

30 June 2025

Mr Clinton Howe MLA
Chair, Public Accounts Committee
Legislative Assembly of the Northern Territory

via email: LA.PAC@nt.gov.au

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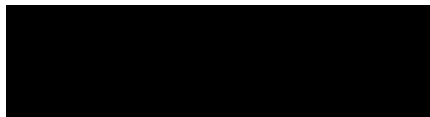
Dear Mr Howe

Re: Public Accounts Committee Inquiry into the Indigenous Employment Provisional Sum

Thank you for your invitation to provide a submission in relation to the Parliamentary Committee Inquiry into the Indigenous Employment Provisional Sum, dated 29 May 2025.

Please find attached a summary report that provides background information for consideration by the Committee. This information provides an overview of extent of overpayments to all Indigenous Employment Provisional Sum (IEPS) contractors, options for repayment by contractors of all unrecovered overpayments and the implementation of the Auditor-General's recommendations in the 2017 and 2018 audit reports.

Yours sincerely



Louise McCormick
Chief Executive Officer

Public Accounts Committee Submission

Department of Logistics and Infrastructure

Inquiry into the Indigenous Employment Provisional Sum (IEPS)

Background - Introduction of the Indigenous Provisional Sum

The Indigenous Employment Provisional Sum (IEPS) was implemented in October 2014. The scheme intended to provide employment and training opportunities to Aboriginal people and build the capacity of Aboriginal businesses through the delivery of construction projects.

A provisional sum is a contractual term that is used to nominate a potential item that can be claimed against the contract. The value payable against the contract can be from nil to the full value allocated in the contract. The application of the IEPS policy was to include a provisional sum worth up to 10% of the contract value. This contractual mechanism was used to allow tenderers flexibility in how they could achieve better Aboriginal employment and Aboriginal business outcomes in their offering. It was also designed to encourage the construction sector to find ways of increasing Aboriginal employment, acknowledging there may be a cost in implementing better outcomes.

The IEPS could be claimed by the contractor through submitting their progress claims throughout the contract period. Some contractors elected not to claim against the IEPS, some only claimed a portion of the allocated amount while other contractors claimed the full allocation.

Public Accounts Committee Terms of Reference (a) the full extent of overpayments to all IEPS contractors.

Suspension of the IEPS Scheme

In August 2017, the IEPS was suspended following the identification of potential misuse of the scheme. Following the suspension of the scheme, the former Department of Infrastructure, Planning and Logistics (DIPL) established:

- an internal IEPS Audit and Investigation Unit responsible for reviewing and verifying all unpaid IEPS claims for payment for existing contracts and to audit claims paid prior to the suspension of the scheme in August 2017; and
- an Inter-Agency Taskforce comprising of senior representatives from the former Department, Solicitor for the Northern Territory, Department of Treasury and Finance, and the Northern Territory Police, Fire and Emergency Services, to oversee the analysis of contracts that included the IEPS and seek resolution of any discrepancies by either civil or criminal avenues, or both.

The internal IEPS Audit and Investigation Unit within DIPL was responsible for:

1. Reviewing and verifying all unpaid IEPS claims for payment in current contracts.
The IEPS Audit and Investigation Unit verified if the claim complied with the Conditions of Contract. If the claim did not conform with the Conditions of Contract, DIPL liaised with the contractor explaining reasons why the claim was declined. Contractors were provided with the opportunity to revise claims, produce documentation to substantiate claims or withdraw the claim.
2. Auditing claims paid prior to the suspension of the scheme in August 2017.
The IEPS Audit and Investigation Unit assessed the claim's compliance to the Conditions of Contract. DIPL liaised with contractors where claims did not meet the Conditions of Contract and sought to obtain additional documentation to substantiate claims.

The unit reported on the audit outcomes to the Inter-Agency Taskforce, highlighting any discrepancies in claims which may have arisen from:

- non-deceptive actions (over or under payments resulting from non-deceptive actions such as error, unintentional misinterpretations etc.)

- suspected deceptive actions (deliberate misrepresentations)

The Inter-Agency Taskforce referred all suspected fraudulent activities to the NT Police for further investigation.

Financial outcomes

The IEPS was included in 529 contracts with a total of \$122 million eligible to be claimed by contractors. In order to receive payment against the IEPS, contractors had to submit their claims and provide the required documentation. Some contractors elected not to claim against the IEPS.

Of the \$122 million available, \$61.2 million was not paid and this amount was written back to the infrastructure program at the completion of each contract. The balance of \$60.8 million was claimed and paid against the scheme to 146 contractors against 453 contracts. Of the \$60.8 million paid, \$48.8 million was paid prior to the suspension of the scheme. Once the scheme was suspended, the claims made and paid against the IEPS were re-audited and verified against the Conditions of Contract by the IEPS Audit and Investigation Unit.

