

**GOVERNMENT RESPONSE  
LEGISLATIVE ASSEMBLY EDUCATION AND HEALTH STANDING  
COMMITTEE REPORT NO.10 *SYSTEM ERROR***

**NOVEMBER 2016**

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## INTRODUCTION

In November 2010, the Department of Health (DoH) entered into a contract with Fujitsu Australia Ltd for the provision of centralised computing services.

In late 2014, the former Acting Director General DoH raised concerns with the Office of the Auditor General (OAG) regarding the structure and performance of the contract. The OAG subsequently audited the procurement and management of the contract and the financial asset control arrangements for goods and services purchased as a result.

The OAG's report, *Health Department's Procurement and Management of its Centralised Computing Services Contract*, was published on 1 February 2016.

A supplementary report which included additional information about the nature of the contract variations and contract management practices within the Health Information Network, was published by the OAG on 8 June 2016.

The Education and Health Standing Committee inquired into the findings and recommendations of the OAG reports, and tabled Report No.10 *System Error* in the Legislative Assembly on 22 September 2016.

The DoH, as the lead agency, acknowledges the work undertaken by the Committee to produce the Report and associated recommendations.

This Government response addresses each of the four recommendations made in the Report.

**Recommendation 1:**

That the Minister for Health report to the Assembly on disciplinary proceedings or performance improvement action undertaken, if any, which arose from the actions of Employees A and B as set out in the Auditor General's report *Health Department's Procurement and Management of its Centralised Computing Services Contract*, including as a result of an investigation into this conduct undertaken by the Public Sector Commission or other body.

**Supported.**

Following the Office of the Auditor General's (OAG) report, the Public Sector Commission (PSC) assisted the Director General (DG) Department of Health (DoH) (the employing authority) by undertaking a preliminary examination to determine whether disciplinary or performance improvement action in relation to current or former employees might be appropriate. Assistance was also provided regarding the management of possible conduct issues of staff involved in managing the contract. The preliminary examination was not a disciplinary investigation.

In brief, the examination did not find any basis on which serious misconduct would reasonably be suspected, but did consider that further investigative action was an option available to the DG DoH with respect to Employee B and former Employee A. It is noted that there was a material difference between the conduct of Employee B and the potential conduct of former Employee A.

The DG DoH subsequently commenced a disciplinary process with respect to Employee B in accordance with the DoH Misconduct Policy. This included writing to Employee B regarding the suspected misconduct and seeking a formal explanation to enable the DG DoH to make an informed decision on how to appropriately deal with the matter.

After careful consideration of Employee B's explanation and the information available, including consultation with the State Solicitor's Office (SSO), the DG DoH concluded that Employee B had satisfactorily explained their conduct. It was decided to manage Employee B's actions as a performance issue, with the requirement that they familiarise themselves fully with the authorisations and delegations applicable to the office they held, and confirm with the DG DoH once this had been undertaken.

Following consultation with SSO, it was not possible to initiate a formal disciplinary process with respect to former Employee A given they were no longer employed in the department. The DG DoH did however write to former Employee A requesting a response to concerns they had exceeded their authorisation level with respect to the contract. No response was received from former Employee A. Information has been placed on relevant departmental records that will act as a 'flag' for any prospective employment of former Employee A within the public health system or the wider public sector.

**Recommendation 2:**

That the Minister for Health report to Parliament on the reasons the Department of Health has failed to utilise the Gateway Review Process for ICT procurement projects with an investment value of greater than \$10 million.

**Supported.**

In 2007, the State Government endorsed the use of the Gateway Review Process (GRP) for project assurance of major public sector projects with an investment value greater than \$10 million. The GRP is currently not mandatory in WA but may be initiated by the Project Sponsor to supplement other project management methodologies.

In this regard, it is noted that Recommendation 9 of the Public Accounts Committee Report No.15 *Doing ICT Better*, relates to the introduction of a mandatory requirement by the Department of Finance (Finance) for a GRP to be undertaken for ICT proposals with an investment value greater than \$10 million.

The governance and planning of ICT projects in WA Health is undertaken via the ICT Program Committee and ICT Executive Board, in accordance with the WA Health *ICT Strategy 2015-18*. Health Support Services (HSS) has responsibility for the delivery of major ICT projects in WA Health.

Historically, the use of the GRP for major ICT procurement projects in WA Health has been inconsistent due to a lack of awareness and policy for applying the GRP, with the result being that the Project Sponsor would decide when and if a GRP was required.

WA Health has since developed an ICT Gateway Review Policy for endorsement by the ICT Program Committee and ICT Executive Board.

