



Australian Government

Department of the Environment, Water, Heritage and the Arts

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Risk & Business Consulting.
Internal Audit.

Department of the Environment, Water, Heritage and the Arts

Internal Audit Review of the Procurement Practices in the Green Loans Program

December 2009

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Draft

2. Executive Summary

1.1 Background

The Green Loans Program was announced during the 2008/09 Federal Budget to provide free Home Sustainability Assessments and access to subsidised 'Green Loans' of up to \$10,000 for the improvement of homes with energy and water efficient systems and solutions. The program commenced in July 2009 and will continue until program funding of \$175 million is exhausted, or until 31 March 2013.

The Department of the Environment, Water, Heritage and the Arts (the department) is responsible for the delivery of the program, and establish processes and contracts for the two key functions of Home Sustainability Assessments and Green Loans. Contracts were entered into between the department and service providers to create an assessment tool (educational institutions), conduct the assessments (accredited Assessors) and provide the loans (participating Financial Institutions). Since the commencement of the Program the department has engaged in 115 contracts valuing \$7.8 million.

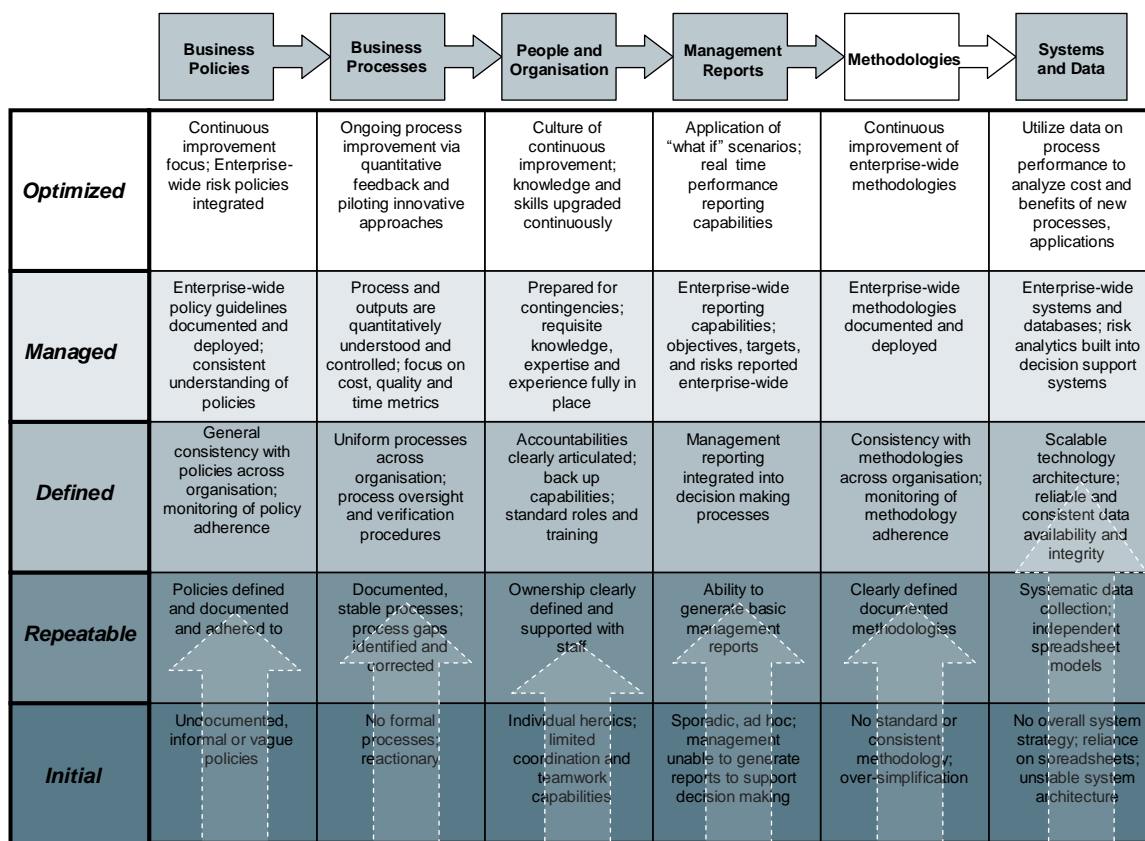
In the Australian Government sector, there is significant scrutiny over the use of consultants in terms of appropriateness, effectiveness and efficiency as well as the procurement processes. The department has requested that Internal Audit conduct a review of the procurement arrangements to ensure that these have been conducted in accordance with Commonwealth Procurement Guidelines (CGPs), the department's Chief Executive Instructions (CEIs) and related procurement toolkits and gain insight into improvement opportunities for the program.

1.2 Overall Assessment

Procurement compliance and effectiveness has been a focus for the department and the broader Australian Government. Specific concerns within the Green Loans program which prompted this review reflect this focus.

There has been improvement in the overall procurement framework in the department in recent years. However, like many capabilities, there is a reliance on the skills, integrity and management skill of departmental staff.

Using a "Capability Maturity Model" to assess the maturity of the procurement processes and systems within the Green Loans Program, in the department, we have assessed the current overall maturity at the "Repeatable" level. This is demonstrated in the following diagram. The Capability Maturity Model should be used as a tool to assist management in defining more clearly the current state of a process and in identifying the desired state. At the Repeatable level, process objectives and requirements are articulated and understood; basic controls and management oversight are in place (albeit on an exceptions basis) and disciplined adherence to process is stressed day-to-day.



It is worth noting that there is no requirement to reach an “Optimising” level for the management of the reviewed processes, and it will be the responsibility of management to determine how far along the process evaluation scale the department wants to be in this area.

Section 3 provides details specific to each of the elements as well as our detail findings and recommendations to assist the department to improve some governance arrangements in order to move toward the ‘Defined’ level and beyond.

1.3 Recommendations

Finding 1 – Lack of Risk Profiling of Procurements

Recommendation

We recommend that all procurements should have a risk profile documented and where it is warranted, a risk assessment conducted accordingly. Conducting a risk assessment as part of the procurement process enables the department to identify any risks that may be involved in the procurement. The risk assessment should be updated throughout the process to incorporate any possible changes to risks.

We also recommend that the department should update the RFT to reflect the risk assessment and definitions as contained in its risk management guidelines.

Inherent Risk Rating

Minor	Possible	Low
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Finding 2 – Procurement Method not Justified

Recommendation

The CPGs indicate that the procurement method should not discriminate against certain suppliers and should encourage competition. Therefore, we recommend that the department/Green Loans team should ensure that when documenting the procurement method, a sufficient explanation should be provided to substantiate the procurement method selected. The procurement helpdesk should also scrutinise PRN requests to make sure that a valid and/or sufficient explanation is provided before issuing the PRN.