While the scheme was suspended, active contracts that included the IEPS still had to be honoured. The remaining \$12 million of the \$60.8 million was paid after the suspension of the scheme for contracts that were still current. These claims were verified against the Conditions of Contract by the IEPS Audit and Investigation Unit prior to payment being made. During the verification process, DIPL declined \$1.9 million in contractor claims as the claims did not meet the Conditions of Contract and were deemed ineligible.

Of the \$60.8 million paid against the scheme, \$1.4 million was not able to be substantiated and warranted further investigation. Of the \$1.4 million, \$0.9 million was recovered and \$0.5 million remains with liquidators for contractors that have gone into administration.

DIPL met regularly with the NT Police during the internal investigation to review anomalies in claims. DIPL also provided regular reporting to the Independent Commissioner Against Corruption.

DIPL's investigation concluded in May 2022 and the Inter-Agency Taskforce was officially dissolved in June 2023.

All suspected fraudulent activities were referred by the Inter-Agency Taskforce to NT Police. This resulted in 21 contractors being referred to NT Police for further investigation and of which, 4 individuals were charged and 3 were convicted. A total of \$0.3 million was proven to have been fraudulently claimed.

Legal Advice

Legal advice was obtained to interpret the Conditions of Contract relating to the IEPS to determine what was eligible or ineligible to be claimed. The IEPS Eligibility Criteria integrated the legal interpretations and was used in verifying claims for payments and auditing claims paid prior to the suspension of the scheme.

Under the Conditions of Contract, DIPL could obtain documentation from contractors or seek recovery of any overpayment on current contracts. However, where a contract had been finalised the ability for DIPL to obtain documentation from the contractor or seek recovery was limited. A contract is finalised when:

- the Final Certificate has been issued for National Public Works Council contracts; or
- the Superintendent has determined the works are completed for Minor Works and Services and Period Contract Works and Services contracts.

Once a Final Certificate has been issued, there is no contractual right to:

- require a contractor to produce further documentation; or
- seek reimbursement where an overpayment had been identified. However, if the overpayment is the result of a false claim (deceptive practices) or mistaken claim (claims without the required supporting documentation or as a breach of contract), DIPL could seek reimbursement by commencing legal proceedings within the Statute of Limitations' timeframe.

The Statute of Limitations' period is 3 years from the date of the Final Certificate with an ability to apply for a 12-month extension through the courts.

Therefore, for finalised contracts, obtaining documentation or seeking recovery of overpayments resulting from non-deceptive action was reliant upon the contractor's cooperation and willingness.

The NT Police advised that in order to recover funds resulting from suspected deceptive actions, a criminal investigation would need to be pursued and it would need to be proven through court proceedings that the contractor deceived DIPL in obtaining payment. Determining whether a contractor had received benefit by deception is based on the claim made at the time that payment was released.

Public Accounts Committee Terms of Reference (b) options for repayment by contractors of all unrecovered overpayments.

As detailed above, legal implications impacted on the ability for DIPL to seek additional documentation to support claims and in recovering any identified overpayments.

Different processes were undertaken when a contract was current as opposed to when a contract was finalised. Where an overpayment had been identified on a current contract, DIPL liaised with the contractor to recover funds. Recovery of overpayments occurred either by reimbursement from the contractor or by reducing the contractor's next progress claim.

Where an overpayment had been identified on a finalised contract, DIPL issued a letter to the contractor advising of the overpayment including details of the alleged breach of contract and the amount of the overpayment. The letter offered the contractor a further opportunity to provide absent documentation to substantiate the claim to enable verification and potentially reduce the identified overpayment. Any information provided by the contractor was considered by DIPL and the overpayment was adjusted accordingly. Once the consultation with the contractor concluded or where a response had not been provided by the contractor, DIPL raised an invoice to the contractor for recovery of the overpayment.

Public Accounts Committee Terms of Reference (c) Implementation of the Auditor-General's recommendation by the former Department of Infrastructure, Planning and Logistics and outcomes to date.

The Northern Territory Auditor-General's Office conducted two performance management system audits in relation to the IEPS. The audit findings were reported to the Legislative Assembly in November 2017 and November 2018. The Northern Territory Auditor-General provided a total of 18 recommendations including eight from the initial audit and ten from the subsequent audit.

DIPL accepted all recommendations from the Northern Territory Auditor-General and actions were fully implemented by February 2020. Refer to table below for details of the recommendations, comments provided to the Auditor-General and a summary of DIPL's implementation of the recommendations.

