management should be aware in meeting their responsibilities, nor does this report absolve them from taking appropriate action to meet their responsibilities. It should be noted that this assessment did not constitute an audit.

### Key Findings

The Personnel Information and Payroll System had 22,843 unique employees recorded on the annual leave report as at 28 February 2017 with 23,092 being recorded on the long service leave report. The variance is due to employees being included in one of the reports but not yet included in the other report at the time the reports were produced due to the timing of commencements and cessations being actioned. I have recommended that the entities review the reports to ensure both reports are reflective of current staff status.

#### *Over 12 weeks annual leave entitlement*

2,378 employees (10.4%) were identified as having annual leave entitlements in excess of 12 weeks (441 hours) as at 28 February 2017. Leave in excess of 12 weeks represents a liability to the Northern Territory Government (excluding on-costs) of approximately \$80.1 million.

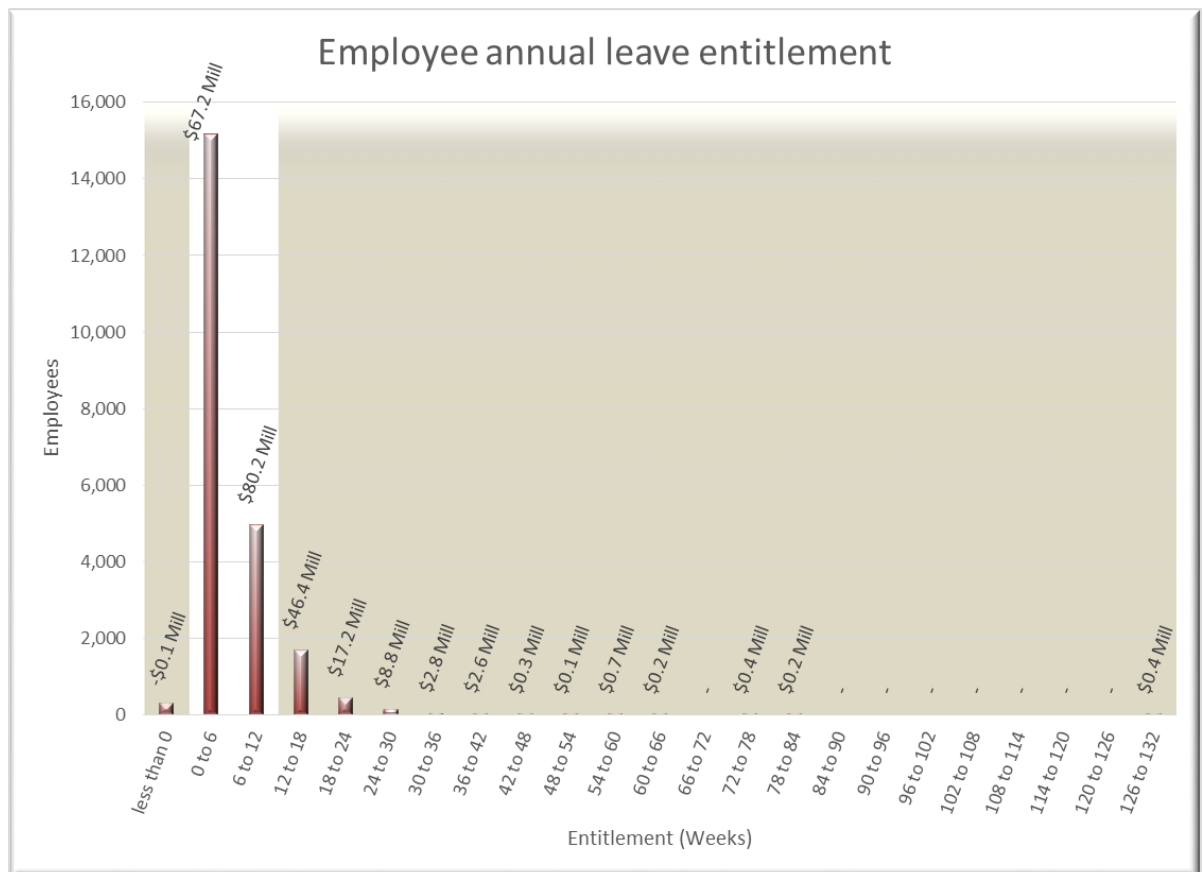
The highest annual leave balance for an individual employee was 4,775 hours. This is approximately 650 days (130 weeks) of annual leave representing a liability (excluding on costs) of approximately \$397,000. To put this particular employee's entitlement into context and taking into account annual public holidays and ongoing 30 day annual leave credit per annum, if this employee commenced leave on 1 April 2017, their annual leave and long service leave entitlements could enable them to be on fully paid leave until mid-February 2021.



## Selected Agencies cont...

Graph 1 shows the total number of employees and the approximate dollar value of the liability within the specified entitlement range and shows that 15,186 employees have a leave entitlement between zero and six weeks with a total value of \$67.2 million, and 4,968 employees have an annual leave entitlement between six and 12 weeks with a total value of \$80.2 million.

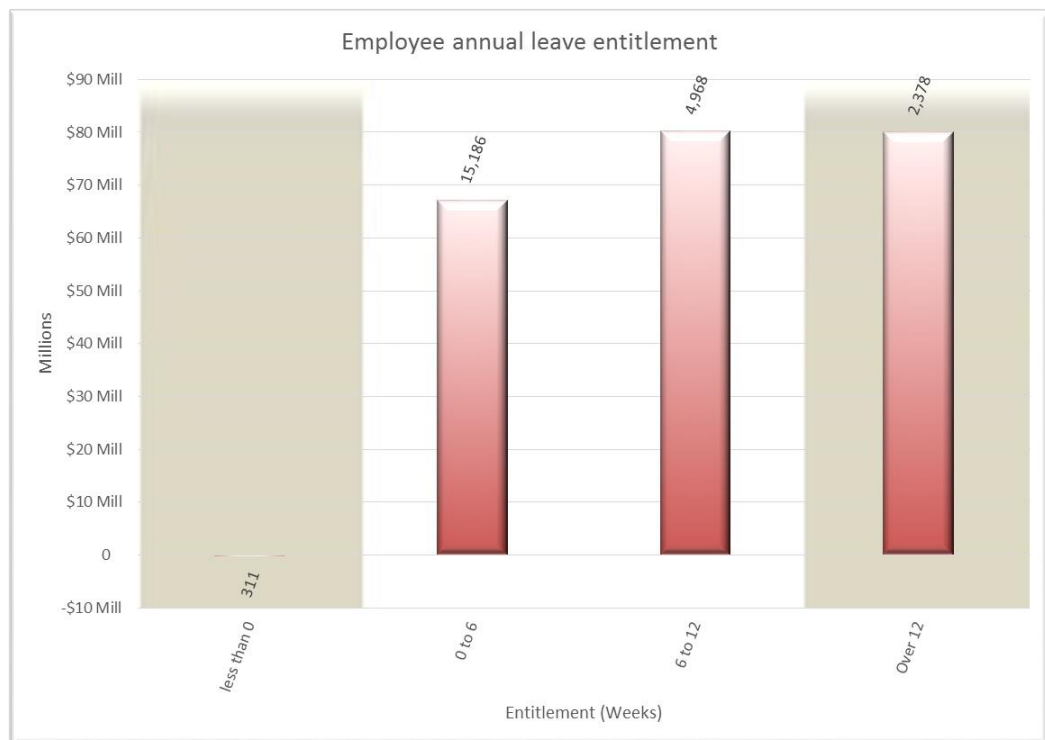
Graph 1: Employee annual leave entitlements – by number of employees



## Selected Agencies cont...

Graph 2 shows the approximate dollar value of the liability within the specified entitlement range. This graph shows that 2,378 employees have an annual leave entitlement of over 12 weeks, with an associated liability of over \$80 million.

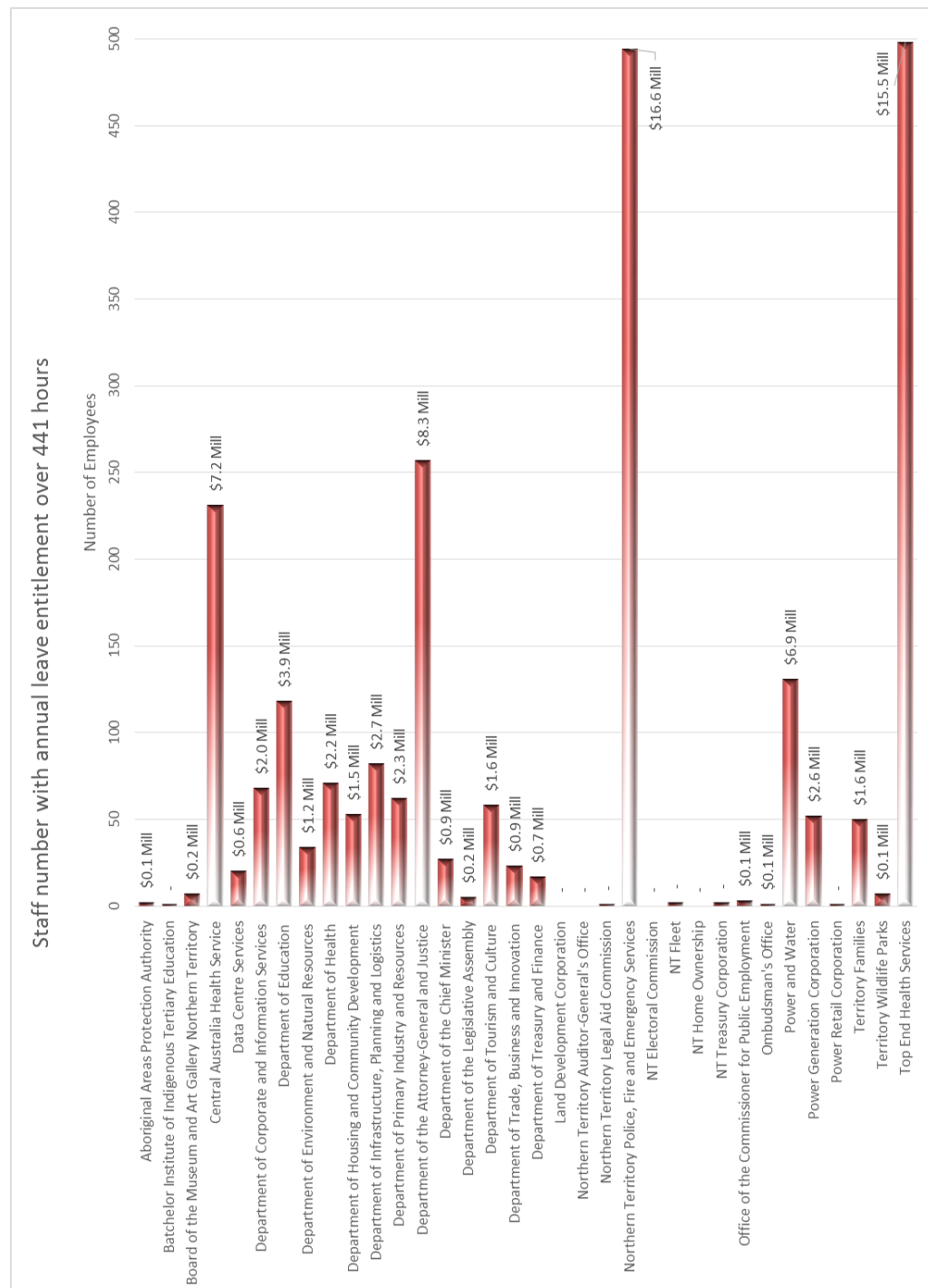
Graph 2: Employee annual leave entitlements – by approximate total dollar value.



## Selected Agencies cont...

Graph 3 shows, by entity, the number of employees with an annual leave entitlement greater than 441 hours (12 weeks).

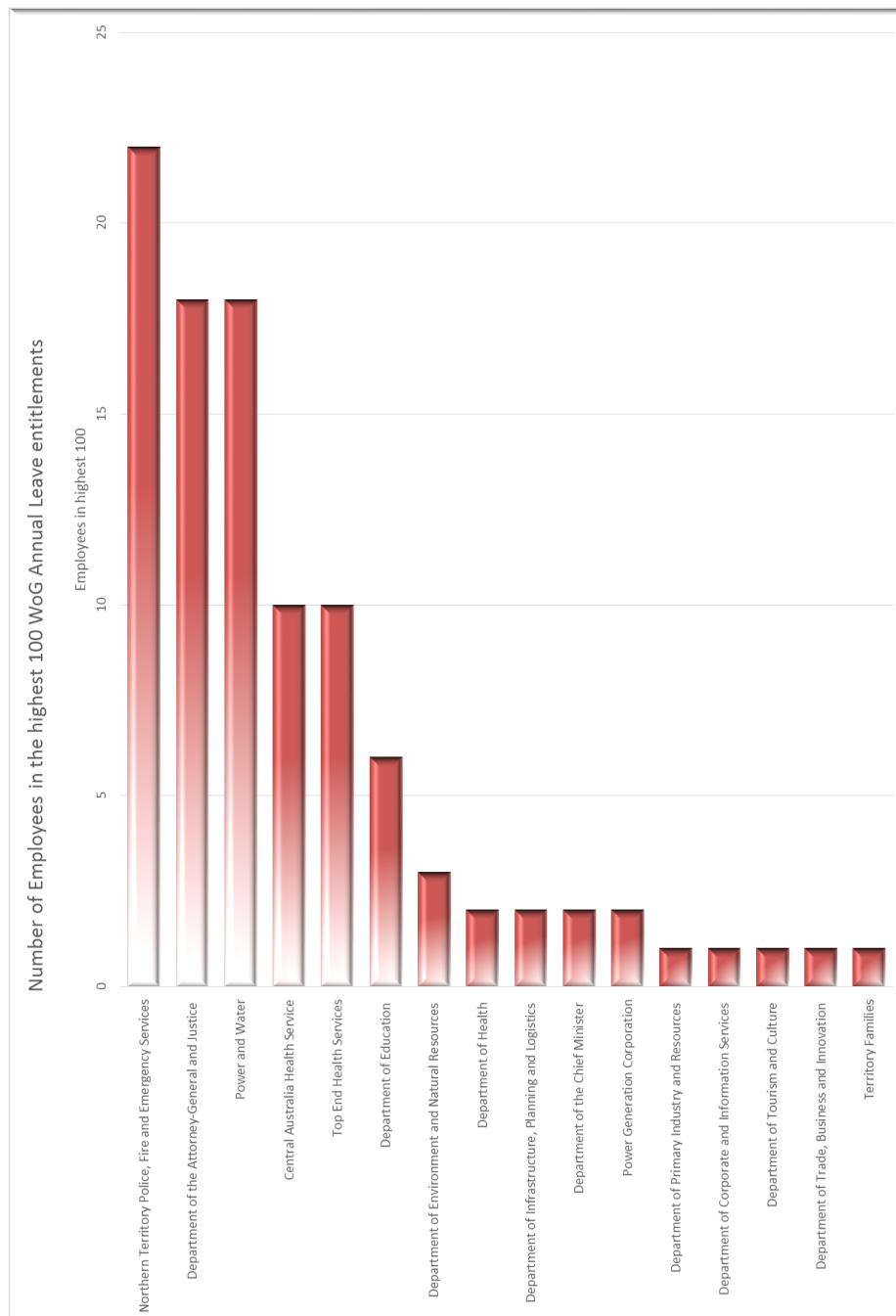
Graph 3: Employees with annual leave entitlements over 441 hours – by entity.