Inherent Risk Rating

Minor	Possible	Low
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Finding 3 – Lack of Evidence of Evaluation of Proposals

Recommendation

We recommend that the departmental tools should be used as it was developed to cover all the requirements of the CPGs, FMA Act, the department’s CEIs and risk management principles. The department has invested a significant amount of resources to develop these tools and should be utilised by all staff involved in the procurement process. We also recommend that the delegates responsible for approving procurements and contractors should make sure that all legislation and guidelines are met before approving any part of the procurement process as they are ultimately responsible. The department should consider implementing and effective training program for the procurement process focusing on the use of the procurement toolkits and the assessment of proposals and related information.

Inherent Risk Rating

Minor	Possible	Low
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Finding 4 – Lack of Milestones

Recommendation

We recommend that milestones should be reflected in each contract to enable the department to better monitor and assess deliverables before making payment. By doing this, the supplier will know what is expected from him and that payment is linked to the successful completion of a task which in turn provides motivation to the supplier to delivery an excellent service and product.

Inherent Risk Rating

Moderate	Possible	Medium
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Finding 5 – Lack of Assessment of Final Deliverables

Recommendation

Payments should be linked to the evaluation and acceptance of the final deliverable otherwise the department faces the risk of paying for services and products which potentially maybe of poor quality or not completed. The department should consider implementing a more formal process, similar to the RFQ evaluation process, for the assessment of final deliverables which needs to be approved with the payment before the supplier can be paid. This will allow the department to demonstrate more effectively that it is making use of its resources more effectively.

Inherent Risk Rating

Moderate	Possible	Medium
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Finding 6 – Lack of Contract Variations

Recommendation

We recommend that, when there is an expectation that a change in the contract conditions is going to occur, an appropriate variation should be approved to reflect the decision.

Inherent Risk Rating

Minor	Possible	Low
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Finding 7 – Payments Not Made Within 30 Days

Recommendation

The department should be constantly monitoring when invoices are received to make sure that it can be included in the next payment cycle as well as allowing for sufficient time for the delegate to provide approval. We note that some of the invoices were date stamped to indicate date of receipt but this practice is not consistent throughout the department. We recommend that this practice should be implemented by all areas of the department.

Inherent Risk Rating

Moderate	Unlikely	Low
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Finding 8 – Breach of Regulation 9

Recommendation

The department/Green Loans team needs to ensure that Regulation 9 approval is obtained before commencing any further with procurements. Before the successful supplier is informed, the department/Green Loans team should revisit all approval documentation required to ensure that the required approvals were obtained and that the necessary compliance obligations have been met.

Inherent Risk Rating

Minor	Possible	Low
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Finding 9 – Potential Breach of Regulation 10

Recommendation

We recommend that staff involved in procurement be better informed and trained especially in relation to Regulation 10 and Regulation 9 requirements as these are the two compliance obligations for which the most breaches are identified for FMA Agencies during the Certificate of Compliance process. This is a whole of Government issue and needs to be addressed to ensure that obligations are met.

The department may want to consider increasing the involvement of the procurement team in these areas both in terms of training and compliance monitoring.

Inherent Risk Rating

Minor	Possible	Low
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Finding 10 – Untimely Approvals

Recommendation

The department/Green Loans team should place more focus on obtaining the required approvals as it is a legislative obligation and drives the progress of the procurement process. We note that in some cases, pressures on the department/Green Loans team result in taking short cuts, but this should not be an excuse for following the required protocol.

Inherent Risk Rating

Minor	Possible	Low
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Finding 11 – Lack of Training

Recommendation

The department needs to role out the planned procurement training as soon as possible to ensure that staff involved in procurement activities are better informed and have a better understanding of procurement principles. Team leaders need to identify the specific staff members and follow-up with the staff to ensure it is included in under their Professional Development Scheme (PDS).

Inherent Risk Rating

Moderate	Unlikely	Low
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Finding 12 – Lack of Documentation

Recommendation

The department/Green Loans team needs to make sure that all required documentation are being used and filed appropriately to provide a better audit trail and transparency of the procurement process. The department may wish to consider developing a checklist of potential documentation that is commonly used in the majority of procurements. This checklist needs to be filed in the contract file and ticked off by the responsible contract manager and the delegate that the applicable document has been completed, reviewed and filed in the contract file.

Inherent Risk Rating

Moderate	Unlikely	Low
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1.4 Overall Management Comments

Insert management comment on the overall findings

3. Background, Scope and Approach

1.5 Background

Background to the Program

The Green Loans Program (the Program) was announced during the 2008/09 Federal Budget to provide free Home Sustainability Assessments and access to subsidised 'Green Loans' of up to \$10,000 for the improvement of homes with energy and water efficient systems and solutions. The program commenced in July 2009 and is scheduled to continue until program funding of \$175 million is exhausted, or until 31 March 2013.

The key objectives of the Green Loans Program are to:

Encourage wide-scale improvement of energy and water efficiency in existing homes;

Provide sound advice to households on the most appropriate actions to reduce the environmental impact of operating their home;

Provide financial assistance to households to gain access to the resources they need to invest in energy and water efficient technologies; and

Reduce annual greenhouse gas emissions.

Eligible households are able to book assessments through an Assessor of their choice. A Home Sustainability Assessment is conducted by an expert Assessor, contracted by the Department of the Environment, Water, Heritage and the Arts (the department) to undertake the assessment. Advice is then provided through a discussion between the household and the Assessor. Subsequently the household is provided with an assessment report within 10 days, describing the findings and recommendations. The Assessment Report is then valid for six months for the purpose of applying for a 'Green Loan' from selected financial institutions.

Householders are eligible for a free Home Sustainability Assessment based on criteria which includes:

The applicant must be an Australian citizen or a permanent resident of Australia;

The applicant must have a taxable income no greater than \$250,000 per annum;

The applicant must be aged 18 or over; and

The applicant must give the department permission to access (through their energy and water suppliers) energy and water consumption information for a period of 12 months (where available) preceding the assessment, and up to 24 months after the assessment.

Only certified Home Sustainability Assessors are contracted to conduct assessments under the Program. Before Assessors can become certified, they need to complete a training program and register for the Home Sustainability Assessment Scheme with an Assessor Accrediting Organisation (currently the only recognised Assessor Accrediting Organisation is the Association of Building Sustainability Assessors (ABSA)). Accredited Assessors who wish to conduct assessment services for the Program are required to sign a contract with the Australian Government. Assessors are paid according to a published schedule of fees for successfully conducting prescribed services for the department.