Northern Territory Auditor-General's Office recommendations

2017 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
1. It is recommended that management reviews the current Policy and Guidelines to provide further guidance and assistance to employees on the IEPS (or equivalent).	<p>Further to the November 2017 response, DIPL's IEPS Verification Team, established in August 2017, is responsible for reviewing all IEPS claims submitted by the Contractor and providing verification of eligibility to the Project Manager for payment of the claim. The IEPS Verification Team liaise with staff and contractors to ensure that supporting documentation is provided for all claims against the scheme.</p> <p>DIPL's IEPS Audit and Investigations Team is responsible for reviewing all IEPS claims paid prior to August 2017. This Team reports to the Inter-Agency Taskforce.</p> <p>DIPL has since developed a procedure covering activities of the IEPS Audit and Investigations Team. These procedures detail the processes in reviewing IEPS claims paid prior to the implementation of the IEPS Verification Team including the audit and Inter-Agency Taskforce referral, recovery of overpayments, payment for under claims, referrals for Police Investigation, and fraud risk assessment. The fraud risk assessment included in this procedure details the minimum level of claims to be reviewed in order for DIPL to minimise the risk of fraud.</p> <p>DIPL has sought legal advice to further clarify Conditions of Contract and IEPS claim eligibility. This legal advice is being applied consistently across all IEPS claims.</p>	<p>In July 2018 the IEPS Verification Team and IEPS Audit and Investigations Team merged, forming the IEPS Audit and Investigation Unit.</p> <p>Guidelines outlining the application of IEPS claims was provided to all staff and contractors.</p> <p>As part of best practice, policies and procedures were regularly reviewed and updated as required by DIPL. DIPL amended the policy covering the activities of the IEPS Audit and Investigation Unit including the processes in reviewing IEPS claims, the Inter-Agency Taskforce referral process and the Finance IEPS invoice process to reflect legal advice.</p> <p>The Northern Territory Government was refining the Aboriginal Contracting Framework. There is no equivalent policy to the IEPS.</p>
2. It is recommended that management establishes appropriate performance	DIPL's IEPS Verification Team reviews all IEPS claims against Conditions of Contract and the IEPS eligibility	From August 2017, the IEPS was removed from all tenders and there is no equivalent to the IEPS. The IEPS Audit and

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2017 Audit		
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<p>measures to enable effective monitoring of contractor performance against and compliance with the IEPS Policy (or equivalent).</p>	<p>criteria. The IEPS Verification Team provides a consistent application of the policy across DIPL. The IEPS Verification Team ensures that payments against the IEPS are only approved when sufficient documentation is provided and is within eligibility criteria. No claims against the IEPS are verified by the IEPS Verification Team without the required supporting documentation.</p> <p>DIPL's CCU continues to review and assess Indigenous Development Plans and conduct audits on these plans. The Contractor is required to address non-conformances identified during audit and these findings are recommended to contribute to the Contractor Performance Report at the cessation of the project.</p>	<p>Investigation Unit reviewed all IEPS claims for payment in current contracts against the Conditions of Contract and IEPS eligibility criteria. The IEPS Audit and Investigation Unit ensured a consistent application of the policy across DIPL. Payments against the IEPS were only made after the IEPS Audit and Investigation Unit verified the claim meets the Conditions of Contract.</p> <p>The Conditions of Contract continue to include obligations surrounding Aboriginal employment including the requirement for an Indigenous Development Plan. DIPL's Contractor Compliance Unit (CCU) continued to review and assess Indigenous Development Plans and ensured that these plans align with the commitments made in the awarded tenderer's documentation. The CCU conduct audits on these plans to determine contractor compliance and achievement of commitments. The contractor is required to address any non-conformances identified during audit and these findings are recommended to contribute to the Contractor Performance Report (CPR) at the cessation of the project.</p> <p>DIPL updated the Contractor Performance Scorecard (CPS) which in some cases replaced the CPR with an evidence based reporting system for both contractors and consultants. This process is available for staff on the intranet. The Chief Executive newsletter for January 2020 announced this process to staff. A communications plan for educating staff on the new process was approved by the General Manager Infrastructure, Investment and Contracts in February 2020. Staff were educated of the new process via the intranet and email circulation.</p>

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2017 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
3. It is recommended that the Agency's holistic contract management framework includes policies and procedures to support managing the IEPS Policy (or equivalent).	<p>On 14 November 2017, DIPL wrote to all current contractors and provided the strengthened IEPS eligibility criteria. DIPL has made available to the public IEPS information on the internet to reflect the requirements for IEPS claims.</p> <p>DIPL's CCU meets with staff and contractors when requested to discuss the IEPS eligibility criteria approval for payment against the scheme.</p> <p>DIPL has a nominated senior Executive Management Board member to contribute to the Northern Territory Government's development of the Aboriginal Contracting Framework designed to support Aboriginal employment and business opportunities through government contracting, including procurement and grants.</p>	<p>From August 2017, the IEPS was removed from all tenders and there is no equivalent to the IEPS.</p> <p>The CCU delivered 'Unpacking Management Plan Requirements' training in June 2019 to:</p> <ul style="list-style-type: none"> • detail the relationship between the Request for Quote/ Request for Tender, Response Schedule, and Conditions of Contract • explain the clauses under the Conditions of Contract that require a contractor to submit a plan for approval • identify the various elements of each requirement • understand the relationship between plan assessments and audits of Conditions of Contract • understand the relationship between the Superintendent and the CCU.
4. The quality and accuracy of information recorded and reporting to stakeholders could be improved.	<p>DIPL's CCU provides monthly reports on all functions of the Unit including plan assessments, audits conducted, and reviews of past and present IEPS claims. For 2018-19 these reports have been condensed into a four page dashboard style report which summarises the activities conducted by the Unit. The Unit also provides more regular and detailed reporting to senior management to identify individual projects that require action.</p>	<p>Monthly reporting was provided by both the IEPS Audit and Investigation Unit and the CCU.</p> <p>The IEPS Audit and Investigation Unit completed monthly reporting summarising activities. This reporting was submitted to Executive Management, the Inter-Agency Taskforce, and to the Minister. Detailed information has been captured in an Excel spreadsheet. The option of transferring to a database was not feasible given the IEPS information was not individually captured within a system and would rely upon manual entry. The information within the Excel spreadsheet was reconciled as and when a contractor was reviewed.</p> <p>The CCU provides monthly reports to Executive Management on all functions of the Unit including plan assessments and audits conducted. The CCU amended reporting processes through the implementation of the new reporting tool, Power BI.</p>