## Selected Agencies cont...

Graph 4 shows the number of employees, by entity, that fall within the highest 100 annual leave entitlements across-government.

Graph 4: Employees with the highest 100 annual leave entitlements by entity.



## Selected Agencies cont...

Five entities were highlighted in this report due to the significant numbers of employees with over 12 weeks annual leave entitlement as at 28 February 2017. The entities with the greatest number of weeks in annual leave entitlements are:

- Central Australia Health Service
  - 1,863 employees
  - 231 employees (12%) with more than 12 weeks annual leave entitlement
  - \$7.2 million leave liability relating to excess leave
  - The five employees with the highest annual leave entitlements have a collective annual leave entitlement of 184.1 weeks with an associated value of \$307,319.
- Department of the Attorney-General and Justice
  - 1,590 employees
  - 257 employees (16%) with more than 12 weeks annual leave entitlement
  - \$8.3 million leave liability relating to excess leave
  - The five employees with the highest annual leave entitlements have a collective annual leave entitlement of 233.4 weeks with an associated value of \$409,733.
- Northern Territory Police Fire and Emergency Services
  - 2,163 employees
  - 494 employees (23%) with more than 12 weeks annual leave entitlement
  - \$16.6 million leave liability relating to excess leave
  - The five employees with the highest annual leave entitlements have a collective annual leave entitlement of 229.4 weeks with an associated value of \$430,413.

## Selected Agencies cont...

- Power and Water Corporation
  - 989 employees
  - 131 employees (13%) with more than 12 weeks annual leave entitlement
  - \$6.9 million leave liability relating to excess leave
  - The five employees with the highest annual leave entitlements have a collective annual leave entitlement of 408.4 weeks with an associated value of \$1,190,540.
- Top End Health Service
  - 4,378 employees
  - 498 employees (11%) with more than 12 weeks annual leave entitlement
  - \$15.5 million leave liability relating to excess leave
  - The five employees with the highest annual leave entitlements have a collective annual leave entitlement of 189.7 weeks with an associated value of \$828,735.

The risk of allowing employees to accrue significant leave balances is that:

- Cash flows may be impacted if employees were to leave the entity unexpectedly.
- Not taking leave is detrimental to employees' performance and wellbeing resulting in work, health and safety risks.
- Operational risks can arise associated with rosters, staff scheduling and service delivery.
- There is the potential that leave may have been taken by an employee but the leave application forms were not submitted and/or approved correctly.
- There is a financial risk associated with many staff taking their full leave entitlements at the same time.
- There is an increased risk that fraud may occur and not be detected.

## Selected Agencies cont...

NTPS 2013-2017 Enterprise Agreement Section 52.7 Excess Leave, and Public Sector Employment and Management By-Law 4.6, states that:

*“Where an employee has accrued recreation leave entitlements in excess of two (2) years (or three (3) years in the case of a compulsory transferee), the CEO may, on giving a minimum of two (2) months’ notice, direct the employee to take recreation leave and the Employee must take that leave within a three (3) month period, or a period agreed between the parties, to reduce the accrued leave balance to the equivalent of two years (or three (3) years in the case of a compulsory transferee) of entitlements.”*

It should be noted that other Enterprise Agreements have similar clauses.

Although directing an employee to take recreation leave is left to the discretion of the Chief Executive Officer (CEO), I have recommended that CEOs implement a formally endorsed and documented procedure for monitoring employees’ recreation leave entitlements. This procedure should incorporate a reporting process to provide the CEO with sufficient information to decide whether or not it is appropriate for an employee to be directed to take leave should the circumstances allow (i.e., there would be no significant impact on operations/ongoing projects).

I have further recommended that management actively monitor and manage employees with excessive annual leave entitlements to reduce the risk exposure. The entities may need to develop temporary succession arrangements to assist in this regard.

## Selected Agencies cont...

### *Excess long service leave balances*

2,865 employees (12%) were identified with long service leave in excess of the allowable entitlements (in accordance with Public Sector Employment and Management By-Law 8) as at 28 February 2017. The highest excess long service leave balance for an individual was approximately eight months with that individual's total entitlement being 13.6 months.

The regulations in regard to excess long service leave are somewhat more complex than for annual leave. Specifically Public Sector Employment and Management By-Law 8 states:

*"8.3 Subject to by-law 8.5, an employee is required to use a long service leave entitlement within three (3) years of:*

- (a) the 10 year entitlement accruing; or*
- (b) the 11 to 20 year entitlement accruing;*

*provided that the CEO and the employee may agree to temporarily defer the leave to meet special circumstances which will include, but not be limited to, agency and/or personal needs.*

*8.4 An employee who has not obtained approval from the CEO to delay the utilisation of his/her long service leave beyond the three (3) year limit specified in by-law 8.3 will:*

- (a) be directed by the CEO to utilise the 10 year long service leave entitlement from a date which suits the needs of the agency; or*
- (b) have the 10 year long service leave entitlement cashed out from the date determined in by-law 8.4(a).*

*8.5 Nothing in this section will require an employee:*

- (a) to use his/her entitlement where the employee was aged 45 years, or over at 7 March 1999 and was then employed in the NTPS and remained in that employment; or*
- (b) to use his/her entitlement where, on 7 March 1996, the employee has accrued 20 years of service; or*
- (c) to use his/her accrued entitlement for the twenty-first and subsequent years of service."*



## Selected Agencies cont...

The following table shows the total entitlement for employees within three month bands and the excess entitlement within the same bands. The entitlement identified as excess leave has taken into account the exceptions specified in By-Law 8.5.

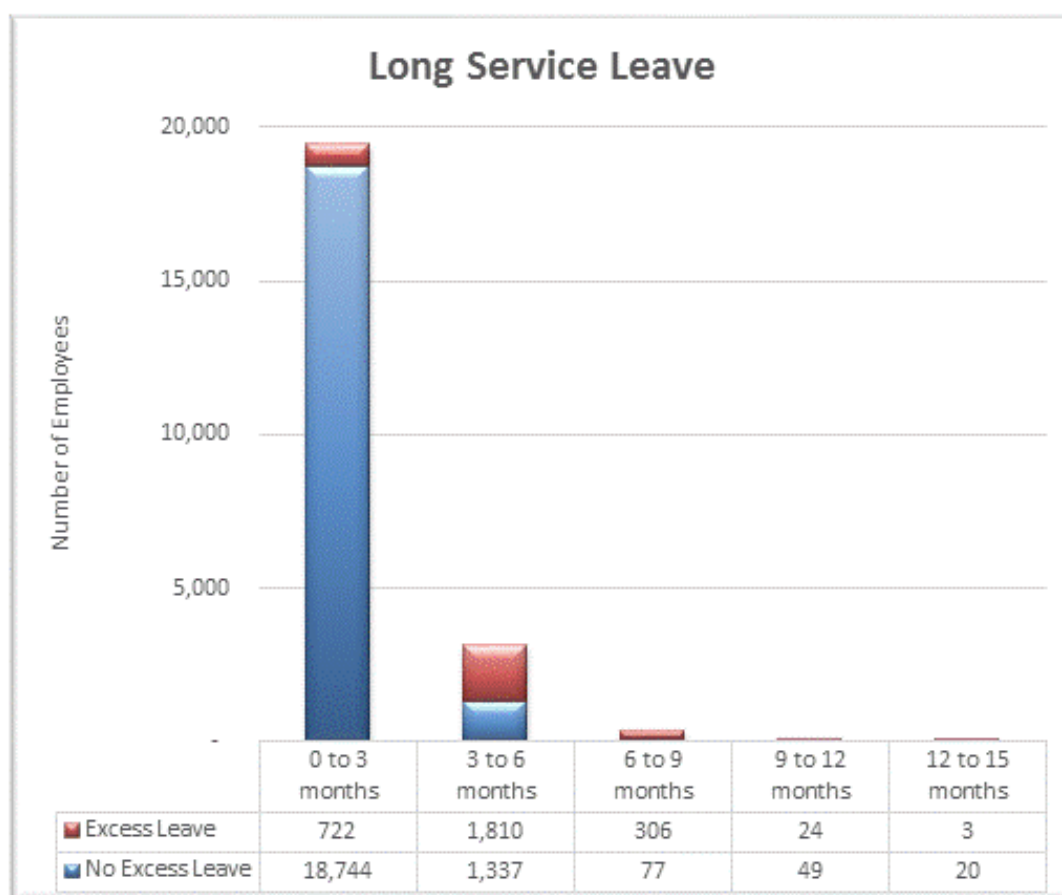
Table 1: Long service leave entitlements – Whole of Government.

Months	Total Staff		Staff with some excess leave		
	Staff	Total entitlement	Staff	Total entitlement	Excess entitlement
0 to 3	19,466	20,441 months	722 (3.1%)	1,617 months	532 months
3 to 6	3,147	12,755 months	1,810 (7.8%)	7,871 months	4,054 months
6 to 9	383	2,733 months	306 (1.3%)	2,143 months	1,176 months
9 to 12	73	746 months	24 (0.1%)	239 months	127 months
12 to 15	23	303 months	3 (0.0%)	39 months	22 months
	23,092	36,978 months	2,865 (12.3%)	11,909 months	5,911 months

## Selected Agencies cont...

The following graph shows long service leave entitlements of the employees within the NT Public Sector as a whole.

Graph 5: Whole of government long service leave entitlement.

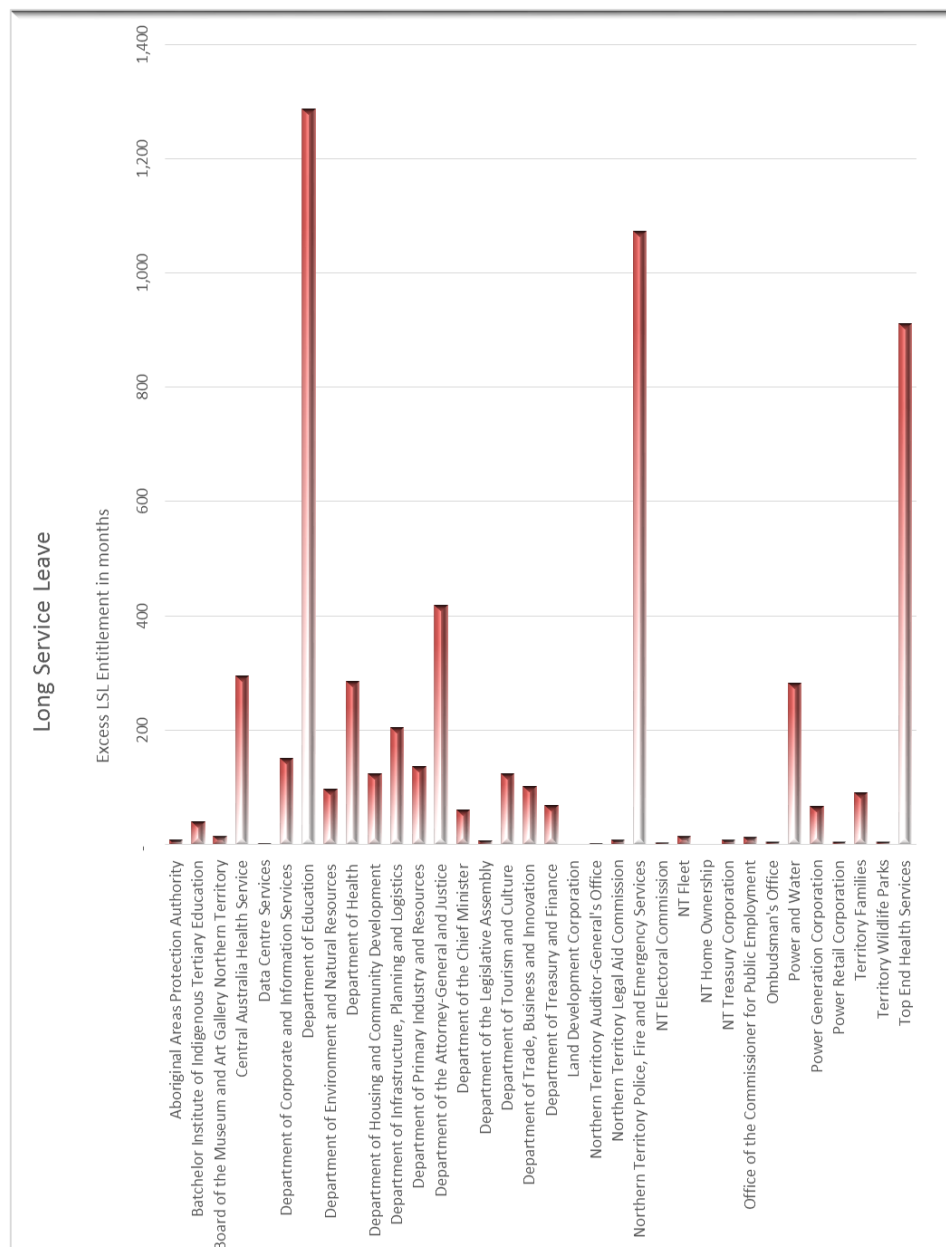


Graph 5 shows that where the employees' total long service leave entitlement is between zero and three months, 722 employees have some excess long service leave. It also shows that 18,744 employees have a long service leave entitlement between zero and three months that is not classified as excess.

## Selected Agencies cont...

Graph 6 shows, by entity, the total months of excess long service leave.

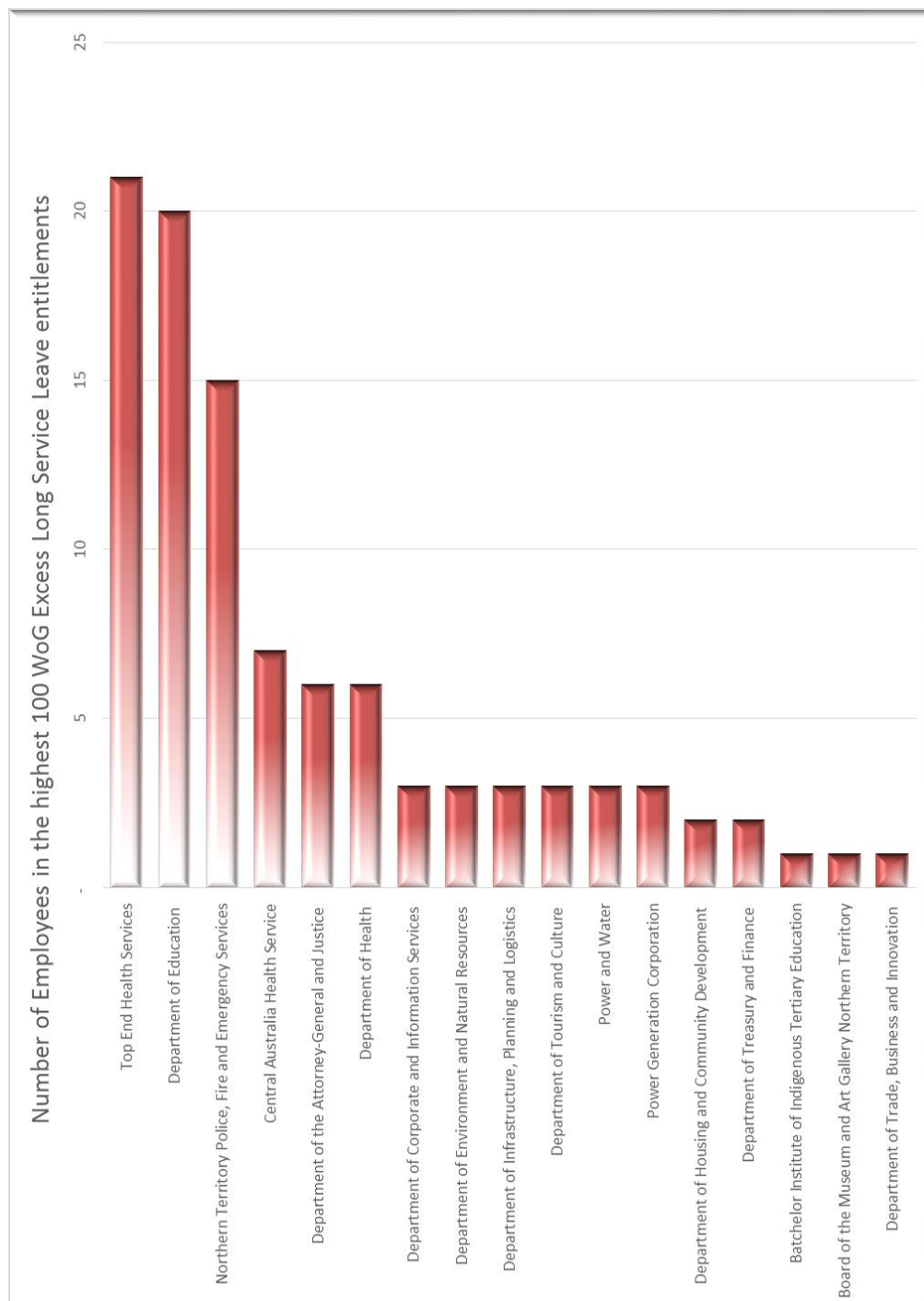
Graph 6: Excess long service leave – by Entity.