Since the commencement of the Program, the department has engaged in 1700 contracts. After the contract has been signed, the department forwards a 'starter kit' to the individuals/organisations. A universal Regulation 9 approval has been made for the payment of assessors.

The program assists households by lowering the cost of finance for the 'Green Loans'. The 'Green Loans' can be obtained from any participating financial institution. Financial Institutions must comply with the department's requirements regarding the application of the loan as set out in the Financial Institutions Subsidy Deed. A list of participating Financial Institutions is also published on the Program's website.

The department is responsible for the delivery of the program, and establish processes and contracts for the two key functions of Home Sustainability Assessments and Green Loans. Since the commencement of the Program the department has engaged in 115 contracts valuing \$7.8 million.

Background to Supporting Procurements

Educational institutions were contracted to conduct a number of research projects in relation to Green Loans as well as the development of the online assessment calculator that is downloadable by the Assessors to be used during their assessments of households. Based on the contract listings from the department, contracts relating to the development of the assessment tool included the creation of a pilot calculator and upgrading the online assessment tool which amounted to \$129,135.60.

In the Australian Government sector, there is significant scrutiny over the use of consultants in terms of appropriateness, effectiveness and efficiency as well as the procurement processes. The department has requested that Internal Audit conduct a review of the procurement arrangements to ensure that these have been conducted in accordance with Commonwealth Procurement Guidelines (CPGs), the department's Chief Executive Instructions (CEIs) and related procurement toolkits and gain insight into improvement opportunities for the program.

1.6 Review Objective

The objective of the Review was to provide assurance to the Executive and Management of the Renewables and Energy Efficiency Division (REED) regarding the governance, effectiveness, efficiency and controls over key risks in connection with certain procurement activities for the program.

1.7 Scope

The scope of the Review included assessing the overall management arrangements, people, processes and systems used to manage certain procurement activities for the Green Loans Program during 2008/09 and 2009/10 in consultation with management.

Specifically the Review included:

Management of compliance with Government procurement obligations (e.g. CPGs, CEIs, *Financial Management and Accountability Act 1997* (FMA Act));

Management of fraud risks relating to procurement activities;

The design of processes and arrangements used in the establishment of contracts for procured services; and

The operating effectiveness of those processes and arrangements through testing a sample of procurements. The sample focused on procurements at or near the delegation limits at the time of procurement.

Scope Limitations

The following scope limitations were agreed with management prior to the Review. Specifically in conducting this review, Internal Audit has not:

Considered procurement activities or contracts with other Government agencies (e.g. MOU's);

Assessed the procurement arrangements between the department and the participating financial institutions;

Independently assessed the quality or quantity of training required by the accredited Assessors, or the assurance processes established by the Assessor Accrediting Organisation that are in place to ensure awareness and compliance with assessment requirements;

Provided legal advice on the nature or content of procurement contracts;

Be used to supplement external audit procedures, although it is acknowledged that the ANAO may elect to rely on certain elements of the work performed as part of this Review;

Assessed the policy decision that resulted in the establishment of the Green Loans Program;

Assessed the design of processes and arrangements used in the establishment of contracts with the accredited Assessors as agreed with management; and

Validated certain management representations which would require a significant amount of further audit work and there is not seen any reason not to rely on the representation. For example, where the department states that the Home Sustainability Assessment process has been reviewed, assessed and approved we have not re-assessed the approval process. We also did not physically compare contract details to

information in SAP due to conflict of interest issues in relation to the tendering process for Internal Audit services at the department. We were, however, provided with the SAP information in and excel spreadsheet format upon which we relied to be a true representation of the contract information in SAP.

Management is responsible for maintaining an effective internal control structure. The purpose of this Review was to assist management in discharging this obligation. We conducted this Review in order to assess the system of internal control for the area under review and to express an opinion on those control procedures.

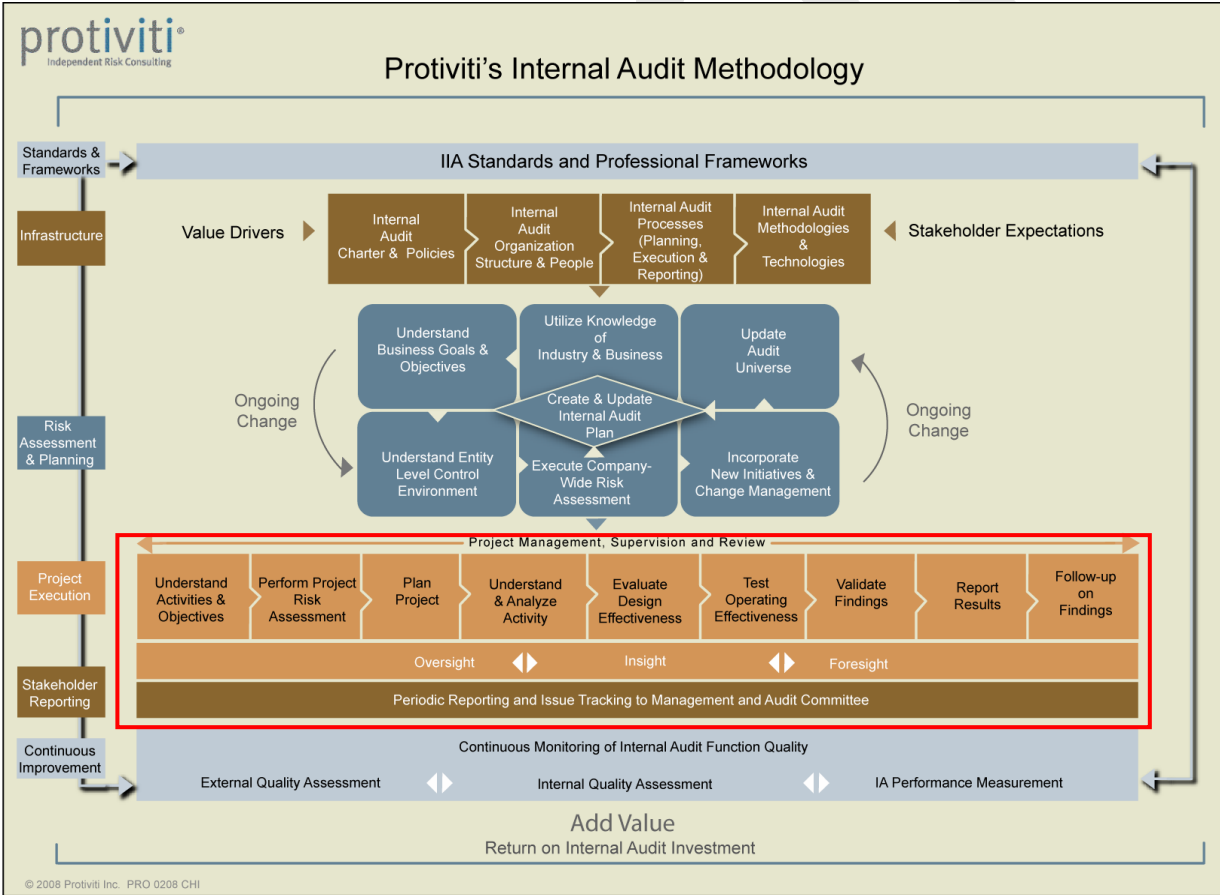
Due to the inherent limitations in any internal control structure, it is possible that errors or irregularities may occur and not be detected. Further, the overall internal control environment, within which the control procedures audited operate, has not been audited and therefore no opinion has been expressed as to its overall effectiveness.