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2017 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
	<p>The ASNEX Report utilised by DIPL's CCU is an internal document utilised only within the Unit. This report details the progress of reviewing IEPS claims paid prior to the establishment of the IEPS Verification Team. DIPL is currently working with the Department of Corporate and Information Services to amend the report to provide more accurate information in relation to the IEPS amount paid. The report is currently limited to only include payments made in the system against the IEPS but does not include manual correction journals. DIPL is anticipating the report will be amended by the Department of Corporate and Information Services by the end of August 2018.</p>	
<p>5. It is recommended that management attends to the control weaknesses that exist in relation to the IEPS Policy (or equivalent) as they affect the procurement process.</p>	<p>DIPL has allocated resources to review IEPS claims. As contracts attracting the IEPS are completed, the demand for verifying unpaid IEPS claims will decline and eventually the responsibilities for verifying IEPS unpaid claims will cease. It is anticipated that resources will then be focused on increasing the activity in reviewing IEPS claims paid prior to August 2017.</p> <p>DIPL's CCU is actively conducting audits against contract conditions to measure compliance. The Contractor is required to address non-conformances identified during audit and these findings are recommended to contribute to the Contractor Performance Report at the cessation of the project.</p>	<p>From August 2017, the IEPS was removed from all tenders and there is no equivalent to the IEPS. The IEPS Audit and Investigation Unit reviewed all IEPS claims for payment in current contracts against the Conditions of Contract and IEPS eligibility criteria. The IEPS Audit and Investigation Unit ensured a consistent application of the policy across DIPL. Payments against the IEPS were only made after the IEPS Audit and Investigation Unit verified the claim meets the Conditions of Contract.</p> <p>The Conditions of Contract continue to include obligations surrounding Aboriginal employment including the requirement for an Indigenous Development Plan. DIPL's Contractor Compliance Unit (CCU) continued to review and assess Indigenous Development Plans and ensured that these plans align with the commitments made in the awarded tenderer's documentation. The CCU conduct audits on these plans to determine contractor compliance and achievement of commitments.</p>

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2017 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
		<p>The contractor is required to address any non-conformances identified during audit and these findings are recommended to contribute to the Contractor Performance Report (CPR) at the cessation of the project.</p> <p>DIPL updated the Contractor Performance Scorecard (CPS) which in some cases replaced the CPR with an evidence based reporting system for both contractors and consultants. This process is available for staff on the intranet. The Chief Executive newsletter for January 2020 announced this process to staff. A communications plan for educating staff on the new process was approved by the General Manager Infrastructure, Investment and Contracts in February 2020. Staff were educated of the new process via the intranet and email circulation.</p>
6. The Agency is encouraged to establish formal reporting protocols in relation to the IEPS (or equivalent).	<p>DIPL's CCU provides monthly reports on all functions of the Unit including plan assessments, audits conducted, and reviews of past and present IEPS claims. The Unit also provides more regular and detailed reporting to senior management to allow staff to identify particular projects and address outstanding actions.</p> <p>The ASNEX Report utilised by DIPL's CCU is an internal document utilised only within the Unit. This report details the progress of reviewing IEPS claims paid prior to the establishment of the IEPS Verification Team. DIPL is currently working with the Department of Corporate and Information Services to enhance this report.</p>	<p>Monthly reporting was provided by both the IEPS Audit and Investigation Unit and the CCU. The IEPS Audit and Investigation Unit completed monthly reporting summarising activities. This reporting was submitted to Executive Management, the Inter-Agency Taskforce, and to the Minister. DIPL also submitted a report to the Inter-Agency Taskforce which detailed the audit findings on each contractor who was paid IEPS prior to the suspension of the scheme. This report provided recommendations for the Inter-Agency Taskforce who can refer the matter to NT Police for further investigation, refer the matter for DIPL to take appropriate action (recovery), or no further action.</p> <p>DIPL met fortnightly with the NT Police as part of the fraud investigation to enable collaboration on active investigations and to share information on audit findings.</p> <p>DIPL also met with the Independent Commissioner Against Corruption to discuss audit findings and share information.</p>