## Selected Agencies cont...

Graph 7 shows the number of employees, by entity, that fall within the highest 100 long service leave entitlements across-government.

Graph 7: Employees with long service leave entitlements in the highest 100.



## Selected Agencies cont...

Five entities have been highlighted in this report due to the significant total months of excess long service leave entitlements.

The entities, and the five employees at each entity with the most months excess long service leave entitlements are:

- Central Australia Health Service
  - 1,893 employees
  - 136 employees (7%) have an excess long service leave entitlement
  - Total of 295 months excess long service leave
  - The five employees with the highest long service leave entitlements have a collective long service leave entitlement of 28.7 months.
- Department of Education
  - 5,037 employees
  - 709 employees (14%) have an excess long service leave entitlement
  - Total of 1,287 months excess long service leave
  - The five employees with the highest long service leave entitlements have a collective long service leave entitlement of 30.0 months.
- Department of the Attorney-General and Justice
  - 1,604 employees
  - 189 employees (12%) have an excess long service leave entitlement
  - Total of 419 months excess long service leave
  - The five employees with the highest long service leave entitlements have a collective long service leave entitlement of 30.0 months.

## Selected Agencies cont...

- Northern Territory Police Fire and Emergency Services
  - 2,617 employees
  - 425 employees (20%) have an excess long service leave entitlement
  - Total of 1,073 months excess long service leave
  - The five employees with the highest long service leave entitlements have a collective long service leave entitlement of 37.6 months.
- Top End Health Service
  - 4,457 employees
  - 417 employees (9%) have an excess long service leave entitlement
  - Total of 911 months excess long service leave
  - The five employees with the highest long service leave entitlements have a collective long service leave entitlement of 30.0 months.

The risks associated with allowing employees to accrue significant long service leave balances are similar to those associated with excessive annual leave:

- Cash flows may be impacted if employees were to leave the entity unexpectedly however, in this instance the risk is borne by the Central Holding Authority.
- Not taking leave is detrimental to employees' performance and wellbeing resulting in work, health and safety risks.
- Operational risks can arise associated with rosters, staff scheduling and service delivery.
- There is the potential that leave may have been taken by an employee but the leave application forms were not submitted and/or approved correctly.
- There is a financial risk associated with many staff taking their full leave entitlements at the same time.
- There is an increased risk that fraud may occur and not be detected.

## Selected Agencies cont...

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**The Department of Corporate and Information Services has commented:**

*Leave reports identifying staff with excess leave are provided to senior managers in DCIS, NT Fleet and Data Centre Services to promote the use of leave subject to operational/project requirements and personal requirements. The monitoring and active management of leave entitlements were reiterated with managers following receipt of the report.*

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**The Department of Education has commented:**

*The reported findings and recommendations are noted and actions to address the recommendations are underway to ensure that excessive leave accruals are monitored and actively managed.*

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**The Department of Health has commented:**

*The current excess recreation and long service leave liability for Department of Health, Central Australia Health Service and Top End Health Service (NT Health) will be tabled at the Strategic Workforce Committee meeting in August 2017 for review. The committee will consider strategies to effectively manage NT Health's excess leave position, with a particular focus on nursing and medical classifications given they have the highest leave liability, to ensure service delivery and clinical safety is not compromised.*

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**The Department of Housing and Community Development has commented:**

*The Department of Housing and Community Development has been reducing the liability that excessive leave entitlements creates for the department through regular assessment of excess recreation and long service leave. The department encourages staff to utilise leave to have adequate breaks from the workplace to ensure good life balance and employee performance.*

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## Selected Agencies cont...

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**The Department of Infrastructure, Planning and Logistics has commented:**

*The accrual of excessive leave entitlements is noted as an issue that can affect employees who do not take appropriate leave breaks; and impact departmental leave liabilities that increase over time. To address this, the Department has taken a number of steps that include writing to individual employees with excessive leave advising them to discuss leave plans with managers, regular reporting of excess leave information to managers and directors and regular monitoring of statistics at executive level. These actions will form part of a departmental policy relating to the management of excess leave.*

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**The Department of Primary Industry and Resources has commented:**

*The Department of Primary Industry and Resources has noted the results and recommendations of the analysis of Annual and Long Service Leave entitlements in selected NTG Agencies.*

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**The Department of the Attorney-General and Justice has commented:**

*The Department of the Attorney-General and Justice has initiated an excess leave management initiative. Under the initiative all employees covered by the NT General Agreement are required to submit Excess Leave Management Plans by 30 August with Custodial officers covered by the Correctional Officer (NTPS) 2014-17 Agreement due by 30 September in line with leave roster clauses. In addition excess leave credits will be monitored bi-annually by the Executive Leadership Group in the Department.*

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## Selected Agencies cont...

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### **The Department of the Legislative Assembly has commented:**

*The Review identified the Department of the Legislative Assembly had 89 employees recorded on its annual leave report as at 28 February 2017 and 92 on the long service leave report. Due to the nature of the Assembly, electorate staff are employed on fixed-term arrangements at the discretion of the Member whom they work. The Speaker acknowledges the electorate office is a unique environment with uncertain tenure. It is also understood that temporary employees working for Members of the Legislative Assembly are subject to the day to day requirements of electorate offices and may put electorate priorities in a political environment before reducing excess leave credits.*

*That context is part of a risk the Department of the Legislative Assembly manages as an agency in regards to long leave. It is difficult to insist electorate office staff take leave when those staff are consciously working on the basis they may need funds payout if their Member is defeated or resigns.*

*On that basis, the Speaker has issued an amended determination relating to employment conditions for electorate officers. EO4 of 2017 Fixed Term Electorate Officers provides Public Sector Employment and Management By-Law 4 Recreation Leave (excluding clause 4.6) and By-Law 8 Long Service Leave (excluding clauses 8.3 and 8.4) applies to fixed term contracts.*

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### **The Department of Tourism and Culture has commented:**

*The Territory Wildlife Parks continues to manage staff leave and ensures staff take their leave in a timely manner.*

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### **The Department of Trade, Business and Innovation has commented:**

*The department has implemented active management plans with staff to reduce excess annual leave and excess long service leave, while continuing to deliver ongoing government priorities.*

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### **NT Home Ownership has commented:**

*NT Home Ownership (NTHO) has been monitoring the liability that excessive leave entitlements creates for the NTHO through regular assessment of excess recreation and long service leave. NTHO encourages staff to utilise leave to have adequate breaks from the workplace to ensure good life balance and employee performance and wellbeing.*

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## Selected Agencies cont...

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**Territory Wildlife Parks has commented:**

*The Territory Wildlife Parks continues to manage staff leave and ensure staff take their leave in a timely manner.*

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# Selected Agencies

## Fraud Assessment Framework

### Objective and Scope

The primary objective of the task entitled *Selected Agencies – Fraud Assessment Framework* was to undertake a survey of the fraud control arrangements in selected Northern Territory Government Agencies and analyse the responses to determine the maturity of Agencies' Fraud Assessment Frameworks.

The term "Selected Agencies" for this task meant Agencies that are defined as Agencies for the purposes of the *Financial Management Act* by Administrative Arrangements Order dated 12 September 2016.

### Background

Agencies are required to comply with the *Financial Management Act*, Financial Management Regulations and Treasurer's Directions.

The *Financial Management Act* specifies in section 13(2)(b) that the Accountable Officer must ensure that "*procedures in the Agency are such as will at all times afford a proper internal control.*"

Controls to address fraud risk represent one element of the key controls required to be established.

The Australian National Audit Office (ANAO) Better Practice Guide "*Fraud Control in Australian Government Agencies*" (March 2011) (referred hereafter as the ANAO Guide), states that:

*"Fraud continues to be an ever-present threat to the Australian community, posing significant challenges to organisations in its prevention and detection. Across business and government it has been estimated that only a third of fraud-related losses are actually being detected" (page 1).*

Fraud control encompasses:

- leadership (culture);
- policy and legislation (governance); and
- fraud control strategies, including:
  - prevention;
  - detection;

## Selected Agencies cont...

- response; and
- monitoring, evaluating and reporting.

In order for an Agency's fraud control to be effective, there must be both top-down and bottom-up approaches to managing fraud risks.

The ANAO Guide presents a Fraud Control Framework, shown at Figure 1 below, which demonstrates the relationship between the fraud control elements listed above.

Figure 1: Fraud control framework



Source: ANAO Better Practice Guide "Fraud Control in Australian Government Agencies", March 2011, Figure 1.1, page 3.

Each year the Accountable Officer is required to provide a written representation consistent with Appendix B of Treasurer's Direction R2.1 *Agency Reporting – Agency Financial Statements*. Whilst there are six specific statements required by this Treasurer's Direction, one is particularly relevant to this review:

*"As part of the presentation of the Agency's Annual Report, and in accordance with Treasurer's Direction R2.1.6, each Accountable Officer shall include a representation to the relevant Minister (with a copy provided to Northern Territory Treasury) that to the best of his or her knowledge and belief:*

- c) *no indication of fraud, malpractice, major breach of legislation or delegation, major error in or omission from the accounts and records exists (or, where this is not the case, details to be provided of any such instances);"*

## Selected Agencies cont...

I prepared a survey upon which to base my assessment of key aspects of fraud control arrangements in place across the Northern Territory Public Service (NTPS) that enable Accountable Officers to support the above representation to the relevant Minister (referred to hereafter as the “Survey of Fraud Control Arrangements within Selected Northern Territory Government Agencies” or simply “the survey”).

The survey was designed to:

- identify, and benchmark where practicable, current practices in the management of fraud;
- determine where opportunities exist to enhance fraud controls; and
- document better practice from agencies.

The survey was sent to 22 agencies that are defined as Agencies for the purposes of the *Financial Management Act* by Administrative Arrangements Order dated 12 September 2016. These were:

- Aboriginal Areas Protection Authority;
- Department of Corporate and Information Services;
- Department of Education;
- Department of Environment and Natural Resources;
- Department of Health;
- Department of Housing and Community Development;
- Department of Infrastructure, Planning and Logistics;
- Department of Primary Industry and Resources;
- Department of the Attorney-General and Justice;
- Department of the Chief Minister;
- Department of the Legislative Assembly;
- Department of Tourism and Culture;
- Department of Trade, Business and Innovation;
- Department of Treasury and Finance;
- Land Development Corporation;
- Northern Territory Electoral Commission;
- Northern Territory Police, Fire and Emergency Services;
- Northern Territory Treasury Corporation;

## Selected Agencies cont...

- NT Home Ownership;
- Office of the Commissioner for Public Employment;
- Ombudsman's Office; and
- Territory Families.

The survey responses were collated, and analysed, with findings summarised into this report to the Legislative Assembly.

The review period considered what controls were in place at agencies as at 31 January 2017.

### Key Findings

Frauds require three conditions to be perpetrated as represented in the Fraud Risk Triangle shown in Figure 2. These conditions are:

- **Motivation** – *“Incentives and pressures that motivate an individual to commit a fraudulent act.”*<sup>1</sup>
- **Opportunity** – *“Opportunities or perceived opportunities that provide an individual with some assurance that a fraud act can be committed without being detected.”*<sup>2</sup>
- **Rationalisation** – *“Attitudes or rationalizations that enable an individual to internally justify the performance of a fraudulent act.”*<sup>3</sup>

Motivation and rationalisation are human factors and are less able to be mitigated through the introduction of controls therefore the focus by the agency must be on identifying the opportunities for fraud and implementing controls to reduce the opportunity for fraud to occur.

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<sup>1</sup> Committee of Sponsoring Organizations of the Treadway Commission, “Fraud Risk Management Guide”, September 2016, page 29

<sup>2</sup> Committee of Sponsoring Organizations of the Treadway Commission, “Fraud Risk Management Guide”, September 2016, page 29

<sup>3</sup> Committee of Sponsoring Organizations of the Treadway Commission, “Fraud Risk Management Guide”, September 2016, page 29

## Selected Agencies cont...

Figure 2 – Fraud Risk Triangle



Source: <http://blog.mordorintelligence.com/frauds-theory/> (accessed 8 May 2017)

An observation arising from both the survey results and discussions with representatives from agencies is that many controls are designed to prevent and detect fraud occurring within an organisation that is perpetrated by those inside the organisation, that is, employees and management. It is important to consider fraud perpetrators in a broader context. Fraud may be perpetrated by those within an organisation (internal fraud), by those external to an organisation (external fraud) and through collusion between internal and external parties (collusion). Fraud controls need to be designed and implemented to prevent and detect fraud perpetrated by each of these three sources. Further discussion in relation to these three sources is included under the heading 'Fraud Control Strategies – Overview'.

Agencies encountering, or suspecting, fraud should seek forensic and legal advice at an early stage.

It has been encouraging to note the conversations, fraud control plans, agency training and reminders of fraud controls that have resulted since I released the survey on 20 February 2017. These actions suggest that the release of the survey has prompted heightened consideration and awareness of fraud risks.

Of the 22 Fraud Control Arrangement Surveys that were sent to agencies, 20 were returned and included in the initial assessment and the consolidated responses presented in this report. Two agencies did not return the survey until May and June respectively.

The maturity level of agencies, based on the criteria set out in **Appendix A**, has been summarised in Table 1 below:

## Selected Agencies cont...

Table 1: Maturity level of Fraud Control Arrangements in the Northern Territory Public Sector

Maturity level	Number of Agencies
Requiring significant improvement	9
Requiring improvement	8
Reasonably mature, with some areas for improvement noted	3
<b>Total</b>	<b>20</b>

### Conclusion

Of the 20 agencies that responded by the due date to the survey, 17 needed to either improve or significantly improve their Fraud Control Arrangements.