Please note that a review is not designed to detect all weaknesses in control procedures as it is not performed continuously throughout the period and the tests performed on the control procedures are on a sample basis. Any projection of the evaluation of the control procedures to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

Considerable professional judgement is required in determining the overall assessment presented in section 3.1 Overall Assessment. Accordingly, others could evaluate the results differently and draw different conclusions.

1.8 Methodology

The Review followed Protiviti's Internal Audit Business Process Methodology. At a summary level, the relevant components of the methodology to this audit highlighted in red below.



Specifically, the internal audit activities included the following:

Conducted a risk assessment at the commencement of the Review, identifying areas of risk and expected controls for procurement activities. This has been discussed and agreed with management prior to developing the review test plan. Appendix 1 provides a full list of people consulted;

Assessed the design of mitigating strategies as identified during the risk assessment. Consideration was given for specific strategies which included:

Assessment of business need and spending approval prior to conducting procurements;

Timing of approvals;

Extent of leveraging off existing procurements within the department;

Use of panels and multi-user lists;

Conduct of tenders, select tenders and single source approaches to the market;

Management of probity;

Management of compliance with CPGs and departmental procurement policies and procedures (e.g. CEIs and Procurement Toolkits); and

Management of fraud risk.

Assessed the operating effectiveness of the mitigating strategies through the evaluation of a judgementally selected sample of 18 contracts and procurement files in relation to compliance with the designed processes and obligations. Our sample selection focused on amounts near the delegation rights for \$50,000 and \$80,000. 49 Contracts out of a population of a 115 were identified to be near the delegation rights amounts. From these 49 contracts 18 were judgementally selected for testing purposes; and

Provided a final report to management and the Performance Improvement and Governance Section documenting our findings, areas of non-compliance and opportunities for improvement.

1.9 Timing of the Review

Entry Interview:23 September 2009

Start fieldwork:23 September 2009

Completion of Fieldwork:23 October 2009

First Draft Report:18 November 2009

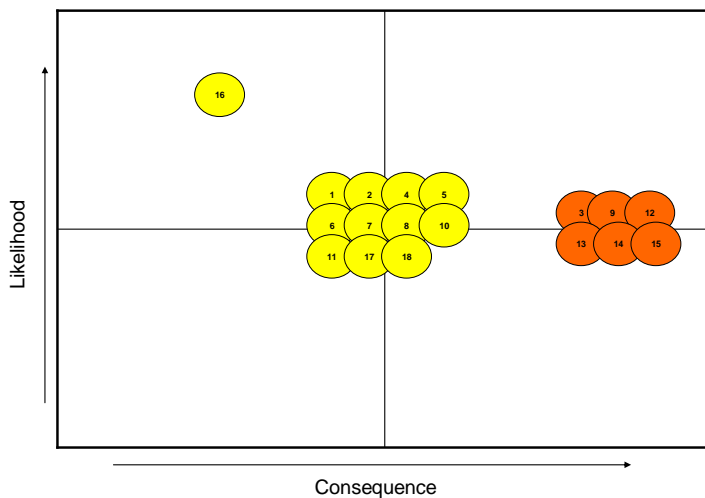
Management Comments:November 2009

Final Report:

1.10 Key Risks

We have undertaken an assessment of the inherent risks for the department with respect to the procurement processes in the Green Loans Program. The following list of inherent risks has driven the approach taken in this Review. These risks were identified and validated with management.

The risks have been rated in accordance with the department's Risk Management Toolkit, a summary of which has been included in Appendix 2. A full list of the inherent risks and their risk ratings identified during the Review can be found in Appendix 3.



Procurement was undertaken without properly identifying the need resulting in the procuring of service which does not meet objectives and ultimately not making effective, efficient and ethical use of Commonwealth Resources (Breach S44) and achieving value for money.

Lack of adequate planning for the procurement resulting in procuring services that do not meet the needs of the department.

Spending proposals are not authorised by the appropriate delegate resulting in a possible breach of Regulation 9 and/or Regulation 10.

Spending proposals are not authorised in a timely manner resulting in a delay of the commencement of the services and hinder the achievement of the objectives of the program.

. Thresholds are deliberately avoided to fast track the procurement process, resulting in value for money not being achieved.

Lack of risk assessments as part of the spending proposals resulting in the department not being prepared for any risks that can occur.

Lack of risk management activities throughout the procurement process resulting in the department not having mitigating strategies in place when an unidentified risk occurs which can impede in the achievement of value for money and ultimately program objectives.

Procurement selection methods (i.e. open tender, panel, direct sourcing etc) are not justified appropriately resulting in non-compliance with the CPGs, departmental procedures.

Lack of distinguishing between consultancy and professional services resulting in incorrect contracts being used which may have a legal implication to the department.

Lack of evidence of communications with suppliers during the procurement process resulting in supplier / customer disputes.

Lack of transparency as a result of not documenting the evaluation of potential suppliers resulting in not adhering to the requirements of the CPGs and not achieving the objectives of Operation Sunlight.

Contingent liabilities are not identified resulting in the department being exposed to legal obligations without their knowledge.

Lack of adequate contract management resulting in sub-standard services being provided to the department.

Lack of understanding of procurement processes and concepts by employees resulting in the procuring of services or goods that does not achieve the objectives of the program, not achieving value for money, breach in FMA S44, breach in departmental delegations and not adhering to the requirements of the CPGs.