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2017 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
	<p>DIPL procedures for reviewing IEPS claims paid prior to the establishment of the IEPS Verification Team detail the reporting requirements to the Inter-Agency Taskforce. DIPL submits an Executive Summary to the Inter-Agency Taskforce which details the audit findings and provides recommendations. These recommendations can include referral to Police for investigation, referral to DIPL for further action, or no further action. An Executive Summary is prepared for the Inter-Agency Taskforce for all contractors that have been paid IEPS prior to the establishment of the IEPS Verification Team. The Inter-Agency Taskforce is responsible for providing direction to DIPL as to the action required for each contractor review.</p> <p>DIPL meets fortnightly with the Northern Territory Police as part of their fraud investigations to contribute to active investigations and to share information on audit findings.</p>	
7. The Agency would benefit from establishing a formal process for escalating concerns, complaints and allegations arising from weaknesses within the Agency's performance management system.	<p>It is noted that the Auditor-General's comments about improvements to the Agency's performance management system relate to procedures in place prior to the establishment of the IEPS Verification Team in August 2017.</p> <p>With the suspension of the IEPS in August 2017, DIPL comments on this recommendation relate to reporting requirements for the IEPS Verification Team. Reporting requirements for the team include processes for reporting audit findings to the Inter-Agency Taskforce.</p> <p>Additional, DIPL has introduced two new policies that address this recommendation:</p>	No further action required.

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2017 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
	<p>1. As part of a new Treasurer’s Direction issued on Fraud Control in July 2018, DIPL has developed a Fraud and Corruption Control Policy and Reporting Procedure. Rollout of the policy is being supported whole of agency training on this topic which is being delivered in August 2018. This includes explaining processes for staff to report any wrong doing to DIPL’s Audit and Risk Management Unit.</p> <p>2. In July 2018, DIPL finalised a Complaint Handling Policy which outlines to external stakeholders and clients the process for lodging a complaint with DIPL.</p>	
8.	<p>Consideration should be given to enhancing the recordkeeping systems and processes in place at the Agency.</p> <p>DIPL is continually reviewing and improving recordkeeping systems and processes. DIPL’s CCU has established internal operational procedures. This Unit also provides monthly reporting on all activities undertaken by the Unit as detailed at 4 and 6 above.</p> <p>DIPL meets weekly with the Northern Territory Police as part of their fraud investigations to contribute to active investigations and to share information on audit findings.</p> <p>The CCU keeps electronic records of all IEPS audit and payment related documents in the whole of government records management system, TRM. This is part of DIPL’s Electronic Document Records Management (EDRM) approach which ensures information is held confidentially and is available to be searched electronically as required.</p>	<p>All information is recorded in the HP Record Manager (HPRM) in accordance with the Electronic Document Records Management (EDRM) approach to ensure information is held confidentially and is available to be searched electronically as required. HPRM is also used to file procurement and contract information.</p> <p>DIPL implemented a uniform work instruction ‘Naming Convention for Project Files’. This work instruction includes the structure of project files within HPRM and standardised document naming conventions to ensure ease of access to contract information. Project file guides have been developed and published for each structure of project files to assist staff filing documents.</p>

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2018 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
<p>1. Independence of IEPS Investigation team</p> <p>I recommend management consider the structural positioning and reporting lines of the IEPS Investigation Team to ensure the IEPS Investigation Team is, and is seen to be, independent of the processes being investigated and from those processes considered business-as-usual. Structural separation and clear reporting lines support the independence and objectivity of those involved in an audit or investigative role.</p>	<p>DIPL acknowledges that to improve any perceptions of potential conflict of interest, the IEPS Investigation Team should report to a division not responsible for managing the contracts under investigation. Effective from 1 November 2018, DIPL has implemented a change in reporting lines with the IEPS Investigation Team now forming part of the Corporate Services Division and being referred to as the IEPS Audit and Investigation Unit.</p>	<p>Effective from 3 June 2019, the IEPS Audit and Investigation Unit transferred to the Executive Services Division and reported directly to the Director Executive Services. Independence of the IEPS Audit and Investigation Unit has been maintained.</p>
<p>2. The contractor performance review process is not timely or effective</p> <p>I acknowledge that DIPL personnel are presently working with DCIS to implement a new system designed to facilitate the timely and accurate assessment and reporting of contractor performance and are updating the review processes applicable to contractors. I recommend that DIPL ensure the design and implementation of the new process supports efficient completion and reporting of performance assessment and enables meaningful reports to be extracted that effectively contribute to future tender assessments.</p>	<p>As noted, DIPL is working with the Department of Corporate and Information Services to develop a technology based solution to support the timely and accurate assessment and reporting of contractor performance.</p> <p>Appropriate training and communication on these improvements will be provided to all personnel involved in contract management.</p>	<p>DIPL updated the Contractor Performance Scorecard (CPS) which in some cases replaced the CPR with an evidence based reporting system for both contractors and consultants. This process is available for staff on the intranet. The Chief Executive newsletter for January 2020 announced this process to staff. A communications plan for educating staff on the new process was approved by the General Manager Infrastructure, Investment and Contracts in February 2020. Staff have been educated of the new process via the intranet and email circulation.</p>