### Review Observations

The collective responses to the survey demonstrate the need for a consistent fraud control framework to be developed and implemented across-government. The following elements could be implemented:

- development of a more comprehensive definition of fraud than that which is currently contained in the “*Minimise the risk of fraud taking place*” page of the Financial Management Toolkit. That definition should be consistent with legal interpretation and be clearly articulated and promulgated across-government;
- development of a process for an agency to follow upon discovery of an instance of fraud or receipt of an allegation of fraud;
- provision of fraud risk awareness training to facilitate better fraud risk assessments;
- introducing a requirement to conduct a fraud risk assessment; and
- development of an overarching fraud risk policy.

Notwithstanding the absence of such a framework, the results also demonstrate that agencies generally could do more to:

- define fraud;
- develop more guidance and training to raise awareness of what constitutes fraud and what action should and will be taken by agencies where fraud is detected;
- raise awareness of the sources of fraud being: internal; external; and collusion;
- inform employees about the fraud risks pertinent to the public sector and their specific agency;



## Selected Agencies cont...

- enhance governance structures in the context of fraud controls;
- test the design, implementation and effectiveness of controls to prevent, detect, and respond to fraud; and
- establish appropriate mechanisms for reporting fraud risks and allegations of fraud.

### Recommendations

No specific recommendations were provided to each agency as a result of the survey. Agencies may wish to consider both their own agency's responses and collective responses to the survey, together with the criteria contained in Appendix A, and implement necessary changes within their agency. Agencies may wish to consider using their internal audit function to undertake an agency specific fraud control maturity assessment. I commend those agencies that have made an effort to address fraud risks.

At a whole of government level, central agencies may wish to consider the development of an across-government fraud control policy that establishes a definition of fraud and key fraud controls. This would reduce ambiguity across agencies through the provision of consistent guidance and advice to public sector employees irrespective of the agency to which they are allocated.

### Emerging Fraud Risks

Many of the risks and examples provided within this report may be considered 'conventional'. Agencies should inform themselves in relation to agency-specific and emerging fraud risks.

Increased fraud risks may result from:

- machinery of government changes resulting in reduced controls for a period of time (increased opportunity);
- economic downturn (increased motivation);
- increased reliance on information technology and systems (increased opportunity);
- weaknesses in cyber security (increased opportunity);
- increased pressure relating to efficiency and service delivery leading to disgruntled employees (increased motivation and increased rationalisation);
- changes to benefit and welfare schemes (increased motivation);
- increasing use of illicit drugs in mainstream society (increased motivation);
- new programs (increased opportunity); and
- increased outsourcing to non-Government organisations/service providers (increased opportunity).

## Selected Agencies cont...

### Review Observations

Observations from this review have been captured under the following headings, based on the Australian National Audit Office Better Practice Guide *"Fraud Control in Australian Government Entities"*, March 2011 (referred hereafter as ANAO Guide):

- Leadership and Culture
- Legislation, Policy and Governance
- Fraud Control Strategies – Overview
- Fraud Control – Prevention
- Fraud Control – Detection
- Fraud Control – Response
- Fraud Control – Monitoring, Evaluation and Reporting
- Nature and Extent of Fraud – Statistics

Documentation provided by agencies with their survey responses was sought as evidence of existence of fraud related controls, and was not evaluated to assess the effectiveness of fraud related controls within each agency.

### *Leadership and Culture*

The leadership and culture of an organisation will affect its ability to manage fraud. Having an executive that is engaged, informed and seeks to address fraud risks is critical to a strong fraud control strategy. This includes ensuring that the NTPS Code of Conduct is adhered to and there exists a clear definition of what constitutes fraud, with examples employees can understand.

Studies have identified that a lack of leadership can reduce the likelihood of fraud being reported to management. *"If staff perceive that controls to respond to fraud are not robust or supported by management, they are much less inclined to report their observations or suspicions"*. (ANAO Guide, page 9)

## Selected Agencies cont...

The ANAO Guide presents a table of considerations for an Executive suitably engaged in fraud control:

*Table 1: Considerations for an Executive suitably engaged in fraud control*

<b>Who</b>	Who reviews and evaluates the fraud control plan? Who hasn't done the fraud awareness training? Who analyses the fraud risks in my organisation / program?
<b>What</b>	What are the drivers of fraud risk at the organisation and program level? What is my role in fraud control? What is a proportionate response to fraud risks in my organisation / program?
<b>When</b>	When do I get involved in fraud prevention and detection strategies? When do we report fraud in the organisation? When do we analyse fraud activity?
<b>Where</b>	Where can I find my organisation's Fraud Policy? Where is the guidance on how to report fraud in my organisation / program? Where can I refer matters of serious and complex fraud?
<b>Why</b>	Why is our organisation / program at risk of fraud? Why is governance so important to effective fraud control? Why weren't our fraud risks reviewed when our organisation structure changed?
<b>How</b>	How do I get assurance that fraud risks are addressed in program design? How do I know our fraud strategies are working in my organisation / program? How does my organisation decide if a suspected fraud will be investigated?

Source: ANAO Guide, Table 2.1, page 9

### Definition of Fraud

The Australian Government "Commonwealth Fraud Control Guidelines 2011" define fraud as "dishonestly obtaining a benefit, or causing a loss, by deception or other means." (page 5)

## Selected Agencies cont...

The *Criminal Code Act 1995* defines dishonesty and deception. Dishonesty means:

- a) “dishonest according to the standards of ordinary people; and
  - b) known by the defendant to be dishonest according to the standards of ordinary people.”
- (Section 130.3)

Deception means “an intentional or reckless deception, whether by words or other conduct, and whether as to fact or as to law, and includes:

- a) a deception as to the intentions of the person using the deception or any other person; and
  - b) conduct by a person that causes a computer, a machine or an electronic device to make a response that the person is not authorised to cause it to do so.”
- (Section 133.1)

### Survey results

Several survey questions were designed to ascertain if agencies had defined fraud, defined an allegation of fraud and provide some background to how these are dealt with by agencies. There were varied responses to these questions, demonstrating that there was no one clear NT Public Sector definition or reference point used by agencies. The approaches to dealing with fraud or allegations of fraud also varied considerably.

### *Legislation, Policy and Governance*

Legislation, Policy and Governance are crucial to ensuring a robust system of fraud control. Each area is discussed in detail below.

#### Legislation

The Northern Territory Government has established several pieces of legislation to which agencies are required to adhere.

The *Financial Management Act* establishes the framework by which the Northern Territory Government, and its agencies, account for revenue and expenditure. This is supported by the issuance of Treasurer’s Directions which provide specific detail for transactional recording.

The *Procurement Act* provides the structure for ethical procurement and is supported by the Northern Territory Procurement Code.

The *Public Sector Employment and Management Act* provides guidance for managing employees and gives support to the NTPS Code of Conduct, which sets out the behaviours expected of public servants (“employees”) and disciplinary actions.

The *Public Interest Disclosure Act* provides a mechanism whereby agencies and/or employees can report incidents of fraud and/or misconduct.

## Selected Agencies cont...

Some employees are also bound by a Code of Ethics promulgated by their professional membership bodies. For example, Chartered Accountants and Certified Practising Accountants have a joint Code of Ethics to which their members must adhere in order to retain their professional qualification.

### Policy

It is up to individual agencies to incorporate their own specific policies, fraud control plans and governance structures.

The Northern Territory does not currently have a single accepted definition of fraud or any across-government fraud control guidelines.

### Governance

The most common governance structure cited by agencies in response to the survey is the use of an Audit Committee as a fraud control mechanism. The effectiveness of the Agencies' Audit Committee and their role as a fraud control mechanism was outside the scope of this assessment. I will comment however, that Audit Committees are only effective as a fraud control mechanism if the Audit Committee's Terms of Reference contain clauses related to fraud controls and the committee has fulfilled its responsibilities as contained in the Terms of Reference.

The ANAO Guide states that *"An audit committee's responsibilities in relation to fraud control would generally include:*

- *reviewing management's risk management framework and associated procedures for the effective identification and management of the entity's financial and business risks, including fraud risks; and*
- *overseeing the process of developing and implementing the fraud control plan, to provide assurance that the entity has appropriate processes and systems in place to prevent, detect and effectively respond to fraud-related information."* (page 21)

### Survey results

There were no specific survey questions designed around Leadership, Policy and Governance.

## Selected Agencies cont...

### *Fraud Control Strategies – Overview*

The ANAO Guide (page 27) describes the following four key fraud control strategies which, if designed appropriately, implemented and effective, should significantly mitigate the risk of fraud:

- **Fraud prevention** – those strategies designed to prevent fraud from occurring in the first instance.
- **Fraud detection** – strategies designed to discover fraud as soon as possible after it has occurred.
- **Fraud response** – systems and processes that assist an Agency to respond appropriately to an alleged fraud when it is detected.
- **Fraud monitoring, reporting and evaluation** – strategies to provide assurance that legislative responsibilities are being met, as well as promoting accountability by providing information that demonstrates compliance with specific fraud control strategies.

Each of these elements must be actively managed and have clear responsibility allocated within the agency to be effective at all. These are discussed as separate sections in this report.

### *Internal fraud not the only area of concern*

As commented earlier, Agencies should consider that internal fraud committed by employees is not the only fraud that can be perpetrated against the Agency. A lot of time is spent focused on fraud that may be committed against an agency by its employees, however, just as much effort should be placed on fraud that may be perpetrated to an agency by an external party.

Consideration should be given to managing the fraud risks perpetrated from three sources:

- **Internally perpetrated fraud** – fraud perpetrated by employees including management/executive;
- **Externally perpetrated fraud** – fraud perpetrated by parties outside the agency such as suppliers, service providers, contractors and benefit recipients; and
- **Collusion** – between employees and parties external to the agency.

Some common types of fraud perpetrated from these sources are provided in Table 2. This is not an exhaustive list.

## Selected Agencies cont...

Table 2: Common types of fraud

Primary types of fraud	Examples
Internal	<p>Employee instigated fraud:</p> <ul style="list-style-type: none"> <li>▪ overstated or wrongful claims for expense reimbursement;</li> <li>▪ claiming payment for unworked overtime;</li> <li>▪ leave fraud (including falsification of medical certificates);</li> <li>▪ identity fraud;</li> <li>▪ financial reporting fraud;</li> <li>▪ misappropriation of assets (including credit cards, cab charge cards, fuel cards, government property);</li> <li>▪ misuse of government property;</li> <li>▪ misleading or incorrectly recording key performance indicators (KPIs);</li> <li>▪ receiving bribes;</li> <li>▪ misuse of position in order to gain some form of financial or non-financial benefit (corruption).</li> </ul> <p>Executive/Management instigated fraud:</p> <ul style="list-style-type: none"> <li>▪ splitting of invoices;</li> <li>▪ misleading or incorrectly recording key performance indicators (KPIs);</li> <li>▪ deliberate misclassification of expenses;</li> <li>▪ financial reporting fraud;</li> <li>▪ deliberate misuse of incorrect assumptions in estimates and/or valuations; or</li> <li>▪ deliberate misuse and recording of provisions.</li> </ul>
External	<ul style="list-style-type: none"> <li>▪ Fictitious invoices;</li> <li>▪ Overstated or improper claims for work performed or services provided; or</li> </ul>

## Selected Agencies cont...

Primary types of fraud	Examples
	<ul style="list-style-type: none"> <li>Claims for rebates or benefits to which a person/entity is not entitled.</li> </ul>
Collusion	<ul style="list-style-type: none"> <li>Tender manipulation;</li> <li>Splitting of invoices; or</li> <li>Debt write-off.</li> </ul>

Source: Northern Territory Auditor-General's Office developed

### Examples of program-specific fraud controls

The ANAO Guide provides a table of examples of program-specific fraud controls that agencies may wish to consider in establishing their fraud control strategies. The examples have been reproduced in Table 3 below:

Table 3: Examples of fraud controls at typical life cycle phases of a program

Phase	Examples of fraud controls
Policy development, program design and business case	<ul style="list-style-type: none"> <li>Fraud risk assessment</li> <li>Fraud control plan</li> <li>Employment screening</li> <li>Communication and awareness</li> </ul>
Procurement strategy	<ul style="list-style-type: none"> <li>Rigorous and transparent tender processes</li> <li>Screening of potential suppliers and customers</li> <li>Segregation of duties on selection and approval of procurements</li> </ul>
Delivery / implementation / management	<ul style="list-style-type: none"> <li>Regular supplier reviews (includes surprise audits)</li> <li>Data mining / analysis</li> <li>Internal and external reporting mechanisms (hotlines, website, internal reporting channels)</li> <li>Response to identified / reported frauds</li> <li>Management / internal audit review of internal controls</li> </ul>
Closure	<ul style="list-style-type: none"> <li>Management / internal audit review of program closure and expenditure of final monies</li> </ul>

Source: ANAO Guide, Table 4.1, page 28



## Selected Agencies cont...

### Lowering the risk of fraud

Employees can contribute to lowering the risk of fraud in the workplace by:

- ensuring established processes and procedures are followed;
- identifying areas of fraud risk and raising awareness of such risks;
- consistently monitoring invoices and ensuring agreement to work completed / received;
- maintaining overtime records and receiving approval of time worked;
- ensuring segregation of duties occurs;
- contributing to the Agency's risk assessment process;
- undertaking regular reconciliation of account balances;
- maintaining controls around access to, and security of, information; and
- limiting private use of Agency facilities.

### Survey results

Only six of 20 agencies had conducted a fraud risk assessment within the last two years, with only three of 20 agencies developing a fraud control plan to reflect the agency's identified risks.

### *Fraud Control – Prevention*

***“Fraud prevention strategies are the first line of defence and provide the most cost-effective method of controlling fraud within an entity. To be effective, fraud prevention within an organisation requires a number of contributory elements, including an ethical organisational culture, a strong awareness of fraud among employees, suppliers and clients, and an effective internal control framework.***

*Key elements of effective fraud prevention include:*

- *a robust Fraud Policy and Code of Conduct;*
- *sound fraud risk management processes;*
- *a comprehensive fraud control plan;*
- *prudent employee, and third party, due diligence;*
- *regular fraud awareness training;*
- *fraud-related controls for activities with a high fraud risk exposure;*

## Selected Agencies cont...

- *system controls to ensure accurate and up-to-date data; and*
- *communication about investigation outcomes to demonstrate that allegations and incidences of fraud are serious and appropriately dealt with.*” [emphasis added] (ANAO Guide, page 31)

The ANAO Guide at Table 5.2 (page 38) provides key features of an effective fraud control plan which agencies may wish to consider.

### Targets for fraud in the workplace

Targets for fraud in the workplace are those areas that are susceptible to fraud. Common targets for fraud in the workplace include:

- property (cash, computers, portable and attractive items, stationery);
- information and intelligence (classified material);
- entitlements (expenses, leave, travel allowances and attendance records);
- facilities (unauthorised use of information technology and telecommunications systems); and
- supplier contracts (obtaining kickbacks from suppliers in return for manipulation of supply arrangements, overcharging by service providers and contractors).

### Survey results

15 agencies stated they had developed specific guidelines or procedures that would address all fraud matters, however, only two agencies provided general fraud awareness training.