Lack of understanding of procurement processes and concepts by employees resulting in the procuring of services or goods that does not achieve the objectives of the program, not achieving value for money, breach in FMA S44, breach in departmental delegations and not adhering to the requirements of the CPGs.

Payments are not done within 30 days to Small and Medium size Enterprise (SMEs) organisations as required by government policy resulting in a breach of government policy and reputational risk for the department.

The procurement details in SAP are incorrect resulting in the department not being able to either make payment to the correct supplier or keep accurate records of any activities with the suppliers. This can also impede effective decision making by management.

Non-compliance with Commonwealth legislation and departmental procedures resulting in a reputational risk when a significant number of breaches are reported during the Certificate of Compliance process.

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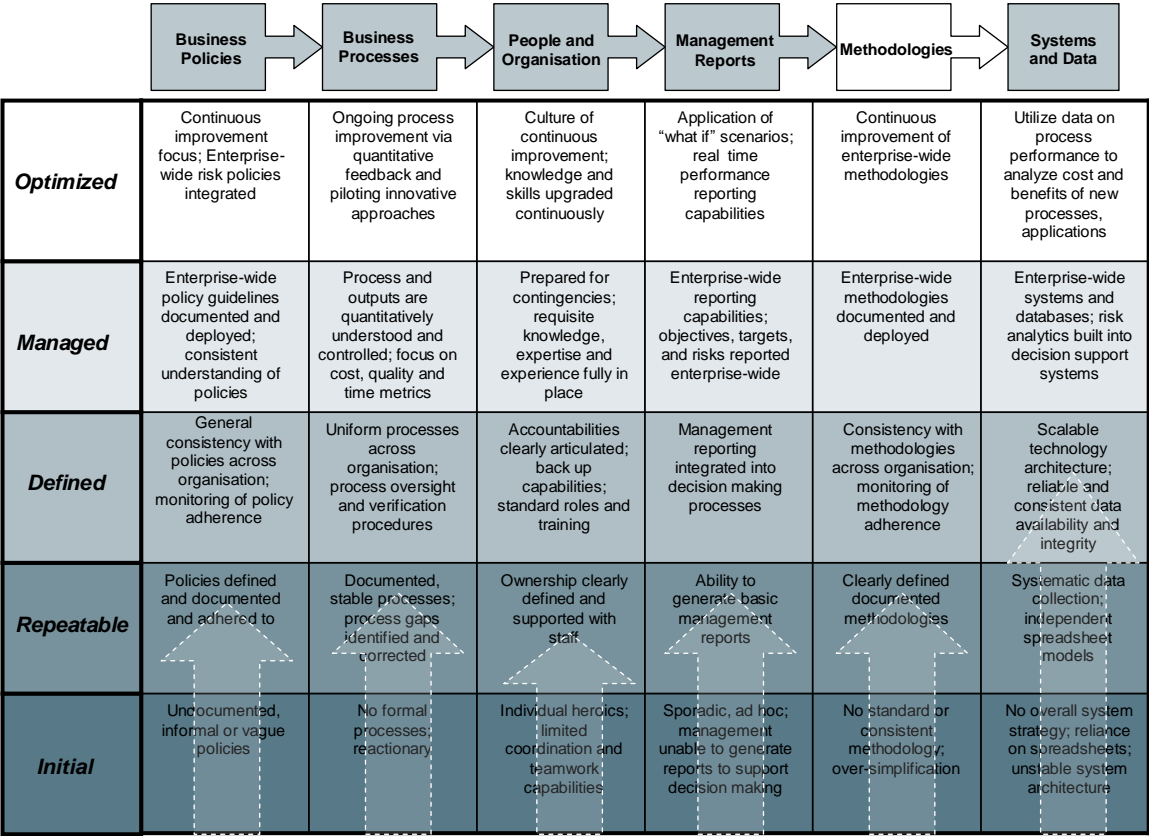
4. Review Findings and Recommendations

1.11 Overall Assessment

Procurement compliance and effectiveness has been a focus for the department and the broader Australian Government. Specific concerns within the Green Loans program which prompted this review reflect this focus.

There has been improvement in the overall procurement framework in the department in recent years. However, like many capabilities, there is a reliance on the skills, integrity and management skill of departmental staff.

Using a “Capability Maturity Model” to assess the maturity of the procurement processes and systems within the Green Loans Program, in the department, we have assessed the current overall maturity at the “Repeatable” level. This is demonstrated in the following diagram. The Capability Maturity Model should be used as a tool to assist management in defining more clearly the current state of a process and in identifying the desired state. At the Repeatable level, process objectives and requirements are articulated and understood; basic controls and management oversight are in place (albeit on an exceptions basis) and disciplined adherence to process is stressed day-to-day.



It is worth noting that there is no requirement to reach an “Optimising” level for the management of the reviewed processes, and it will be the responsibility of management to determine how far along the process evaluation scale the department wants to be in this area.

The tables below provide the detail of our assessment.

Business Policies

Criteria:

Business policies exist and include specific guidelines as well as more general principles that apply to all aspects of the business, including the achievement of its objectives and the management of its risks. Policies enable process and risk owners to understand what the organisation intends to accomplish and they articulate what needs to be done to execute the strategy.

Assessment:

The department has a comprehensive set of procedural and policy documentation in the form of the Chief Executive Instructions (CEIs) and Procurement Toolkits. These were developed to incorporate the compliance obligations of the FMA Act as well as the guidance provided by the Commonwealth Procurement Guidelines (CPGs). Risk Management principles are also incorporated in the evaluation tools used to assess the various procurements.

Based on this evidence, we have assessed that the department's policies are defined and documented; however, the Review identified that these policies are not adhered to. The predominant reason for not adhering appears to be the lack of understanding or knowledge of the processes. Interviews with staff suggested that staff is not aware of all the tools available to assist them in the procurement process. None of the staff in the Green Loans Program, involved in the procurement processes, have received any formal training in procurement practices.

Business Processes

Criteria:

The organisation's processes are its primary means of executing its business policies. Risk responses and control activities should be integrated with the organisation's processes to manage risks at the source. Process definitions should describe the sequence of activities and tasks that must be performed to execute the desired risk response.

Assessment:

As mentioned above, the department has developed a comprehensive set of process documentation; however, the Review identified a number of process gaps. These process gaps appear to surface throughout the department as well as whole of government in some form. Process gaps identified in the Review includes:

- Lack of risk profiling of procurements which should guide the use of risk assessments;
- Procurement methods are not justified; and
- Lack of evidence of evaluation of proposals.