Since 2007, WA Health has carried out 42 GRPs. Of these, 12 were ICT specific including the: Pharmacy Management System (3 Gateway Reviews between 2007-09); Payroll System (2 Gateway Reviews between 2007-08); and Patient Administration System (2 reviews between 2007-11).

In August 2016, HSS completed a GRP on the “readiness for market” of a current ICT procurement project for a replacement Medical Imaging system for WA Health. Following the implementation of the recommendations from that GRP, a further review is planned for November 2016. A GRP was also conducted for the Community Health Information System in July 2016.

The table below depicts the number of ICT and Infrastructure (INF) reviews undertaken between 2007-2016. It is noted that INF reviews also frequently include ICT elements within the overall ambit of the review.

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
INF		3	1	4	2	5	2	5	3	6
ICT	3	3	1		1			1	1	2

**Recommendation 3:**

That the Minister for Finance and the Minister for Culture and the Arts report to the Parliament on the State Supply Commission and State Records Commission's consideration of available penalties or actions for the Department of Health's breaches of agency obligations.

**Supported.**

Finance provides administrative support to the State Supply Commission (SSC). All SSC enquiries, complaints and communications are coordinated by Finance's Government Procurement business unit.

Finance considered the penalties and consequences available and resolved to provide support to improve contract management and work with DoH and other agencies to raise the standards of governance in procurement.

Finance has implemented a number of measures to minimise the risk of recurrence of the issues identified in the OAG report. These include:

- Updating SSC policy in May 2016 to ensure it unambiguously requires: accountability and reporting of contract variations; and the mandatory provision of contract management plans for procurement over \$5 million to the State Tender Review Committee. These contracts will be entered into the central system to provide market transparency. It is noted that Finance is involved in all contracts and variations to contracts over \$250,000 in value;
- An education program focussed on procurement planning and contract management, and the development of tools to support agencies in meeting governance and risk management standards;
- A compliance framework to enable the identification of systemic issues and the development of measures to address these; and
- Encouragement for agencies to work with the Office of the Government Chief Information Officer (OGCIO) on value for-money assessment in very high value ICT procurement.

The State Records Commission (SRC) is established under section 57 the *State Records Act 2000* (the SR Act). It is not generally subject to direction by the Minister for Culture and the Arts in the performance of its functions. While the Minister may issue a direction as to general policy, a direction cannot be issued with regards to a particular record or government organisation.

The State Records Office (SRO) provides advice, on behalf of the SRC, to government organisations on the management of government information through the development of standards, guidelines and tools. The SRO reports to the SRC on the operation and effectiveness of the Act, and any breach or suspected breach of the SR Act by any person or State organisation.

The SRO will provide a preliminary briefing to the SRC in December 2016. The SRC will then consider whether further investigation is necessary, and subsequently make a determination on whether any breach has taken place and what penalties may be imposed. It is understood that the SRC will report their findings directly to Parliament.

**Recommendation 4:**

That the Minister for Health reports to the Assembly on the Department of Health's progress in implementing the recommendations made by the Auditor General in the report *Health Department Procurement and Management of its Centralised Computing Services Contract*.

**Supported.**

The OAG's February 2016 Report made six recommendations which were all accepted by DoH and have since been implemented, as outlined below.

**Recommendation 1: Health should immediately ensure compliance with Treasurer's Instruction (TI) 822 Borrowings, for all future lease financing activity.****Completed 29 January 2016.**

WA Health implemented a new Financial Management Policy Framework to outline the financial management requirements for all Health Service Providers. This Policy refers to a new WA Health Financial Management Manual in which sections 680 and 810 outline the requirement to formulate operating and financial leases. Section 810 clearly outlines the requirement to comply with TI 822.

**Recommendation 2: As soon as possible to minimise unnecessary expenditure, Health should negotiate with the Contractor and the Government Chief Information Officer for other Government agencies to use the non-production environment and the unutilised data centre space.****Completed 31 March 2016.**

WA Health has made all data centre floor space, which was surplus to forecast capacity within the next three years, available to other government agencies. The majority of this space is now utilised by the Department of Transport, Main Roads, Public Transport Authority and Department of Commerce. Finance is facilitating the process on behalf of these agencies. In addition, Change Order Number 75 was approved, following review by SSO, to articulate reconfiguration of the Malaga data centre as a result of the specified agencies' interest in using the surplus capacity.

**Recommendation 3: By March 2016, Health should –****(a) Develop and implement a contract management plan for contract DOH 27210 as required by the State Supply Commission.****Completed 24 April 2016.**

A new Contract Management Plan for Contract 27210 has been completed and approved by the accountable authority. It was reviewed by the Office of the Chief Procurement Officer (OCPO) prior to approval by the DG DoH.