### *Fraud Control – Detection*

All agencies are susceptible to fraud. Unfortunately, “*no system of preventative controls can provide absolute assurance. As such, entities should implement systems aimed at detecting fraud as soon as possible after it has occurred, in the event that the entity’s preventative systems fail.*” (ANAO Guide, page 53)

## Selected Agencies cont...

### Early warning signs of fraud

The ANAO Guide provides a list of early warning signs in Table 6.2 (page 56) that can indicate fraud in the workplace, categorised as those demonstrated in relation to people and those demonstrated in relation to areas and activities. This table has been reproduced below:

*Table 4: Early warning signs for staff and/or workplaces at risk of fraud*

<b>Early warning signs: people</b>	<b>Early warning signs: areas or activities</b>
Unwillingness to share duties and/or refusal to take leave.	Financial information reported is inconsistent with key performance indicators.
Refusal to implement internal controls.	Abnormally high and increasing costs in a specific cost centre function.
The replacement of existing suppliers upon appointment to a position or an unusually close association with a vendor or customer.	Dubious record keeping.
A lifestyle above apparent financial means; the provision of gifts to other staff members.	High overheads.
Failure to keep records and provide receipts.	Bank reconciliations not up to date.
Chronic shortage of cash or seeking salary advances.	Inadequate segregation of duties.
Past legal problems (including minor previous thefts).	Reconciliations not performed on a regular basis.
Addiction problems (substance or gambling).	Small cash discrepancies over a period of time.

*Source: ANAO Guide, Table 6.2, page 56.*

### Examples of measures that can be used to detect fraud in the workplace include:

- segregation of duties;
- reconciliations;
- regular reviews of suppliers;
- data mining / analysis;
- internal and external fraud reporting mechanisms;
- responses to identified frauds; and
- internal audit and review of controls and programs.

## Selected Agencies cont...

### Detection in the NTPS

KPMG's *"Fraud and Misconduct Survey 2010"* estimated that only one third of fraud-related losses are being detected across business and government. It is possible that the Northern Territory may be experiencing more fraud than has been captured and/or reported.

Responses to the survey indicated that less than 20 allegations of fraud were recorded in the 2015-16 financial year and less than 10 allegations were recorded during the seven months from 1 July 2016 to 31 January 2017. The low number of fraud incidents recorded in the NTPS as reported in response to the survey may be because:

- there is actually limited fraud;
- fraud detection controls are ineffective;
- NTPS employees are not identifying instances of fraud;
- NTPS employees are not reporting fraud;
- fraud is being ignored as a result of culture and conflicting relationships that arise in a small jurisdiction;
- perception that fraud will not be investigated or acted upon therefore no action is taken by an affected agency;
- recovery of funds or assets has been accepted by the agency in return for not taking action; and/or
- fraud recording systems are inadequate.

### *Fraud Control – Response*

How an agency responds to incidences of identified fraud is as important as the fraud control prevention and detection measures that are put in place. How an agency responds is a key control as a deterrence measure for other employees/external parties as it sets the tone for whether or not fraud is acceptable or not.

*"A timely and effective response to external fraud in government programs is critical in sending a strong message to program participants and/or recipients that fraudulent and dishonest behaviour will not be tolerated. This deterrence effect can benefit other government programs and services, as many individuals and businesses can be participants and recipients in other government programs."*

*"Because some programs involve initiatives across organisations, it is important that fraud control activities, including fraud response, are effectively coordinated across entities."* (ANAO Guide, page 71)

## Selected Agencies cont...

Fraud response includes:

- fraud investigation
- responding to the fraud, including where applicable:
  - criminal prosecution
  - civil and administrative remedies; and
  - recovery (of either funds or property).

The ANAO Guide at Figure 7.1 (page 68) provides an example of a fraud investigation and response decision tree that agencies may find useful.

### Consequences of Unethical Behaviour in the NT

The disciplinary action permitted under Section 49C of the *Public Sector Employment and Management Act* includes:

- formally cautioning an employee;
- ordering the employee to undertake remedial activities such as training or counselling;
- fining of the employee;
- reducing the salary and position of the employee;
- transferring the employee;
- suspending the employee; or
- terminating the employee's employment.

### Survey results

There were a mixture of responses to survey questions seeking to ascertain whether agencies undertook their own fraud investigations, with four answering “yes”, while eight said “no”, and seven said “*partially*”.

14 agencies considered that the occurrence of fraud affecting their agency would remain unchanged over the next two years, with two saying it would decrease and five believing it may increase.

## Selected Agencies cont...

### *Fraud Control – Monitoring, Evaluation and Reporting*

*“An effective fraud monitoring, evaluation and reporting regime provides assurance that legislative responsibilities are being met. It also promotes accountability in responsible areas within entities by providing information that demonstrates their contribution towards compliance and in achieving entity-specific fraud control strategies. Assessing the performance of fraud control activities is an important element of an entity’s accountability to key stakeholders, such as the Portfolio Minister, the Attorney-General, clients, the Parliament and the general public.”* (ANAO Guide page 75).

### Monitoring and evaluation

*“Effective monitoring and evaluation of an entity’s fraud control strategies can assist managers and other decision-makers to: assess the continued relevance and priority of fraud strategies in the light of current and emerging risks; test whether fraud strategies are targeting the desired population; and ascertain whether there are more cost-effective ways of combating fraud.”* (ANAO Guide page 75).

This includes:

- updating the agency’s fraud risk assessment, at least every two years or in the event of a significant change in the agency;
- reviewing the fraud control plan and asking:
  - is it up to date; and
  - is it effective;
- evaluating each individual fraud case, to see what lessons can be learned and any action to be taken. *“After any incidence of fraud, whether or not an offence is proven in a court of law, an entity should investigate the situation which allowed the fraud to occur to determine whether it is a result of:*
  - *a one-off action by a person in a position of privilege (any new person in this position may be subjected to additional or periodical screening or monitoring);*
  - *the inadequacy of internal controls (in this case the controls should be re-evaluated and any deficiencies remedied), or;*
  - *collusion (internal control systems can often be overridden by two or more people acting in conjunction with one another).”* (ANAO Guide, page 76); and
- maintaining accurate records of losses.

## Selected Agencies cont...

### Reporting

To be effective, internal and external stakeholders need to be aware of the outcomes of fraud control activities. Internally this may include the Chief Executive Officer, Audit Committee and Senior Leadership Group. Externally this may include the Portfolio Minister, and for known losses (fraudulent or administrative irregularity) the Auditor-General.

### Survey results

Six agencies responded that they didn't have any specific individual/s or agency structure/s responsible for the development, implementation and effectiveness of fraud control. Of those that answered yes, the most common was an Audit Committee.

Nine out of 20 agencies responded that they have a formal fraud reporting system in place.

11 out of 20 agencies had not developed procedures to report fraud and distributed them to all employees. Eight said they had.

Four agencies had implemented mechanisms to facilitate reports from the community of suspected fraud in any form (external or internal).

### *Nature and Extent of Fraud – Statistics*

Implementing fraud policies and fraud controls does not mean that all fraud will be detected. It is useful to examine the nature and extent of fraud identified either within the Agency itself or more generally within the public sector at regular periods, and at least annually, to determine if changes need to be made to an agency's fraud control framework. Some statistics from the Commonwealth Government have been captured below, which demonstrate that fraud can affect any agency, and the manner in which it is perpetrated is varied.

### The Commonwealth Government and Fraud

The Australian Institute of Criminology released its "*Fraud against the Commonwealth: Report to Government 2014*" (the Report) in 2017. It provides some additional insights that agencies may find useful and was prepared based on data provided by Commonwealth agencies over the four year period 2010-11 to 2013-14. Fraud was "*most often detected through internal controls such as auditing or internal investigation, or by staff members*" (page v) and over this period, "*entities that had a dedicated fraud control section detected 10 times the number of internal and external fraud incidents than those that did not*" (page vi).

## Selected Agencies cont...

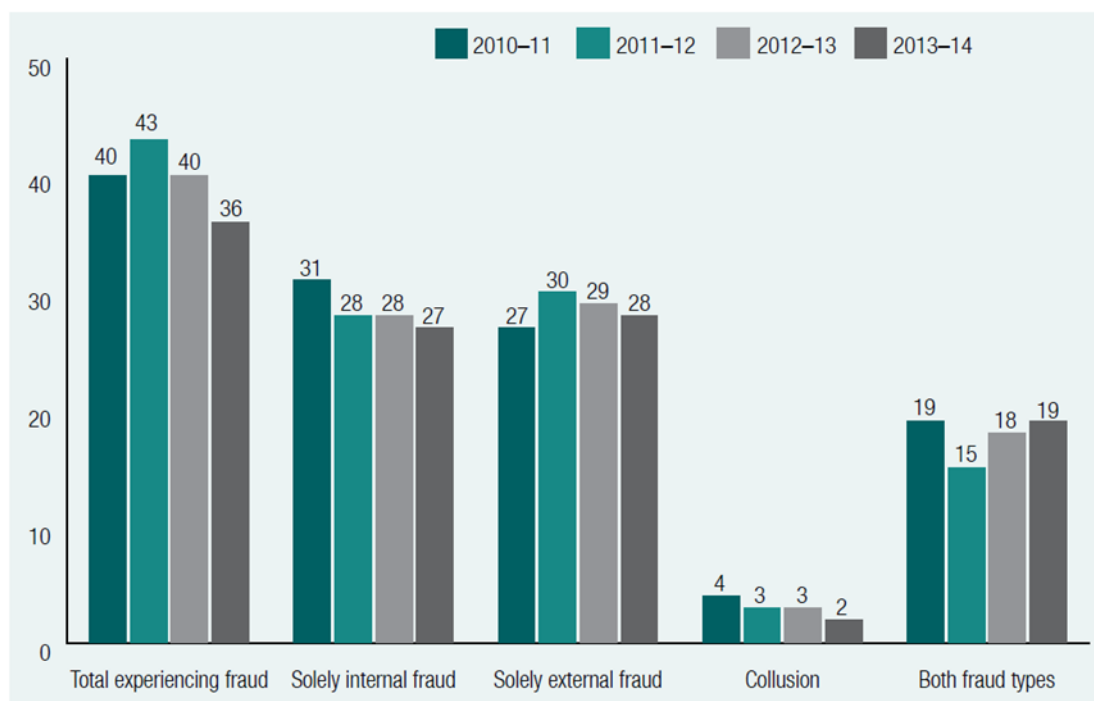
The external fraud, internal fraud and collusion were defined in the Report as:

- **Internal fraud** – “Any incident of suspected fraud allegedly committed by an employee or contractor” (page 60). A contractor is a contract employee, for example a person on a short term contract.
- **External fraud** – “Any incident of suspected fraud allegedly committed against an entity by a person other than an employee (employee includes contracted employees) of the entity.” (page 59)
- **Collusion** – “Any incidence of suspected fraud allegedly committed by an employee or contractor of the entity in collaboration or association with a person external to the entity.” (page 58)

### Experience of Fraud

Figure 3 below shows the percentage of Commonwealth entities that experienced fraud by fraud type during the period 2010-11 to 2013-14.

Figure 3: Percentage of Commonwealth entities that experienced fraud by fraud type, 2010-11 to 2013-14



Source: Australian Institute of Criminology, “Fraud against the Commonwealth: Report to Government 2014”, Figure 1, page 5)



## Selected Agencies cont...

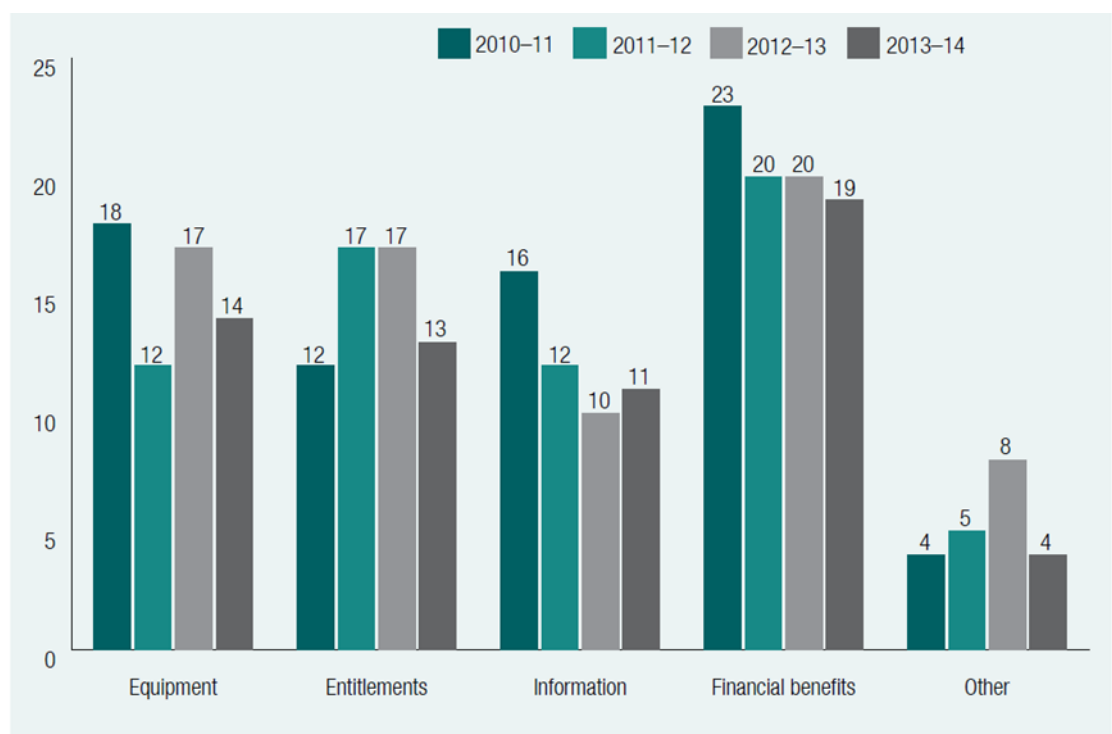
### How Fraud was Committed

The following figures show various statistics.

Figure 4 shows the percentage of Commonwealth entities that were affected by internal fraud focus category during the period 2010-11 to 2013-14. In contrast, Figure 5 shows the percentage by external fraud during the same period.

Figure 6 shows the percentage of Commonwealth entities affected by internal fraud, by internal fraud method category, 2010-11 to 2013-14. In contrast, Figure 7 shows the percentage by external fraud during the same period.