The department's procurement helpdesk does not have the same control over activities for procurements less than \$80,000 due to the minimum reporting requirements. Their focus is placed on procurements greater than \$80,000. A number of the process gaps could have been avoided if the procurement helpdesk was more involved. Unfortunately, this is not always possible purely due to the significant number of procurement activities taking place under \$80,000 and would increase the workload of the procurement helpdesk significantly.

There is sufficient guidance available either through the procurement helpdesk, departmental policies, finance circulars and publications from the Department of Finance and Deregulation and the Australian National Audit Office (ANAO). The issue is that staff are not experienced and knowledgeable in the procurement processes. It is one thing to do what you are told, and another to understand what you are doing.

People and Organisation

Criteria:

Personnel with the required competence, knowledge and expertise execute the organisation's processes. Roles and responsibilities must be clearly defined.

Assessment:

We conducted an assessment of who in the Green Loans team, involved in the procurement process, has received any form of procurement training. The result revealed that none of the staff has been involved in any formal procurement training. The latest training relating to procurement was in June 2008 for one staff member on how to use the Purchasing Portal. Prior to this another staff member received training titled 'Statement of Attainment in procurement & contracting' was done in 2006.

There was also a high turnover in staff since the commencement of the Program which did not aid the understanding of procurement processes at the department. This resulted in staff having to take over on-going projects and managing contracts halfway through the process.

We understand that the department is in the process of developing more formalised training for the procurement processes especially in utilising the procurement toolkits. The department is also planning to implement a team that will perform the same function as the procurement helpdesk, but for the purpose of supporting contract management activities.

Management Reports

Criteria:

The organisation's reporting must be designed according to the information needs of process owners. Management reports should be timely, actionable, easy-to-use and linked to well-defined accountabilities.

Assessment:

Reporting takes place each month where actual figures are tracked against budget. Management reporting against the specific procurement activities are only conducted where issues arise with a certain project and management involvement is required. We understand that the Program will be engaging into contracts in excess of a million dollars. The Program's management has informed Internal Audit that more frequent reporting will be taking place to make sure that these significant contracts are progressing as intended. This will allow the department to anticipate and identify any potential issues before it causes any impediments in the delivery of services.

Management should consider having more frequent discussions and reporting involving all procurement activities to ensure that any potential issues are identified early. This will also allow management with better oversight of procurement activities. Reporting can also be focussed on areas such as the Assessors activities as a fraud prevention method.

Methodologies

Criteria:

The robustness of management reports is enhanced or constrained by the methodologies supporting them. Among other things, effective methodologies help identify, prioritise and source risk as well as support analysis of risk/reward trade-offs.

Assessment:

The department has clearly defined methodologies which are supported by the related policies and procedures. However, these methodologies are not necessarily adhered to as a number of gaps were identified throughout the Review. The gaps relate to general procurement processes, risk management, contract management and non-compliance with the FMA Act, which are described in more detail in our findings and recommendations below.

We have assessed the department's methodologies as being adequate; however, the inconsistency in its application impedes the efficiency and effectiveness of the methodologies.

Systems and Data

Criteria:

Information systems enable the modelling and reporting that supports a process by providing relevant, accurate and on-time information. New technologies are leading to more refined metrics, measures and monitoring, and are making it easier to identify and understand risks, risk drivers and their impact. These systems should exceed the current business requirements and be flexible for future enhancements.

Assessment:

We have assessed the Systems and Data element to be at the Defined level. The reason for this assessment is that SAP has been under scrutiny over recent years as part of a number of reviews. In all instances the SAP platform was seen to be a scalable technology architecture and reliable.

The remainder of this report outlines our detailed findings and recommendations to assist the department to improve some governance arrangements in order to move towards the "Defined" level and beyond.

1.12 Procurement

1.13 Finding 1 – Lack of Risk Profiling of Procurements

The Review identified the following:

none of the selected procurements had any documented risk assessment accompanying the procurement process. According to CEI 4.2 a risk profile should be determined for all procurements and a risk assessment undertaken where the risk profile warrants it. An efficient and effective procurement process incorporates rigorous risk management, enabling key risks to be identified early in the process and what controls is in place to mitigate the risk to the department; and

the Request for Tender (RFT) Evaluation Plan for procurement greater than \$80,000 contains a risk assessment and risk definitions that are inconsistent with the department's risk management guidelines.

Risk

Risks are not identified and/or classified correctly which can impede the effectiveness and efficiency of the procurement process.

Inherent Risk Rating

Minor	Possible	Low
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Recommendations

We recommend that all procurements should have a risk profile documented and where it is warranted, a risk assessment conducted accordingly. Conducting a risk assessment as part of the procurement process enables the department to identify any risks that may be involved in the procurement. The risk assessment should be updated throughout the process to incorporate any possible changes to risks.

We also recommend that the department should update the standard RFT to reflect the risk assessment and definitions as contained in its risk management guidelines.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.14 Finding 2 – Procurement Method Not Justified

The Review identified that 50% of our sample either did not have any justification or insufficient justification to substantiate the procurement method selected. Although this is not necessarily a mandatory requirement for procurements under \$80,000, this is still important and provides transparency to the procurement process.

Risk

Lack of competitiveness and possible discrimination in the procurement process.

Inherent Risk Rating

Minor	Possible	Low
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Recommendations

The CPGs indicate that the procurement method should not discriminate against certain suppliers and should encourage competition. Therefore, we recommend that the department/Green Loans team should ensure that when documenting the procurement method, a sufficient explanation should be provided to substantiate the procurement method selected. The procurement helpdesk should also scrutinise PRN requests to make sure that a valid and/or sufficient explanation is provided before issuing the PRN.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.15

1.16 Finding 3 – Lack of Evidence of Evaluation of Proposals

The Review identified the following:

60% of our sample lacked any form of evidence to suggest that the proposals received from the potential suppliers were (a) evaluated and (b) evaluated by using the department’s RFQ Evaluation Tool;

Only one procurement in our sample made use of the RFQ evaluation tool;

63% of these “unevaluated” procurements did not have a minute to the delegate recommending the proposed supplier to be contracted and the reasons as to why the delegate should provide approval; and

20% of our sample indicated multiple suppliers to be approached on the Regulation 9 but only one or two proposals were received and no evidence were on file to suggest that the other proposed suppliers declined the invitation.

Risk

Sub-standard service and a lack of value for money as a result of not evaluating potential suppliers appropriately.