**(b) Conduct a comprehensive risk assessment of the contract.****Completed 8 March 2016.**

A procurement risk assessment was undertaken during the contract development stage. In light of recommendations made by the OAG, a further risk assessment was undertaken by an independent management consultant specialising in the area of risk. The report was finalised on 8 March 2016.

**(c) Determine the level of contract management including the need for a dedicated Contract Manager for contract DOH 27210 and other contracts.**

**Completed 30 May 2016.**

The HSS Supply Chain developed a Whole of Health Contract Management Plan (the Plan) in August 2015 to require the assessment of all Whole of Health contracts ranked according to complexity, value and risk.

In response to recommendations of the OCPO's procurement review of Health Information Network contracts in March 2015, contract managers have been identified and allocated to a central contract management function for high risk, Whole of Health ICT contracts.

As Contract 27210 rated high on complexity, value and risk, a dedicated Contract Manager has been assigned to undertake comprehensive contract management and administration solely for this contract.

Training in contract management and administration skills has been provided to the HSS Contract Management team. The OCPO also provides a rolling training program for WA Health staff in procurement, contract management and administration.

Recruitment processes have been undertaken to bolster the HSS Contract Management team for the active management of high risk and high value contracts. Positions are now in place and senior staff have been appointed.

**(d) Ensure that appropriate contract records are collated and maintained as required by the *State Records Act 2000*.**

**Completed 31 March 2016, with ongoing monitoring.**

In response to recommendations of the OCPO procurement review, a process has been established to capture a complete, final set of documentation regardless of who undertakes the procurement process or the client business area. These documents are provided to the Contract Manager for placing on file and on the Electronic Document Records Management System called Objective, which is the central contract information repository.

HSS can provide information to WA Health business areas on contract details, up to the point of contract award. HSS has implemented Objective for contract management in line with Supply Chain records management principles.

ICT Procurement and contract management staff have received online and face to face training, including reinforcement of their roles and responsibilities in records management. HSS has a dedicated records management group which has oversight of all contract record keeping in Objective. The Contract Manager has transferred all contract files associated with Contract 27210 to Objective.

HSS will continue to progress record keeping reform for contract and corporate information, in line with DoH's approach to record keeping and the SR Act. The implementation and mandating of the WA Health electronic Procurement Development Management System (PDMS) in March 2016 ensures that all records relating to procurement and contract management and administration are held in an accessible and secure repository, compliant with the SR Act and TI 820 (requirement to maintain a register of contracts).

In response to this recommendation, the SRO notes DoH's appropriate revision of policies, their communication to staff and the intention to progress record keeping reform for contract and corporate information in accordance with the SR Act.



**(e) Ensure that expenditure authorisation limits, including for variations, are suitably defined and adequately understood.**

**Completed 1 July 2016.**

Health Services Providers were required to develop a Procurement and Financial Delegations and Authorisations Schedule effective 1 July 2016, following introduction of the new WA Health organisational structure. The Schedule identifies the officers and Tier levels authorised to approve business transactions including procurement activities and contract variation.

The PDMS system design and workflow rules prevent unauthorised officers from approving procurement documentation or contract variation. The system is overseen by the OCPO. Mandatory training is provided to all HSS staff.

**Recommendation 4: By June 2016, Health should –**

**(a) Clearly separate the roles and responsibilities for contract management with that of contract management oversight.**

**Completed, with ongoing monitoring.**

Since April 2014, changes have been made to the ICT organisational and governance structures for WA Health to clarify the roles, responsibilities and accountabilities for all parties involved in the planning and delivery of ICT services and programs.

The WA Health ICT Executive Board and ICT Program Committee, and clinical, corporate and consumer reference groups, are managed by the WA Health System Manager. Segregating the governance of these committees from HSS ensures that ICT decisions are business-led, have clear senior executive oversight and are based on WA Health's *ICT Strategy 2015-2018* and associated implementation plan.

On 1 July 2015, as part of the transition to the new governance structure for WA Health, HIN and Health Corporate Network were brought together into a single support services division and rebranded Health Support Services (HSS), reporting to the Executive Director, HSS.

HSS is responsible for supporting WA Health in the effective delivery of health care through the provision of technology, supply, workforce and finance services. HSS has introduced senior Category Director roles to oversee the planning, coordination and control of procurement and contract management for ICT and capital works, and for goods and services procured under Whole of Health contracts.

A Director of Finance reports to the Executive Director HSS, ensuring that financial decisions are made with appropriate governance and control. A Budget Review Working Group has also been established to improve internal governance processes around financial management and control.

On July 1 2016, HSS became a Chief Executive governed Health Service Provider as a result of the introduction of the *Health Services Act 2016*. HSS reports to a Chief Executive that reports through to the DoH as System Manager.