2018 Audit			
Recommendation		DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
	I further recommend that the new and changed processes, together with training on how to use the system, be effectively communicated to all personnel involved in contract management.		
3.	<p>Prioritisation of workload and resourcing of the IEPS Investigation Team requires revisiting to mitigate the risk of financial loss</p> <p>As at 31 July 2018, 93 percent of claims submitted after August 2017 were reviewed compared to 10 percent of contracts submitted before August 2017. The <i>Limitations Act</i> imposes a three year time limit for bringing an action for breach of contract to court. One position in the Investigation Team is not filled and of the two remaining, only one appears to hold appropriate investigate qualifications. There is no independent review of the data extracted from contracts and maintained by the Investigations Team.</p> <p>I recommend management review the prioritisation of workload and the current resourcing of the IEPS Investigation Team and take necessary steps to mitigate the risk that overpayments of claims against the IEPS will not be recovered within statutory time limitations for bring action.</p>	<p>The recommendations are accepted for further action, with DIPL noting that early prioritisation of IEPS claims has meant that the majority of high risk contracts have been reviewed. With DIPL recently receiving advice that the Final Certificate Date for each contract is the date from which the statutory limitations period commences, IEPS claims will now be reviewed against this date noting the three year statutory limitations period.</p> <p>With regard to resourcing, the IEPS Audit and Investigation team will have three full-time staff members by the end of November 2018 with a fourth member to be recruited in 2019.</p>	The IEPS Audit and Investigation Unit consisted of 4 full time members including one SAO1 staff and three AO7 staff.

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

2018 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
<p>4. Costs associated with the IEPS Investigation are not separately identified</p> <p>Cost associated with the IEPS investigation are not being captured separately, only within all costs attributable to the CCU. I recommend costs associated with conducting the IEPS Investigation be captured separately from other costs and monitored.</p>	<p>A new cost centre has been created to capture all costs associated with the IEPS investigation comprising personnel and operational costs. For 2017-18 over \$500,000 was spent on personnel and on costs for this activity.</p>	<p>All costs associated with the IEPS investigation was captured in a separate cost centre.</p>
<p>5. The IEPS Review Procedure has not been approved and communicated</p> <p>The <i>IEPS Review Procedure V1</i> was created on 2 February 2018 and amended on 20 February 2018. At the time of my audit the document remained as a draft.</p> <p>I recommend the <i>IEPS Review Procedure</i> be reviewed and formally approved by the IAT.</p>	<p>The internal DIPL IEPS Review Process was reviewed and endorsed by the IAT, with amendments requested. Given there were no substantial changes made, IAT approval was not required to finalise the document. However recent changes in the review process for IEPS claims now necessitates the need to update the process document. This will be provided to the IAT at their next meeting.</p>	<p>As part of best practice, policies and procedures are regularly reviewed and updated. DIPL amended the policy covering the activities of the IEPS Audit and Investigation Unit including the processes in reviewing IEPS claims, the Inter-Agency Taskforce referral process and the Finance IEPS invoice process to reflect legal advice.</p> <p>The Inter-Agency Taskforce conducted an analysis of irregularities with the IEPS with a view to determining whether inappropriate use of the IEPS occurred and if so to determine the appropriate course of action. The Inter-Agency Taskforce was notified of changes to policies and procedures.</p>
<p>6. Improve the governance structure for more effective oversight</p> <p>The IAT formed in August 2017 is responsible for the review of CCU audit findings relating to claims against the IEPS paid prior to August 2017. The following observations were noted during the audit:</p>	<p>Since finalisation of the audit fieldwork, the IEPS Investigation team has changed its reporting line and now forms part of Corporate Services Division. It is also appropriate to note that comments about the independence of the General Manager are 'perceived' and relate to the role and do not infer any wrongdoing in relation to the individual.</p>	<p>The Inter-Agency Taskforces Terms of Reference were amended and approved on 27 November 2018. The Inter-Agency Taskforce met as required.</p> <p>All members of the Inter-Agency Taskforce completed written disclosure of conflicts of interest. The Inter-Agency Taskforce meetings included a separate standing agenda item for verbal conflicts of interest.</p>