Inherent Risk Rating

Minor	Possible	Low
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Recommendations

We recommend that the departmental tools should be used as it was developed to cover all the requirements of the CPGs, FMA Act, the department’s CEIs and risk management principles. The department has invested a significant amount of resources to develop these tools and should be utilised by all staff involved in the procurement process. We also recommend that the delegates responsible for approving procurements and contractors should make sure that all legislation and guidelines are met before approving any part of the procurement process as they are ultimately responsible. The department should consider implementing and effective training program for the procurement process focusing on the use of the procurement toolkits and the assessment of proposals and related information.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.17 Contract/Project Management

1.18 Finding 4 – Lack of Milestones

The Review identified the following:

In two of the contracts sampled (both with the same supplier) the contracts did not specify milestones; but that payment will be spread over a number projects and is dependent on the department’s acceptance of the final product. The lack of milestones impedes the process of evaluating deliverables before payment is made and ultimately results in ineffective management of the supplier;

As a result of not having specified milestones, monitoring can not be done effectively. A significant number of payments are made to the supplier on an irregular basis. These payments are not linked to a specific milestone which makes it impossible to monitor the successful delivery of the product or services; and

Due to the significant amount of payments being made to the supplier, the Review identified one payment (\$20,724) to the supplier that was recognised under another contract with the same supplier. Although it appears that staff picked up the error, milestones would have avoided the confusion.

Risk

Over payment for sub standard quality of final deliverables.

Inherent Risk Rating

Moderate	Possible	Medium
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Recommendations

We recommend that milestones should be reflected in each contract to enable the department to better monitor and assess deliverables before making payment. By doing this, the supplier will know what is expected from him and that payment is linked to the successful completion of a task which in turn provides motivation to the supplier to delivery an excellent service and product.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: Specify date	Specify date

1.19 Finding 5 – Lack of Assessment of Final Deliverables

The Short Form Service Contracts used by the Green Loans Team stipulates in most cases that final payment will be made after delivery and acceptance of the final deliverable. The Review identified one contract from our sample where the final payment was made on 23 June 2009 and the final deliverable should have been provided on 30 May 2009 as per the contract. The contract file had no evidence of the final deliverable or any indication that the final deliverable had been received and whether it was accepted.

Risk

Payment for potentially sub-standard products.

Inherent Risk Rating

Moderate	Possible	Medium
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Recommendations

Payments should be linked to the evaluation and acceptance of the final deliverable otherwise the department faces the risk of paying for services and products which potentially maybe of poor quality or not completed. The department should consider implementing a more formal process, similar to the RFQ evaluation process, for the assessment of final deliverables which needs to be approved with the payment before the supplier can be paid. This will allow the department to demonstrate more effectively that it is making use of its resources more effectively.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: Specify date	Specify date

	action to be completed by
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1.20 Finding 6 – Lack of Contract Variations

The Review identified for a number of the contracts, the final deliverable was not or has not been provided on time as per contract deadline. No evidence could be found to suggest that a contract variation was approved to incorporate the change in the contract conditions.

Risk

Untimely delivery of services of sub standard quality.

Inherent Risk Rating

Minor	Possible	Low
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Recommendations

We recommend that, when there is an expectation that a change in the contract conditions is going to occur, an appropriate variation should be approved to reflect the decision.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.21 Finding 7 – Payments Not Made Within 30 Days

Australian Government policy as well as standard contract terms requires the department to make payments within 30 days of receiving a correctly rendered invoice from the supplier. The Review identified three payments which were made after 30 days of receiving the invoice from the supplier. In one instance, payment was made more than two months after receiving the invoice. No evidence was included on the contract file to suggest that payment was delayed due to the deliverable not being to the satisfaction of the department.

Risk

Non-compliance with Government Policy.

Inherent Risk Rating

Moderate	Unlikely	Low
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Recommendations

The department should be constantly monitoring when invoices are received to make sure that it can be included in the next payment cycle as well as allowing for sufficient time for the delegate to provide approval. We note that some of the invoices were date stamped to indicate date of receipt but this practice is not consistent throughout the department. We recommend that this practice should be implemented by all areas of the department.

Management Comments
Select from Agree, Agree in Part, Agree in Principle or Disagree

Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.22 FMA Compliance

1.23 Finding 8 – Breach of Regulation 9

The Review identified a procurement where the Regulation 9 document was completed but never signed as approved by the required delegate. No other evidence was identified to suggest that Regulation 9 approval was provided.

Risk

Non-compliance with the FMA Act

Inherent Risk Rating

Minor	Possible	Low
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Recommendations

The department/Green Loans team needs to ensure that Regulation 9 approval is obtained before commencing any further with procurements. Before the successful supplier is informed, the department/Green Loans team should revisit all approval documentation required to ensure that the required approvals were obtained and that the necessary compliance obligations have been met.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.24 Finding 9 – Potential Breach of Regulation 10

FMA Regulation 10 states that approval should be obtained when funds are planned to be committed over multiple financial years. The exception to obtaining Regulation 10 approval is when funds are proposed to be spent during the time the annual budget is before parliament. For the 2008/09 financial year, budget night was on 12 May 2009. Therefore, any procurement entered into after this date for the 2008/09 financial year, was exempt from Regulation 10 approval.

The Review identified the following:

Four potential procurements where the proposal to spent public money under Regulation 9 was approved prior to or on 12 May 2009. In two of these procurements the Regulation 9 indicated the estimated time of delivery to be within the 2008/09 financial year, but at the time the contracts were signed the timing extended into the next financial year; and

In a number of other instances, during the projects, variations to the final delivery date took place, extending the final delivery date into the next financial year. These extensions may be subject to Regulation 10 approval unless this spending was included in the accruals for the 2008/09 financial year. As confirming accruals was not part of the scope of this Review we have made no assessment in this regard.

Risk

Non-compliance with the FMA Act.

Inherent Risk Rating

Minor	Possible	Low
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Recommendations

We recommend that staff involved in procurement be better informed and trained especially in relation to Regulation 10 and Regulation 9 requirements as these are the two compliance obligations for which the most breaches are identified for FMA Agencies during the Certificate of Compliance process. This is a whole of Government issue and needs to be addressed to ensure that obligations are met.

The department may want to consider increasing the involvement of the procurement team in these areas, both in terms of training and compliance monitoring.