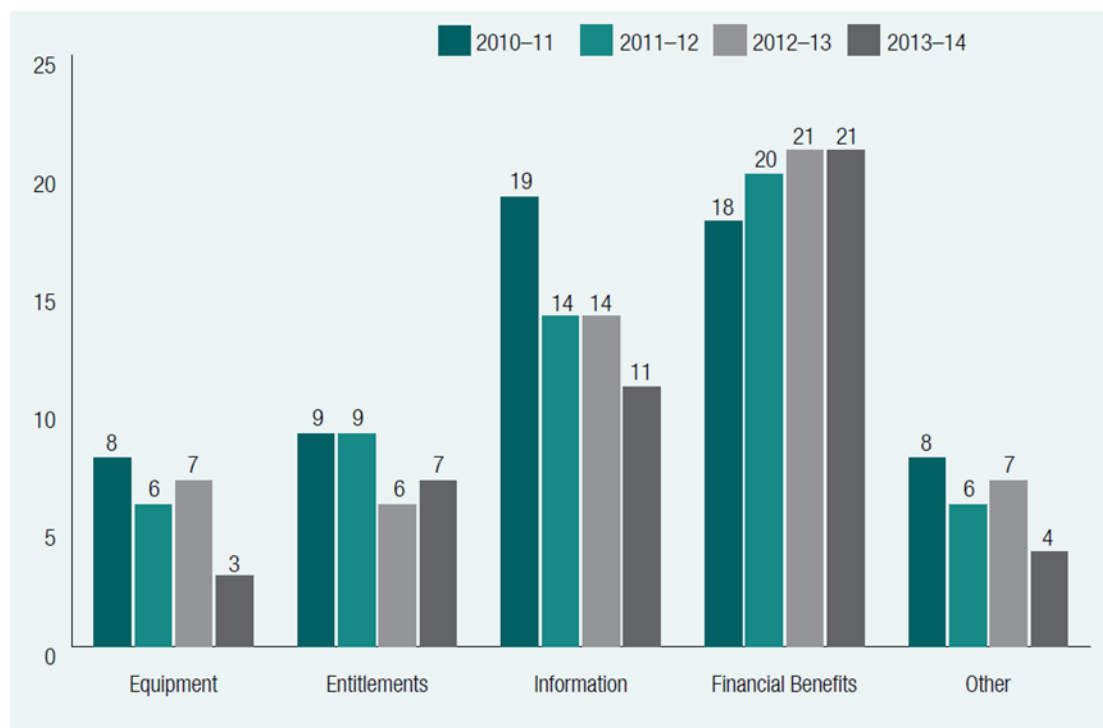
Figure 4: Percentage of Commonwealth entities affected, by internal fraud focus category, 2010–11 to 2013–14



Source: Australian Institute of Criminology, "Fraud against the Commonwealth: Report to Government 2014", Figure 5, page 12)

## Selected Agencies cont...

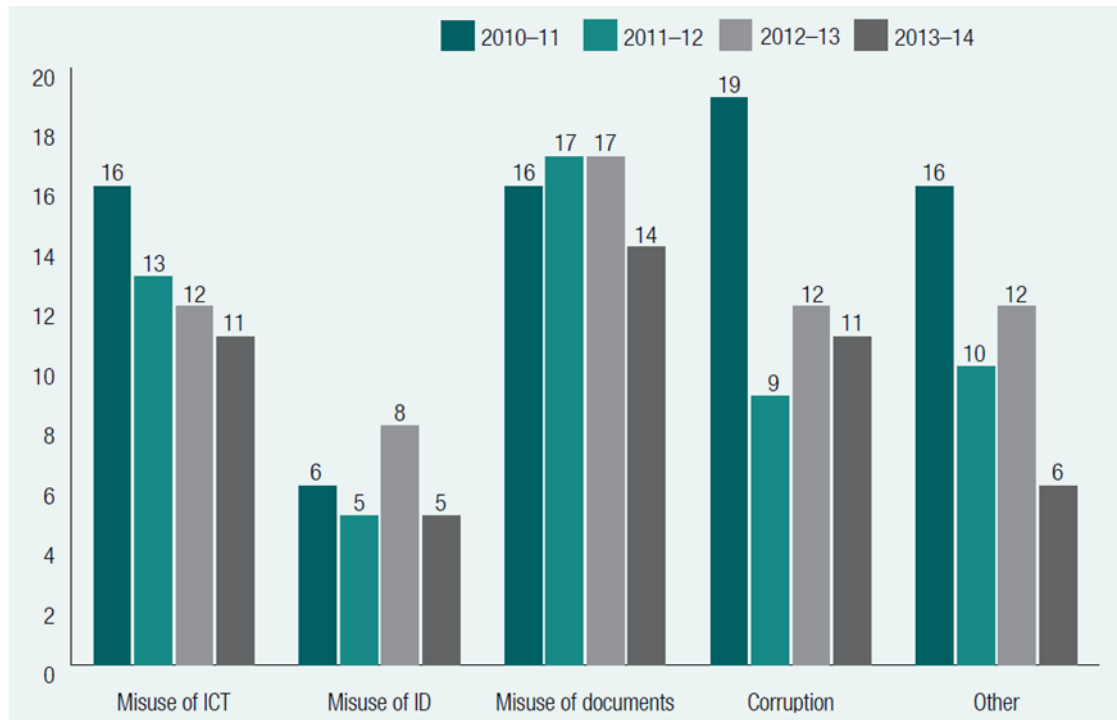
Figure 5: Percentage of Commonwealth entities affected, by external fraud focus category, 2010–11 to 2013–14



Source: Australian Institute of Criminology, "Fraud against the Commonwealth: Report to Government 2014", Figure 10, page 18)

## Selected Agencies cont...

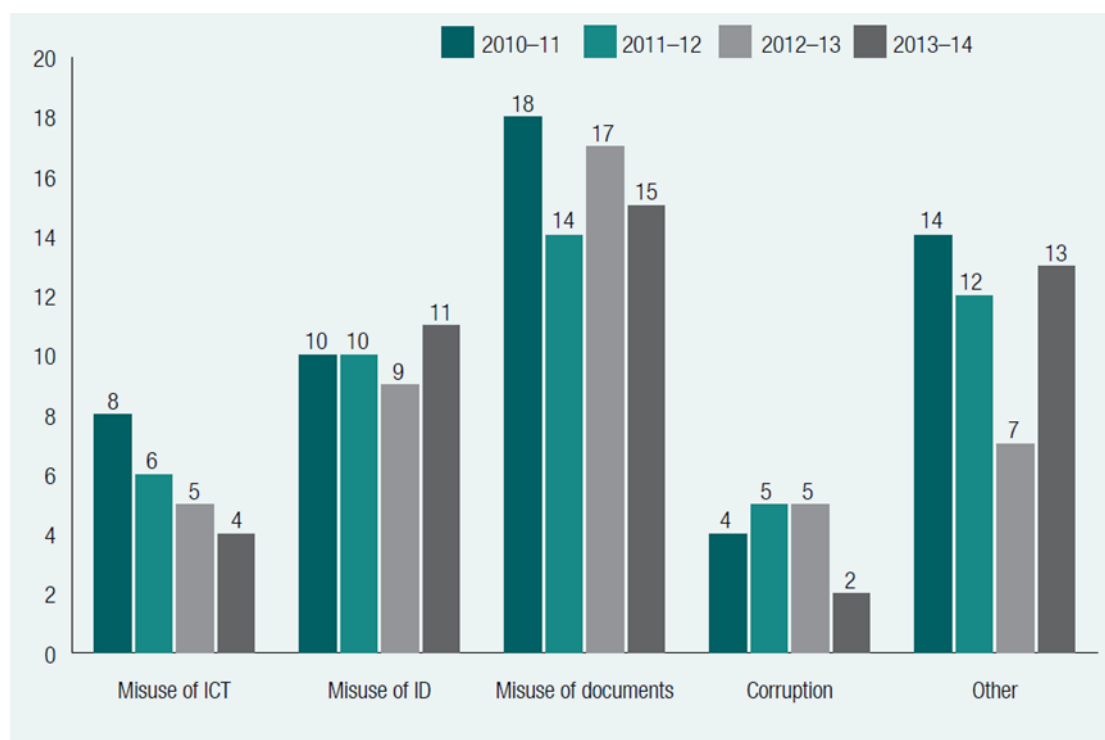
Figure 6: Percentage of Commonwealth entities affected by internal fraud, by internal fraud method category, 2010–11 to 2013–14



Source: Australian Institute of Criminology, "Fraud against the Commonwealth: Report to Government 2014", Figure 8, page 15)

## Selected Agencies cont...

Figure 7: Percentage of Commonwealth entities affected by external fraud by external fraud method category, 2010–11 to 2013–14



Source: Australian Institute of Criminology, "Fraud against the Commonwealth: Report to Government 2014", Figure 12, page 20)

### How Fraud was Detected

Whilst the Commonwealth statistics are much higher given the size and service delivery scope of the sector, the way fraud was detected may provide an indicator of the methods that capture the most incidences of fraud.

Table 5 shows the number of internal fraud incidents detected, by method of detection for the period 2010–11 to 2013–14. Table 6 shows the number of external fraud incidents detected for the same period.

## Selected Agencies cont...

Table 5: Number of internal fraud incidents detected in Commonwealth agencies, by method of detection, 2010–11 to 2013–14

	2010–11	2011–12	2012–13	2013–14
Credit card issuer	2	11	2	1
Media	15	1	2	1
External audit	NP	9	27	11
Offender self-reported	36	17	27	8
Not recorded/unknown	206	47	3	7
Notification by police	190	36	36	8
External whistleblower	NP	138	144	117
Internal anonymous whistleblower	107	181	70	76
Staff member	609	855	507	536
Internal controls	1,663	958	862	798
Other	760	38	23	1

NP: Category not provided

Source: Australian Institute of Criminology, "Fraud against the Commonwealth: Report to Government 2014", Table 14, page 30)

Table 6: Number of external fraud incidents detected in Commonwealth agencies, by method of detection, 2010–11 to 2013–14

	2010–11	2011–12	2012–13	2013–14
Credit card issuer	0	0	17	NP
Media	20	5	5	4
External audit	116	19	7	15
Offender self-reported	4,934	8,342	2	1
Notification by police	348	86	60	1,508
External whistleblower	25,299	19,266	1,729	25,630
Internal anonymous whistleblower	17	19	27	3
Staff member	17,304	18,196	2,019	6,551
Internal controls/audits	31,792	79,436	34,544	89,449
Not recorded/unknown	3,142	949	36	1,848
Other	101,676	65,198	51,803	1,676

NP: Category not provided

Source: Australian Institute of Criminology, "Fraud against the Commonwealth: Report to Government 2014", Table 15, page 31)

## Selected Agencies cont...

The Australian Institute of Criminology concluded that *“The results highlight the ongoing need for each entity to be aware of the unique risks it faces and to continually tailor fraud prevention strategies and control plans to meet those risks”* (*“Fraud against the Commonwealth: Report to Government 2014”*, page 52). Northern Territory Government Agencies should ensure that they maintain an ongoing focus and continually tailor fraud prevention strategies.

### Resources and References

This section includes some reference materials that may be of interest or use to strengthen agency’s fraud assessment framework/s:

- Australian Standards AS 8001-2003 *Fraud and Corruption Control*;
- Australian Institute of Criminology;
- PricewaterhouseCoopers *“Global Economic Crime Survey – Fighting Fraud in the Public Sector”* includes an Australian focus;
- KPMG *“Fraud and Misconduct Survey”*;
- Committee of Sponsoring Organizations of the Treadway Commission – including their *“Fraud Risk Management Guide”*;
- Association of Certified Fraud Examiners;
- Australian National Audit Office Better Practice Guides; and
- Institute of Internal Auditors – International website and the Australian website.

# Selected Agencies cont...

## Appendix A

### Agency Fraud Assessment Framework Assessment Criteria

The assessment criteria used to determine the maturity of the Agency's Fraud Assessment Framework is detailed below:

- Agency has a written fraud control policy in place.
- Agency has taken measures to raise staff awareness of fraud control.
- Agency supplied staff training with respect to fraud.
- Agency had formal policies and procedures for ensuring that consultants, suppliers and third parties complied with the agency's fraud control policy.
- Agency had developed specific guidelines or procedures that would address all fraud matters.
- Agency has specific individual/s or agency structure/s responsible for the development, implementation and effectiveness of fraud control.
- Agency defined the specific individual/s or agency structure/s responsible for the development, implementation and effectiveness of fraud control.
- Agency had taken steps to integrate fraud controls and security responsibilities.
- Agency had undertaken a fraud risk assessment in the last two years.
- Agency had developed action plans for the areas deemed to be of medium to high risk of fraud.
- Agency had developed a fraud control plan in the last two years to reflect its identified risks.
- Agency has a formal fraud reporting system in place.
- Agency has developed procedures for reporting fraud and distributed them to all employees.
- Agency has a Management Information System for purpose of recording, monitoring and reporting all aspects of fraud control.
- The information from the Management Information System is reported to agency executives/relevant committees/through general reporting.
- Fraud investigation staff have been trained.
- Training plans have been developed to assist determining level of fraud training by relevant employees.
- Agency had defined fraud.
- Agency had defined an allegation of fraud.

## Selected Agencies cont...

- Agency had defined when an allegation of fraud becomes an actual case of fraud, including actions to be taken.
- Agency had defined administrative irregularity as opposed to fraud, and procedures exist for the management and resolution of such matters.
- Agency has procedures in place to recover funds defrauded.
- Agency records the reasons for decisions made by accountable staff to recover funds administratively, rather than pursuing legal action.



## Selected Agencies cont...

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**The Department of Corporate and Information Services has commented:**

*DCIS has controls built into systems and processes to mitigate the risk of fraud at an all of government and agency level, many of which are regularly audited by the Northern Territory Auditor-General's Office. DCIS is confident it has a functioning framework and actions to enhance fraud awareness activities were in progress at the time of the audit. An assessment against better practices identified by the Auditor-General will be undertaken in 2017-18 to determine further opportunities to improve the framework.*

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**The Department of Education has commented:**

*The Department of Education has established a Fraud Control Framework and continues to work to align with better practice and guidance.*

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**The Department of Health has commented:**

*The Department of Health is reviewing its Fraud and Corruption Framework, Plan and Risk Assessment and plan to implement new initiatives in line with the AS 8001: Fraud and Corruption Control standard and better practice.*

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**The Department of Housing and Community Development has commented:**

*The Department of Housing and Community Development acknowledges the Auditor-General's survey based assessment of its Fraud Assessment Framework. Previous audits by the Audit-General have generally acknowledged good systems of internal control which to some extent mitigate the risk of fraud occurring.*

*The department is initiating a project to address the Auditor-General's concerns including developing a clear definition of fraud, a fraud policy, clear processes for dealing with fraud, and undertaking activities to heighten the awareness of fraud with officers at all levels of the department.*

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**The Department of Infrastructure, Planning and Logistics has commented:**

*The Department values the information provided from the Fraud Assessment Survey and resources provided in the Survey Report will be used to strengthen current systems and processes which will be supported by training and education sessions for staff.*

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## Selected Agencies cont...

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**The Department of Primary Industry and Resources has commented:**

*The Department of Primary Industry and Resources has noted the results and recommendations of the survey of fraud control arrangements in selected NTG Agencies.*

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**The Department of Attorney-General and Justice has commented:**

*The Department's Audit Services Division is undertaking a fraud control maturity assessment as part of its 2017/2018 plan. It will use the NTG wide findings of the Auditor-General's report, its own response to the questionnaire and answers submitted and further research to provide advice on improving the fraud control environment.*

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**The Department of the Legislative Assembly has commented:**

*The Review assessed the maturity of the Department of Legislative Assembly's Fraud Assessment Framework as requiring improvement. The Department acknowledges the findings and confirms that the Fraud Assessment Framework is under review.*

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**The Department of Tourism and Culture has commented:**

*The Department of Tourism and Culture notes the findings from the review to enhance fraud control within the agency.*

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**NT Home Ownership has commented:**

*The NT Home Ownership (NTHO) acknowledges the Auditor-General's survey based assessment of its Fraud Assessment Framework. Previous audits by the Audit-General have generally acknowledged good systems of internal control which to some extent mitigate the risk of fraud occurring.*

*The department is initiating a project to address the Auditor-General's concerns including developing a clear definition of fraud, a fraud policy, clear processes for dealing with fraud, and undertaking activities to heighten the awareness of fraud with officers at all levels of the department.*

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# Selected Agencies

## Gifts and Benefits

### Audit Objectives and Scope

Section 15 of the *Audit Act* provides that *“the Auditor-General may conduct an audit of performance management systems of any Agency or other organisation in respect of the accounts of which the Auditor-General is required or permitted by a law of the Territory to conduct an audit.”*

The objective of an audit conducted under Section 15 includes *“determining whether the performance management systems of the Agency or organisation in respect of which the audit is being conducted enable the Agency or organisation to assess whether its objectives are being achieved economically, efficiently and effectively.”*

The primary objective of the Gifts and Benefits audit was to assess and test, with reference to a representative number of transactions or other suitable evidence, the adequacy of the systems developed by the Accountable Officer to achieve compliance with their accountability and control requirements and form an opinion on whether the Agency’s Gifts and Benefits Framework is adequate.