2018 Audit		
Recommendation	DIPL Comments Provided to the Auditor-General in 2018	DIPL Implementation
<ul style="list-style-type: none"> • Prior to the commencement of the audit the IAT had not met for five months despite a requirement to meet fortnightly. • No written conflict of interest declarations were submitted by IAT members. • The IAT has not approved the draft IEPS Review Procedure. • There is a perceived lack of independence relating to the membership of the General Manager Infrastructure, Investment and Contracts. • I recommend the governance structure, and its effectiveness, be considered and strengthened. Actions to address this recommendation could include: • Holding regular scheduled meetings required by the terms of reference applicable to the IAT. • Obtaining and retaining written conflict of interest declarations from each IAT member and requiring a verbal conflict of interest declaration to be a standard agenda item at the commencement of each meeting. 	<p>The meeting frequency was verbally revised by the IAT to be 'as required'. Terms of Reference were to be updated to reflect the requirement to meet 'as required'. While fortnightly meetings occur between DIPL officers and police, the IAT as a Governance Group are not required to meet until there are matters put before it for decision.</p> <p>IAT members were asked at the first meeting in August 2017 to declare any Conflicts of Interest and submit a conflict of interest declaration or make a verbal declaration to the Chair if required. In all subsequent meetings, the agenda includes a standing item for declarations of conflicts of interest. These responses will be noted in future Minutes and a request for written Conflict of Interest Declarations has been sought from members.</p>	<p>The Inter-Agency Taskforce conducted an analysis of irregularities with the IEPS with a view to determining whether inappropriate use of the IEPS occurred and if so to determine the appropriate course of action. The Inter-Agency Taskforce was notified of changes to policies and procedures.</p> <p>The General Manager Infrastructure, Investment and Contracts ceased membership on the Inter-Agency Taskforce.</p> <p>The Inter-Agency Taskforce received reporting on the activities of the IEPS Audit and Investigation Unit as a separate standing agency item for each meeting.</p>

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<ul style="list-style-type: none"> • Taking into consideration conflicts of interest (including conflicting duties), assess and confirm as appropriate the membership of the IAT. • Approving the IEPS Review Procedure. • Determine what progress reporting is required by the IAT and consider what action may be required to address delays in progress. 		
<p>7. Monitoring and reporting on strategic outcomes</p> <p>The level of IEPS available under a contract was not commensurate with a required output (e.g. level of Indigenous employment). The contractual requirements for Indigenous employment continue notwithstanding the suspension of the IEPS Policy.</p> <p>DIPL have recently announced a strategic aim of <i>“Maximising Aboriginal employment and business involvement in the design and delivery of Government’s infrastructure program”</i>. To ensure strategic outcomes are met, I recommend management consider how the contractors and the Agency will measure achievement of the desired strategic outcome and what evidence will be required to demonstrate progress against the desired strategic outcome.</p>	<p>DIPL has an immediate aim of awarding contracts to tenderers who represent the best Value for Territory, for which one component is local development, including Aboriginal employment. DIPL audits a sample of actual Aboriginal employment against commitments made by contractors within tender submissions. DIPL continues to work with the Department of Trade, Business and Innovation (DTBI) on the development of an Aboriginal Contracting Framework which will consider a whole of government approach to maximise Aboriginal employment and business involvement in delivery of government works. This framework will also consider how to effectively capture and confirm Aboriginal employment and social outcomes.</p>	<p>From August 2017, the IEPS was removed from all tenders. The Conditions of Contract continue to include obligations surrounding Aboriginal employment including the requirement for an Indigenous Development Plan. The CCU reviews and assesses Indigenous Development Plans to ensure that these plans align with the commitments made in the awarded tenderer’s documentation. The CCU conducts audits on these plans to determine contractor compliance and achievement of commitments.</p>

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<p>8. Document management across DIPL requires significant improvement</p> <p>Data pertaining to the IEPS is determined from review of contracts and maintained by the CCU in an excel spreadsheet created by the CCU. The management of large amounts of data manually in excel is subject to human error, difficult to scrutinise and report upon and is exposed to increased security risk. Key documentation for contracts was recorded inconsistently with different naming conventions. DIPL personnel were unable to readily provide procurement and contractual documentation upon request or in a timely manner.</p> <p>Management needs to ensure that documentary records are:</p> <ul style="list-style-type: none"> • created within a managed framework; • captured within an appropriate records management system; • obtainable and accessible for as long as they are required; • secure; and 	<p>DIPL's CCU has established internal operational procedures and has enhanced reporting on all activities. The CCU keeps electronic records of all IEPS audit and payment related documents in the whole of government records management system, HP Record Manager (HPRM). This is part of DIPL's Electronic Document Records Management (EDRM) approach which ensures information is held confidentially and is available to be searched electronically as required.</p> <p>HPRM is used to file procurement and contract information. In addition to this, DIPL will implement standardised document naming conventions as a component of its Project Management Office to ensure ease of access to contract information.</p> <p>DIPL is reviewing its reporting system to ensure the continued and ongoing accuracy of information and reporting. Database options will be considered as part of this review.</p>	<p>The IEPS Audit and Investigation Unit completed monthly reporting summarising activities. This reporting was submitted to Executive Management, the Inter-Agency Taskforce, and to the Minister. Detailed information has been captured in an Excel spreadsheet. The option of transferring to a database was not feasible given the IEPS information was not individually captured within a system and would rely upon manual entry. The information within the Excel spreadsheet was reconciled as and when a contractor was reviewed.</p> <p>The CCU provides monthly reports to Executive Management on all functions of the Unit including plan assessments and audits conducted. The CCU amended reporting processes through the implementation of the new reporting tool, Power BI.</p> <p>All information is recorded in the HP Record Manager (HPRM) in accordance with the Electronic Document Records Management (EDRM) to ensure information is held confidentially and is available to be searched electronically as required. HPRM is also used to file procurement and contract information.</p> <p>DIPL implemented a uniform work instruction 'Naming Convention for Project Files'. This work instruction includes the structure of project files within HPRM and standardised document naming conventions to ensure ease of access to contract information. Project file guides have been developed and published for each structure of project files to assist staff filing documents.</p>