Since then, HSS has been managed through service level agreements (SLAs) between HSS and its clients (predominantly the four area health services and DoH). These SLAs provide greater transparency over services delivered, including ICT services and their cost, and increase the level of rigour and scrutiny of HSS.

**(b) Define the policies and procedures it requires to achieve good practice in contract administration.**

**Completed, with ongoing monitoring.**

The *WA Health Procurement Delegation Schedule* (the Delegation Schedule) was introduced in July 2014 to provide a consistent framework for procurement decision making and appropriate executive oversight across WA Health. The Delegation Schedule is a requirement of the SSC's 'partial exemption' for WA Health and provides for improved rigour and oversight in managing contract governance.

The OCPO have implemented a range of policies and guidelines aimed at WA Health staff, including a HIN Specific Operational Directive 0535/14, that was approved and issued by the Acting DG DoH in June 2014. It outlines the minimum requirements for HIN procurement. Roles and responsibilities of the contract manager are clearly articulated within the Guide to Procurement and Contract Management for WA Health produced by the OCPO.

Extensive education and training sessions are provided to all WA Health staff. Included in the OCPO Strategic Procurement Program Phase II 2015-2016 (SPP II) is a deliverable titled 'Improving Proficiency and Efficiency in ICT Procurement Processes'. This focuses on enhancing knowledge around policy requirements, business rules and the correct use of Common Use Agreements for the procurement of ICT goods and services. Training has also focused on the need for sufficient procurement planning, defining and managing variations, and the requirements to comply with policies, guidelines and rules.

'Building Organisational Capacity in Procurement' was established to deliver comprehensive general procurement education. In response to the OCPO recommendations, specific contract managers have been identified and allocated to a central contract management function for Whole of Health ICT contracts. Contract management plans for these contracts have been prepared and sound practices adopted. Training and contract management skills augmentation have been provided to the contract management team.

As outlined in the response to OAG Recommendation 3(c), recruitment processes have been undertaken to bolster the contract management team. The development of the WA Health Procurement Competency Framework (and associated training and education programs) ensures that staff are supported by clear policy guidelines and the PDMS to manage contracts and procure ICT related goods and services.

Under the auspices of the OCPO, WA Health has put in place a Health Supply Contracts Committee to review Procurement Plans for goods and services, including ICT valued between \$250,000 and \$5 million. In addition, the Health Supply Council (HSC) has been established with senior executives and procurement specialists from across the health system to review Procurement Plans and Evaluation Reports for procurement over \$5 million, prior to submission to the State Tenders Review Committee (STRC) or the Community Services Procurement Review Committee. All ICT or goods and services contract variations exceeding \$5 million in value are also reviewed by the HSC and STRC.

**(c) Review all invoices for this contract to determine the accuracy of rates used in the calculations.**

**Anticipated completion 31 October 2016.**

The Contract Manager for Contract 27210 has completed a reconciliation of all invoices and checked the rates used to verify their accuracy. A retrospective review of outstanding invoices has also been completed. A further external review of this contract and other contracts held by the vendor for Contract 27210 is being conducted by an independent company. Regular reports have been received, with the final report due by 31 October 2016.

**Recommendation 5: By December 2016, Health should ensure there is adequate assessment and review of this contract's performance in accordance with the contract terms and conditions.**

**Completed, with ongoing monitoring.**

The Contract Management Plan for Contract 27210 includes biannual contract reviews to ensure it is performing in accordance with the terms and conditions. Negotiations and review of the contract performance has been completed and the two year extension option has been approved for signoff by 1 November 2016. Ongoing reviews with this new format will continue.

**Recommendation 6: By June 2017, Health should –**

**(a) Assess its required or predicted capacity requirements to ensure that appropriate data centre space, IT hardware and software are available as part of this contract.**

**Completed 30 June 2016.**

WA Health is working closely with the OGCIO on the whole of government ICT strategy, including the *Gov-Next* market initiative. As part of this process, a detailed "current state capacity assessment" is underway, along with a target state and transition strategy.

As outlined in the response to OAG Recommendation 5, review of Contract 27210 and renegotiation has occurred to ensure WA Health obtains the best value for money and that the capacity provided in the contract aligns with *Gov-Next* and whole of government ICT capacity forecasts. A significant reduction in cost (averaging 18 percent) has been achieved. These improvements will be in place for 1 November 2016.

**(b) Ensure that appropriate records management policies are revised, communicated to staff and enforced by all Health entities as per the State Records Act 2000.**

**Completed, with ongoing monitoring.**

See response provided to OAG Recommendation 3(d).