The audit supports the work of the Agency Compliance Audits undertaken at Selected Agencies and represents a “deep dive” into the Agency’s Gifts and Benefits Framework.

### Background

The acceptance of gifts and benefits can subject the Agency, and Northern Territory Government Public Servants (“employees”), to additional scrutiny and criticism by the public. The public have expectations that the government, including Ministers and public servants, will act with integrity and impartiality, and will not be influenced by personal interests.

Ensuring that agencies have a robust system for managing gifts and benefits is necessary to demonstrate compliance with the *Financial Management Act*. This includes demonstrating compliance with section 13(2)(b) that Accountable Officers must ensure that *“procedures in the Agency are such as will at all times afford a proper internal control.”*

The Northern Territory Code of Conduct in Employment Instruction Number 12 (EI 12) at section 20.4 states that a *“Chief Executive Officer **may** issue agency guidelines/policy regarding the acceptance of gifts and benefits by Public Sector Officers, consistent with the Code.”* [emphasis added]

## Selected Agencies cont...

To assist Agencies in addressing this issue, OmbudsmanNT released *“Accepting Gifts, Benefits & Hospitality: Policy Framework for the Northern Territory Public Sector”* (2016). This framework describes the risks involved in accepting gifts and benefits as including:

- *“risks to the individual officer regarding their reputation within the public sector and the community, whether or not the officer is actually influenced by acceptance of the benefit;*
- *risks to the individual officer that they may face disciplinary action or criminal prosecution if they do the wrong thing or are suspected of doing the wrong thing; and*
- *risks to the reputation of the agency and government generally.”* (page 2)

This framework states that *“[w]e therefore need to have a system in place to deal with gifts, benefits and hospitality in order to ensure that:*

- *public sector officers make decisions and take actions in the public interest, and are not influenced by personal interests;*
- *employees and the reputation of the agency are protected by reducing the likelihood of perceptions by business or the public that public sector officers might favour one party (who offers a benefit) over another;*
- *public resources are appropriately committed; and*
- *taxation obligations are complied with.”* (page 3)

The responsibility does not lie with Accountable Officers alone. All Northern Territory Public Service Employees are bound by the Code of Conduct, including Employment Instruction Number 12 (EI 12) which, at Section 20, specifically discusses gifts and benefits:

### *“Judgement and responsibility*

- 20.1. *The acceptance of gifts or benefits by Public Sector Officers is an area requiring sound judgement. Benefits include offers of cash, gifts, free travel, substantial hospitality, accommodation or entertainment. Accepting such gifts or benefits is a matter of judgement for the individual Public Sector Officer concerned who must be satisfied that his or her responsibilities will not in any way be compromised or appear to be compromised by acceptance. The Public Sector Officer will bear personal responsibility for any decision to accept a gift or benefit.*

### *Guiding principles*

- 20.2. *In deciding whether to accept gifts or benefits, a Public Sector Officer will be guided by the following principles:*

## Selected Agencies cont...

- a) *a Public Sector Officer must not solicit or accept any gifts or benefits, the receipt or expectation of which might in any way tend to influence, or appear to tend to influence, the Public Sector Officer in his or her official capacity;*
- b) *in the event that any substantial gift, offer or suggestion of such is made directly or indirectly to a Public Sector Officer, the facts shall be reported at the first opportunity to the Chief Executive Officer;*
- c) *a Public Sector Officer must avoid all situations in which the appearance may be created that any person or body, through the provision of hospitality or benefits of any kind is securing, or attempting to secure, the influence or favour of the Public Sector Officer; and*
- d) *a Public Sector Officer must take all reasonable steps to ensure that his or her spouse, children or dependents, or employees members, are not the recipients of benefits which could give the appearance of an indirect attempt to secure the influence or favour of a Public Sector Officer.”*

El 12 lists requirements for the permission to accept a gift (section 20.3) and agency guidelines/policy (section 20.4 and 20.5).

There are also mandatory requirements to ensure compliance with Fringe Benefits Tax legislation, as detailed in the Department of Corporate and Information Services' *"Corporate Tax Policy Advice No. 6"*.

The Gifts and Benefits audit was performed in each of the following four Agencies:

- Department of Infrastructure, Planning and Logistics;
- Department of the Chief Minister;
- Department of Tourism and Culture; and
- Department of Trade, Business and Innovation.

### Key Findings

The objective of the audit was to identify the systems and processes in place at each Agency to manage gifts and benefits and to determine whether those systems and processes enable each Agency to assess whether its objectives are being achieved economically, efficiently and effectively.

In addressing this objective the audit reviewed the current policies and procedures in place at the Agency, obtained and tested the register of gifts and benefits and held discussions with a sample of Agency employees to ascertain their understanding of the current policies and procedures.

## Selected Agencies cont...

The key elements examined were:

- the Agency's Gift and Benefits policy and procedures;
- the Agency's Gifts and Benefits register;
- training provided in relation to gifts and benefits; and
- management and reporting mechanisms in place for gifts and benefits.

All four Agencies had a Gifts and Benefits policy and procedure/s and maintained Gifts and Benefits registers. Training provided varied across Agencies, as did the management and reporting mechanisms in place.

The Ombudsman's framework recommends analysis and review of the gifts and benefits information. During the audit fieldwork my Authorised Auditors analysed data provided by agencies. The analysis is not reported here due to the different periods of data subject to audit across the four Agencies, meaning the data is not comparable. The types of analysis undertaken by my Authorised Auditors included:

- analysis of the frequency of giving by giver/organisations;
- analysis of the recipients who received gifts or benefits, showing the total number of gifts/benefits received and the cumulative value of the gift/benefit declared; and
- analysis of the gift/benefit type per the categorisation in the Agency's gifts and benefits register, including the total number of instances/occurrences by gift/benefit types (for example, accommodation, alcohol, entertainment, food), and the total cumulative value of each type.

Testing was conducted on a sample of transactions recorded in each Agency's Gifts and Benefits register/s.

Areas for improvement were identified for each of the four Agencies, across the key elements examined.

## Selected Agencies cont...

### Recommendations

#### *Agency specific*

A number of recommendations were made to enhance the effectiveness of the Agencies' performance management systems in relation to their gifts and benefits framework as reported below:

Assessment Area	Recommendation
Gift and Benefits policy and procedures	<ul style="list-style-type: none"> <li>▪ undertake a review of the gifts and benefits policy to ensure the prescribed requirements of the Code of Conduct are included (one agency);</li> <li>▪ review the existing definition and approval requirements of 'token gifts' with that of 'once off gifts valued less than \$50' (one agency);</li> <li>▪ enhance the current policy to provide further guidance and assistance to employees (two agencies);</li> <li>▪ improve the gift/benefit declaration forms (two agencies);</li> </ul>
Gifts and Benefits register	<ul style="list-style-type: none"> <li>▪ improve communication of the requirements for declaration and recording of declined gifts and benefits in registers (three agencies);</li> <li>▪ improve the Agency's gifts and benefits register (two agencies);</li> </ul>
Training provided in relation to gifts and benefits	<ul style="list-style-type: none"> <li>▪ develop and deliver mandatory training specifically focused on the Gifts and Benefits Policy and Guidelines (two agencies);</li> </ul>
Management and reporting mechanisms in place for gifts and benefits	<ul style="list-style-type: none"> <li>▪ improve compliance monitoring with the agency's gifts and benefits policy and procedure/s (two agencies); and</li> <li>▪ establish and implement formal reporting and monitoring of gifts and benefits to senior management and/or the Audit and Risk Management Committee (three agencies).</li> </ul>

## Selected Agencies cont...

### *At whole of government level*

There are several overarching recommendations arising from these audits that central agencies may wish to consider:

- Introduction of an across-government electronic gifts and benefits system that employees could log into and input their declaration. The system could then route the declaration for approval to the appropriate delegate. This would allow agency specific reporting and whole of government reporting. Inclusion of a check box for reporting to Department of Corporate and Information Services Tax would assist in ensuring compliance with Fringe Benefits Tax legislation. Reporting could be in the form of a dashboard enabling narrative and statistical reporting. This would allow declarations to be made at any time using mobile devices; allow government to track who is targeting employees; and provide transparency over the nature and value of items received or declined.
- In conjunction with the introduction of the gifts and benefits register system described above, the development of one across-government policy would provide clarity to employees in relation to policy; enable the provision of consistent training and reminders to declare; clarify what should be declared and when; and improve understanding by employees irrespective of the agency in which they work.
- Consider whether or not NTG internal benefits, or “inter-agency gifts or benefits” received by employees are to be recorded in the gifts and benefits registers, for example, an employee travelling on a charter flight arranged by another Agency.

The Code of Conduct places responsibility for disclosure of gifts and benefits with the public sector employee, not the Agency. The recommendations described above could assist employees to understand and meet their obligation/s, simplify the process, and remove inconsistencies in interpretation occurring when employees transfer between Agencies.



## Selected Agencies cont...

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**The Department of Infrastructure, Planning and Logistics has commented:**

*The Department acknowledges the findings of the review and has undertaken to review its policy to ensure closer alignment with prescribed elements of the Code of Conduct and recommended elements of the OmbudsmanNT Framework. In addition, further training will be provided to employees to ensure a wider understanding of the policy.*

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**The Department of Tourism and Culture has commented:**

*The Department of Tourism and Culture notes the recommendations to enhance management of gifts and benefits.*

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**The Department of Trade, Business and Innovation has commented:**

*Since the audit, the department has reviewed its Gifts and Benefits Policy and considered the recommendations made by the Auditor-General. Also changes have been made to the Gifts Declaration Form.*

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# Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act*

## Background

The *Public Information Act* (the Act), and its associated Regulations, which came into effect in 2010 and was subsequently amended effective 14 February 2017, seeks to achieve a transparent and accountable mechanism for the review of public information produced by public authorities. A public authority is defined in section 5 of the Act and that definition is broad, capturing:

- an Assembly member;
- the holder or occupier of any of the offices of a Minister, the Speaker, the Leader of the Opposition or any other office of the Legislative Assembly;
- the holder or occupier of an office established by or under a law of the Territory;
- person appointed or engaged to perform work for a public authority;
- an Agency;
- a body (whether incorporated or not) established by or under a law of the Territory;
- body corporate to which one or both of the following apply:
  - the capital of the body corporate is owned by one or more public authorities;
  - one or more public authorities have a total of more than one-half of the voting power in the management of the body corporate;
- a body corporate that is a subsidiary of a public authority (whether or not through any interposed entity).

Excluded from the definition are:

- holders or occupiers of:
  - judicial office;
  - an office as a member of a tribunal established under a law of the Territory;
  - the office of the Auditor-General;
- a local government council;
- Jacana Energy;
- the Power and Water Corporation;

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

- Territory Generation; and
- a person or body prescribed by regulation.

The definition of what constitutes public information is equally broad and is defined in section 4(1) of the Act as “*information given by a public authority to the public by using money or other property of the Territory...*”. Exemptions from this definition are:

- information given to members of the electorate of an Assembly member if the preparation and giving of the information is funded by an allowance payable to the Member for the electorate under a law of the Territory;
- a media release of a Member of the Legislative Assembly; and
- information prescribed by regulation.

The Act does place a limit on the scope of what might be considered to be public information in that section 4(2) provides that a “*public authority gives information to the public when it makes the information available to the public generally (rather than any particular members of the public) through any medium*”.

Section 6(1) of the Act provides that the Auditor-General must, upon the receipt of a written request of a Member of the Legislative Assembly, conduct a review of that information to determine whether the provisions of the Act have been contravened, with regard to the Public Information Regulations.

The Auditor-General may determine that the Act has been contravened if the material that is the subject of the review contravenes section 6(2) of the Act in that it:

- promotes particular party interests;
- includes statements that are misleading or factually inaccurate;
- does not clearly distinguish a statement of facts from a statement of comments; or
- is an advertisement that includes an image of the holder or occupier of the office of a minister.

Section 6(2A) of the Act requires the Auditor-General to determine the Act has been contravened in relation to particular public information if the Auditor-General is satisfied the content of the information does not meet the criteria prescribed by regulation for the giving of information. Section 6(3)(b) of the Act requires the Auditor-General to have regard to any requirement or prohibitions prescribed by regulation for the giving of public information.

## **Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...**

There have been three matters referred since my March 2017 Report to the Legislative Assembly.

# Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

## **Referral of a complaint to the Auditor-General – Facebook Content relating to the Federal Budget**

On 11 May 2017, I was referred two memes produced by staff of the Office of the Chief Minister. The referring party requested my determination as to whether I consider the graphics adhere with the intent of the *Public Information Act* (the Act).

### **Review of Allegation**

After examining the content of the two memes, including all statements and pictures presented in the memes, I determined that the published memes did not adhere with the intent of the Act. This determination is based on my assessment as to whether the memes met the criteria required by the Regulations. The Regulations require that public information given by a public authority must meet at least one of the following criteria:

- a) the information serves to do any of the following:
  - (i) maximise compliance with the laws of the Territory;
  - (ii) achieve awareness of a new or amended law;
  - (iii) improve public safety or personal security;
  - (iv) encourage responsible behaviour;
  - (v) preserve order in the event of an emergency;
  - (vi) promote awareness of rights, responsibilities, duties or entitlements;
  - (vii) encourage usage of, or familiarity with, government products or services;
- b) the purpose of the information is to do any of the following:
  - (i) report on performance in relation to government undertakings;
  - (ii) communicate functions of government (for example, education campaigns, recruitment, community engagement, expressions of interest, future plans);
  - (iii) communicate on matters of social cohesion, civic pride, community spirit or tolerance.

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

I have provided my determination against each criterion below.

Criterion	Determination
The public information must maximise compliance with the laws of the Territory; or	The content of the memes does not address laws of the Territory.
The public information must achieve awareness of a new or amended law; or	The content of the memes does not address laws of the Territory.
The public information must improve public safety or personal security; or	The content of the memes is not directed at public safety or personal security.
The public information must encourage responsible behaviour; or	The content of the memes is not directed at encouraging responsible behaviour.
The public information must preserve order in the event of an emergency; or	The memes have not been produced in response to an emergency situation.
The public information must promote awareness of rights, responsibilities, duties or entitlements; or	The content of the memes is not directed at promoting the rights, responsibilities, duties or entitlements of Territorians.
The public information must encourage usage of, or familiarity with, government products or services; or	The content of the memes is not directed at encouraging usage of, or familiarity with, government products or services.
The purpose of the information is to report on performance in relation to government undertakings; or	The content of the memes is not directed at reporting performance in relation to government undertakings.
The purpose of the information is to communicate functions of government; or	The content of the memes is not directed at communicating functions of government consistent with the examples provided in the Regulations such as education campaigns, recruitment, community engagement, expressions of interest or future plans.
The purpose of the information is to communicate on matters of social cohesion, civic pride, community spirit or tolerance.	The content of the memes is not directed at communicating on matters of social cohesion, civic pride, community spirit or tolerance.