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<ul style="list-style-type: none"> disposed of systematically and in accordance with Northern Territory Government Records Management Policy. <p>I further recommend the following additional controls be implemented when relying upon manual processes to capture and report data:</p> <ul style="list-style-type: none"> extensive documentation and instructions around the collection and storage of data; additional quality assurance reviews of the data; limited access to source data maintained in excel; and the introduction of processes to regularly back-up the data files. 		
<p>9. Processes and controls to verify claims for payment prior to payment require enhancing across the Agency</p> <p>While most of the deficiencies in processes and controls related to the IEPS, a number affect payment processes for the Agency as a whole.</p>	<p>DIPL has now implemented a Fraud and Corruption Control Policy and has delivered whole of agency information sessions to support roll out of the policy. Over 300 staff have attended sessions since August 2018, with further sessions to be offered as part of DIPL training priorities in 2018/19.</p>	<p>DIPL delivered risk management workshops and fraud awareness training to departmental staff.</p> <p>In October 2019, DIPL completed a desktop risk assessment of current internal controls relating to DIPL's invoice processing in the Government Accounting System and the Asset Information System.</p>

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<p>The likelihood and consequence of the same or similar control breakdowns and weaknesses affecting other contract management and payment processes within the Agency have not been assessed.</p> <p>I recommend management conduct a risk assessment of the likelihood and consequence that similar control breakdowns and weaknesses may exist and impact the Agency more broadly and, from this assessment, develop and implement a plan for corrective action.</p>	<p>A Fraud Risk Assessment is scheduled to be undertaken, with DIPL's Risk Management Framework being finalised to align with recent ISO Guidelines on Risk Management. An Online Risk Register is being developed to provide greater efficiency in recording risks, conducting assessments, identifying treatments and ongoing monitoring and reporting of risks.</p>	
<p>10. Management of risks to the Agency</p> <p>Discussions with DIPL personnel, review of correspondence and contractual documentation identified unexpected levels of resistance from DIPL employees as well as external contractors when implementing processes and controls designed to improve the management of IEPS claims and payments and reduce the risk to DIPL that unsubstantiated payments will be made leading to financial loss for the Northern Territory.</p>	<p>Rollout of the new Risk Management Framework provides an opportunity to reinforce the role of employees in supporting continuous improvement and risk management with specific advice to be provided to project management staff around disputes and uncommon conditions such as those relating to IEPS.</p>	<p>DIPL delivered risk management workshops and fraud awareness training to departmental staff.</p> <p>The CCU delivered 'Unpacking Management Plan Requirements' training in June 2019 to:</p> <ul style="list-style-type: none"> • detail the relationship between the Request for Quote/ Request for Tender, Response Schedule, and Conditions of Contract • explain the clauses under the Conditions of Contract that require a contractor to submit a plan for approval • identify the various elements of each requirement • understand the relationship between plan assessments and audits of Conditions of Contract • understand the relationship between the Superintendent and the CCU.

Public Accounts Committee Submission Department of Logistics and Infrastructure Inquiry into the Indigenous Employment Provisional Sum (IEPS)

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<p>I recommend management take action to clearly communicate employee responsibilities to ensure all personnel are acting in a manner that supports continuous improvement and effective risk management. Furthermore, I encourage the Agency to clearly communicate the approved processes for negotiating disputes or requests to vary special or uncommon conditions within contracts.</p>		<p>The Chief Executive newsletter for September 2019 reminded staff of the Code of Conduct.</p> <p>DIPL delivered 'Resolving Construction Disputes in the NT - Adjudications Under the Construction Contracts (Security of Payments) Legislation' training on 10 October 2019.</p> <p>DIPL developed work instructions for dispute resolution and variation processes. These documents are available to all staff on the intranet.</p>