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

In addition, I have listed below some specific elements from each of the referred memes that I determined have contravened the provisions of the Act and/or the Regulations.

Element	Determination
<i>"Scott Morrison's Federal budget FAILS the test on Developing the North."</i>	Contravention of the <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.
<i>"The CLP say there is no "business case" for investing in NT Infrastructure."</i>	<p>Contravention of <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.</p> <p>Contravention of the Public Information Regulations Part 2, Section 4(c) in that the source of the quote is not identified.</p> <p>Furthermore, whilst the words "<i>business case</i>" are sourced from the Legislative Assembly Transcript [Hansard] QUESTIONS – Wednesday 10 May 2017, there is no specific statement from any member of the Country Liberal Party (CLP) that directly says there is no business case for investing in NT infrastructure.</p>

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

Element	Determination
<i>"But former CLP Treasurer Robyn Lambley thinks it's great."</i>	Contravention of the <i>Public Information Act</i> Section 6(2)(a) in that the content of the information promotes particular party political interests. The Member for Araluen is an independent member of the Legislative Assembly. Whilst it is a fact that the Member for Araluen is a former CLP Treasurer, the meme could be interpreted as alignment between the Member for Araluen and the Opposition. The meme appears to intend to contrast, and could be interpreted as contrasting, the views of the government of the day to the Independents and Opposition.
<i>"I thought last night's budget was very impressive – it is what I would describe as a mature budget and a budget for grown-ups."</i>	Contravention of the Public Information Regulations Part 2 Section 4(c) in that the source of the quote is not identified. I note that this is a direct quote sourced from the Legislative Assembly Transcript [Hansard] QUESTIONS – Wednesday 10 May 2017.

### Conclusion

Following from the above, I determined that the published memes did not adhere with the intent of the Act in that the content of the memes in that they failed to meet the criteria specified in Section 3 of the Public Information Regulations. I further concluded that the following legislative provisions had been contravened:

- *Public Information Act* Section 6(2)(a)
- *Public Information Act* Section 6(2)(c); and
- *Public Information Regulations* Part 2, Section 4(c).



## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

### Recommendation

Section 8(3) of the Act permits me to make recommendations. However, any recommendations under that section are limited to:

- the withdrawal of the public information; or
- that specified changes be made to the content of the public information.

Given my conclusions above and noting that the information has subsequently been withdrawn, I made no recommendations.

# Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

## **Referral of a complaint to the Auditor-General – Memes relating to the Federal Budget**

On 12 May 2017 a Member of the Legislative Assembly referred to the Auditor-General a series of three memes prepared by staff from the Office of the Chief Minister. The allegation that the memes contravened the provisions of the Act also extended to an accompanying narrative post released on the Facebook page of another Member of the Legislative Assembly.

The referring party noted that the three memes contravene the *Public Information Act* because they: contain information that, contrary to section 6(2)(a) of Act, promotes particular party interests; include statements that are misleading, including out-of-context statements intended to mislead the public in contravention of section 6(2)(b); do not distinguish comments from statements of fact under section 6(2)(c); and pursuant to section 6(2)(d), constitute advertisements including the image of the 'holder or occupier of the officer of a minister'.

### **Review of Allegation**

After examining the content of all three memes, including all statements and pictures presented in the memes, I formed the view that the memes did not meet the criteria required by the Public Information Regulations, those criteria being that public information given by a public authority must meet at least one of the following criteria:

- a) the information serves to do any of the following:
  - (i) maximise compliance with the laws of the Territory;
  - (ii) achieve awareness of a new or amended law;
  - (iii) improve public safety or personal security;
  - (iv) encourage responsible behaviour;
  - (v) preserve order in the event of an emergency;
  - (vi) promote awareness of rights, responsibilities, duties or entitlements;
  - (vii) encourage usage of, or familiarity with, government products or services;
- b) the purpose of the information is to do any of the following:
  - (i) report on performance in relation to government undertakings;

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

- (ii) communicate functions of government (for example, education campaigns, recruitment, community engagement, expressions of interest, future plans);
- (iii) communicate on matters of social cohesion, civic pride, community spirit or tolerance.

I have provided my determination against each criterion below.

Criterion	Determination
The public information must maximise compliance with the laws of the Territory; or	The content of the memes does not address laws of the Territory.
The public information must achieve awareness of a new or amended law; or	The content of the memes does not address laws of the Territory.
The public information must improve public safety or personal security; or	The content of the memes is not directed at public safety or personal security.
The public information must encourage responsible behaviour; or	The content of the memes is not directed at encouraging responsible behaviour.
The public information must preserve order in the event of an emergency; or	The memes have not been produced in response to an emergency situation.
The public information must promote awareness of rights, responsibilities, duties or entitlements; or	The content of the memes is not directed at promoting the rights, responsibilities, duties or entitlements of Territorians.
The public information must encourage usage of, or familiarity with, government products or services; or	The content of the memes is not directed at encouraging usage of, or familiarity with, government products or services.
The purpose of the information is to report on performance in relation to government undertakings; or	The content of the memes is not directed at reporting performance in relation to government undertakings.
The purpose of the information is to communicate functions of government; or	The content of the memes is not directed at communicating functions of government consistent with the examples provided in the Regulations such as education campaigns, recruitment, community engagement, expressions of interest or future plans.

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

Criterion	Determination
The purpose of the information is to communicate on matters of social cohesion, civic pride, community spirit or tolerance.	The content of the memes is not directed at communicating on matters of social cohesion, civic pride, community spirit or tolerance.

The content of the memes appears intended to contrast the views of the government of the day with those of the Federal Government, the Country Liberal Party (CLP) and a former CLP member (now an independent member of the Legislative Assembly). This contrast may result in a reasonable person being likely to conclude that the memes were intended to promote particular political interests in contravention of section 6(2)(a).

In addition, I have listed below some specific elements from each of the referred memes that I have determined have contravened the provisions of the Act and/or the Regulations.

Element	Determination
<i>"Scott Morrison's Federal budget FAILS the test on Developing the North."</i>	Contravention of the <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.
<i>"The CLP say there is no "business case" for investing in NT Infrastructure."</i>	<p>Contravention of <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.</p> <p>Contravention of the Public Information Regulations Part 2, Section 4(c) in that the source of the quote is not identified.</p> <p>Furthermore, whilst the words "<i>business case</i>" are sourced from the Legislative Assembly Transcript [Hansard] QUESTIONS – Wednesday 10 May 2017, there is no specific statement from any member of the CLP that directly says there is no business case for investing in NT infrastructure.</p>

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

Element	Determination
<i>"But former CLP Treasurer Robyn Lambley thinks it's great."</i>	Contravention of the <i>Public Information Act</i> Section 6(2)(a) in that the content of the information promotes particular party political interests. The Member for Araluen is an independent member of the Legislative Assembly. Whilst it is a fact that the Member for Araluen is a former CLP Treasurer, the meme could be interpreted as alignment between the Member for Araluen and the Opposition. The meme appears to intend to contrast, and could be interpreted as contrasting, the views of the government of the day to the Independents and Opposition.
<i>"I thought last night's budget was very impressive – it is what I would describe as a mature budget and a budget for grown-ups."</i>	Contravention of the Public Information Regulations Part 2 Section 4(c) in that the source of the quote is not identified. I note that this is a direct quote sourced from the Legislative Assembly Transcript [Hansard] QUESTIONS – Wednesday 10 May 2017.
<i>"We're on our own"</i>	<p>Contravention of <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.</p> <p>Contravention of the Public Information Regulations Part 2 Section 4(c) in that the source of the quote is not identified. It is my understanding that these words were included in a media article as comments attributable to the Chief Minister.</p>

## Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

Element	Determination
<i>"Canberra's budget fails the test on Developing the North"</i>	<p>Contravention of <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.</p> <p>Contravention of the Public Information Regulations Part 2 Section 4(c) in that the source of the quote is not identified. It is my understanding that these words were included in a media article as comments attributable to the Chief Minister.</p>
<i>"We will keep fighting for the future of the Territory"</i>	<p>Contravention of <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.</p> <p>Contravention of the Public Information Regulations Part 2 Section 4(c) in that the source of the quote is not identified. It is my understanding that these words were included in a media article as comments attributable to the Chief Minister.</p>
<i>"Creating jobs and investing in our future"</i>	<p>Contravention of <i>Public Information Act</i> Section 6(2)(c) in that this element is not clearly distinguished as a statement of facts or a statement of comments.</p> <p>Contravention of the Public Information Regulations Part 2 Section 4(c) in that the source of the quote is not identified. It is my understanding that these words were included in a media article as comments attributable to the Chief Minister.</p>

# Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

A meme is, as defined by the Oxford dictionary, “*an image, video, piece of text, etc., typically humorous in nature, that is copied and spread rapidly by Internet users, often with slight variations.*” An advertisement is, as defined by the Oxford dictionary, “*a notice or announcement in a public medium promoting a product, service, or event or publicizing a job vacancy.*” As the memes are not advertisements, I have determined that Section (6)(2)(d) of the *Public Information Act* does not apply.

My review of a number of Facebook pages between the dates of 10 May 2017 and 7 June 2017, including those of attributable to Members of the Legislative Assembly identified that the memes have been withdrawn.

## Conclusion

Following from the above I concluded that the following provisions of the Act were contravened:

- Section 6(2)(a)
- Section 6(2)(c)

I further concluded that memes did not meet the intent of the *Public Information Act* in that they failed to meet the criteria specified in Section 3 of the Public Information Regulations.

## Recommendation

Section 8(3) of the Act permits me to make recommendations. However, any recommendations under that section are limited to:

- the withdrawal of the public information; or
- that specified changes be made to the content of the public information.

Given my conclusions above and noting that the information has subsequently been withdrawn, I made no recommendations.

# Matters Referred to the Auditor-General Pursuant to Section 6 of the *Public Information Act* cont...

## **Referral of a complaint to the Auditor-General – Advertisement relating to the 2017 Men’s Health Expo**

On 14 June 2017, a Member of the Legislative Assembly referred to the Auditor-General an advertisement appearing in the NT News on 13 June 2017 promoting the Men’s Health Expo to be held on 14 June 2017. The referral requested the Auditor-General to consider whether the advertisement contravened the provisions of the *Public Information Act*.

The referring party questioned the inclusion on the advertisement of the name of a Member of the Legislative Assembly and the use of the NT Government logo.

### **Review of Allegation**

After examining the content of the advertisement and making relevant inquiries, I determined that the information was not public information as defined by the *Public Information Act* as the information had not been given using money or other property of the Territory. As a result, I determined that the provisions of the *Public Information Act* do not apply to the referred advertisement.

### **Conclusion**

Following from the above, I concluded that the provisions of the *Public Information Act* do not apply to the referred advertisement.

### **Recommendation**

Given my conclusion above, I made no recommendations.



# Appendices

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# Appendix 1: Audit Opinion Reports Issued Since 8 March 2017

## Financial Statements for the year ended 31 December 2016

	Date 2016 Financial Statements tabled to Legislative Assembly	Date of Audit report year ended 31 December 2016	Date of Audit report year ended 31 December 2015
Batchelor Institute of Indigenous Tertiary Education	22 June 17	16 June 17	17 May 16
CDU Amenities Limited	Not required	4 May 17	21 March 16
Charles Darwin University	22 June 17	4 May 17	13 May 16
Charles Darwin University Foundation (a company limited by guarantee)	Not required	21 March 17	18 March 16
Charles Darwin University Foundation Trust	Not required	21 March 17	18 March 16
Menzies School of Health Research	22 June 17	8 March 17	30 March 16

Not yet tabled – as at 30 June 2017

Not required – Financial statements are not required to be tabled

## Appendix 1: Audit Opinion Reports Issued Since 8 March 2017 cont...

### Acquittals or other returns for the year ended 31 December 2016

	Deadline for submission of Audited Financial Statements	Date of Audit report year ended 31 December 2016	Date of Audit report year ended 31 December 2015
Charles Darwin University Higher Education Research Data Collection	30 June 17	19 June 17	10 June 16
Department of Trade, Business and Innovation – Summary AVETMISS Financial Data Acquittal	14 July 2017	16 June 17	23 June 16

## Appendix 2: Status of Audit Activity

Listed below is the status of non-routine audits and reviews identified as not yet complete in my March 2017 report to the Legislative Assembly:

### **Selected Agencies**

Fraud Assessment Framework

Refer page 89

In addition to the routine audits, primarily being end of financial year audits of Agencies and of financial statements, and follow up of outstanding issues in previous audits, the following audits and reviews, were identified in my March 2017 report to the Legislative Assembly as scheduled to be conducted during the six months to 30 June 2017:

### **Department of Health**

eMedication

Refer page 36

### **Department of Infrastructure, Planning and Logistics**

Gifts and Benefits

Refer page 121

### **Department of the Chief Minister**

Gifts and Benefits

Refer page 121

### **Department of Tourism and Culture**

Gifts and Benefits

Refer page 121

### **Department of Trade, Business and Innovation**

Gifts and Benefits

Refer page 121

### **Northern Territory Police, Fire and Emergency Services**

Managing the Mental Health of Police

Not yet completed

### **Selected Agencies**

Governance Framework – Lighthouse

Not yet completed

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## Appendix 3: Proposed Audit Activity in the Six Months Ending 31 December 2017

In addition to the routine audits, primarily being end of financial year audits of Agencies and of financial statements, and follow-up of outstanding issues in previous audits the following tasks have been scheduled for the period:

### **Department of Corporate and Information Services**

Asset Management System

### **Department of Health**

Evaluation of performance management systems

eBilling System

### **Department of Housing and Community Development**

Alice Springs Town Camps Tenancy Management Contract Inquiry Refer page 42

Tenancy Management System

### **Department of Infrastructure, Planning and Logistics**

Berrimah Farm Redevelopment

Indigenous Employment Provisional Sum

### **Department of Primary Industry and Resources**

Evaluation of performance management systems

### **Department of the Attorney-General and Justice**

Licensing and Compliance System

### **Department of Trade, Business and Innovation**

Darwin Ship Lift

### **Department of Treasury and Finance**

Revenue Systems

### **Territory Families**

Evaluation of performance management systems

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## Appendix 4: Agencies not audited relating to the year ended 30 June 2017

Section 13(3) of the *Audit Act* permits the Auditor-General to dispense with an audit of an Agency.

For activities relating to the financial year ended 30 June 2017 audits were, or are intended to be, conducted at all Agencies.

The increasingly stringent requirements of Australian Accounting Standards, and Auditing and Assurance Standards has required that audit effort be directed towards financial audits of those Agencies that are deemed to represent greater materiality and greater risk.

The annual financial statements of the Office of the Auditor-General are subject to independent audit in accordance with section 27 of the *Audit Act*. The audit of the financial statements is scheduled to commence in late August 2017.

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## Appendix 5: Abbreviations

ANAO	Australian National Audit Office
APMA	Agency Procurement Management Plan
ASEA	Australian Standard on Assurance Engagements
CDU	Charles Darwin University
CEO	Chief Executive Officer
CLP	Country Liberal Party
EI	Employment Instruction
eMMA	Acute Care Medication Management System
FTO	Future Tender Opportunity
IT	Information Technology
NT	Northern Territory
NTG	Northern Territory Government
NTPS	Northern Territory Public Service
PCIS MedChart	Primary Care Information System – Medication Management System
RDH	Royal Darwin Hospital
VET	Vocational education and training

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