Management Comments	
Select from Agree, Agree in Part, Agree in Principle or Disagree	
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.	
Responsible Officer: Specify responsible Officer	Agreed Completion Date: Specify date action to be completed by

1.25 General

1.26 Finding 10 – Untimely Approvals

The Review identified a number of procurements where approvals were not provided in a timely manner. These included:

In one instance the Review identified that the contract was signed a week after the contract was signed and accepted by the supplier. This can result in unnecessary delays for the supplier in providing the final deliverable to the department; and

In a number of instances the Regulation 9 approval was provided after the proposal was received from the supplier. This can result in a number of other issues relating to the lack competitiveness of the procurement and unfair favouritism towards a single supplier. In some cases the Regulation 9 approval indicated multiple suppliers to be approached, but ultimately the supplier was already determined. This can potentially result in a breach of Regulation 9 as the proposal to spent public money was not approved in a timely manner.

These activities give the impression that approval documentation was completed as part of a formality and not as a driver for the next step in the procurement process.

Risk

Potential non-compliance with the FMA Act and delays in the delivery of the project.

Inherent Risk Rating

Minor	Possible	Low
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Recommendations

The department/Green Loans team should place more focus on obtaining the required approvals as it is a legislative obligation and drives the progress of the procurement process. We note that in some cases,

pressures on the department/Green Loans team result in taking short cuts, but this should not be an excuse for following the required protocol.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.27 Finding 11 – Lack of Training

None of the staff in the Green Loans team, involved with procurement activities, have received any formal training in procurement processes especially in using the current procurement toolkits.

The lack of training was evident in the lack of documentation on file and the lack of evidence of the evaluation process.

In some cases time pressures are responsible for staff either taking short cuts or the delegate approving procurements without appropriately scrutinising the information. This should not be a reason to neglect the procurement processes as the department, delegates and staff are all responsible and accountable under the APS Code of Conduct.

We understand that the department is in the process of developing training material for the procurement toolkits and that it will be rolled out in the near future.

Risk

Loss of corporate knowledge as well as potential non-compliance with legislative obligations

Inherent Risk Rating

Moderate	Unlikely	Low
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Recommendations

The department needs to role out the planned procurement training as soon as possible to ensure that staff involved in procurement activities are better informed and have a better understanding of procurement principles. Team leaders need to identify the specific staff members and follow-up with the staff to ensure it is included in under their Professional Development Scheme (PDS).

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

1.28 Finding 12 - Lack of documentation

There were a number of contract files which omitted crucial procurement documentation such as:
 Request for Quote (RFQ);
 RFQ Evaluation Tool;

Risk Assessments; and

Communication/File Notes between the department and the supplier.

This type of documentation provides greater transparency of the procurement process.

Risk

Lack of transparency of the procurement process

Inherent Risk Rating

Moderate	Unlikely	Low
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Recommendations

The department/Green Loans team needs to make sure that all required documentation are being used and filed appropriately to provide a better audit trail and transparency of the procurement process. The department may wish to consider developing a checklist of potential documentation that is commonly used in the majority of procurements. This checklist needs to be filed in the contract file and ticked off by the responsible contract manager and the delegate that the applicable document has been completed, reviewed and filed in the contract file.

Management Comments		
Select from Agree, Agree in Part, Agree in Principle or Disagree		
Add commentary on how you intend to complete the recommendations, or if you agree only in part, principle or disagree totally, please explain the reasons for disagreement and what you intend to do instead.		
Responsible Officer: Specify responsible Officer	Agreed Completion Date: action to be completed by	Specify date

5. Appendix 1: Personnel Consulted

The following personnel were consulted as part of this review. We are appreciative of their assistance, patience and candour throughout.

Words have been removed to protect the privacy of individuals

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6. Appendix 2: Risk Rating Definitions

The following risk definitions are extracted from the department’s Risk Management Toolkit and have been used to provide a risk rating for each risk raised in this report. The risk rating reflects an assessment of the risk to the department if the finding is not resolved.

		CONSEQUENCE					
LIKELIHOOD		1	2	3	4	5	
		Insignificant	Minor	Moderate	Major	Critical	
A	Almost certain						
B	Likely						
C	Possible						
D	Unlikely						
E	Rare						
	Extreme		High		Medium		Low

Definitions of Likelihood

Description	Likelihood of Occurrence
Almost certain	The event is expected to occur in most circumstances
Likely	The event will probably occur in most circumstances
Possible	The event could occur at some time
Unlikely	The likelihood of the event occurring is low
Rare	The event may occur only in exceptional circumstances

Definitions of Consequence

Description	Consequence of Occurrence
Critical	The consequences would threaten the survival of the program or project, causing major problems for stakeholders, the administration of the program or for a large part of the department. Financial implications would have extreme consequences for the department.
Major	The consequences would threaten the survival or continued effective functioning of the program/project or department. Financial implications would have very high consequences for the department.
Moderate	The consequences would not threaten the program/project or department, but would mean the administration of the program/project could be subject to significant review or changed ways of operating. Financial implications would have medium consequences for the department.
Minor	The consequences would threaten the efficiency or effectiveness of some aspects of the program/project or department, but would be dealt with internally. Any financial implication would be of low consequence.
Insignificant	The consequences are dealt with by routine operations. Any financial implication would be of negligible impact.



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7. Appendix 3: Description of Key Risks

	Process	Risks	Inherent Risk Rating
▪ 1	Identifying the need	Procurement was undertaken without properly identifying the need resulting in the procuring of service which does not meet objectives and ultimately not making effective, efficient and ethical use of Commonwealth Resources (Breach FMA Act s44) and achieving value for money.	▪ Medium
▪ 2	Planning	Lack of adequate planning for the procurement resulting in procuring services that do not meet the needs of the department.	▪ Medium
▪ 3	▪ Authorisation	Spending proposals are not authorised by the appropriate delegate resulting in a possible breach of FMA Regulation 9 and/or Regulation 10.	▪ High
▪ 4	▪ Authorisation	Spending proposals are not authorised in a timely manner resulting in a delay of the commencement of the services and hinder the achievement of the objectives of the program.	▪ Medium
▪ 5	▪ Thresholds	▪ Thresholds are deliberately avoided to fast track the procurement process, resulting in value for money not being achieved.	▪ Medium
▪ 6	Risk Management	Lack of risk assessments as part of the spending proposals resulting in the department not being prepared for any risks that can occur.	▪ Medium
▪ 7	Risk Management	Lack of risk management activities throughout the procurement process resulting in the department not having mitigating strategies in place when an unidentified risk occurs which can impede in the achievement of value for money and ultimately program objectives.	▪ Medium
▪ 8	▪ Approach to Market & Evaluation	▪ Procurement selection methods (i.e. open tender, panel, direct sourcing etc) are not justified appropriately resulting in non-compliance with the CPGs, departmental procedures.	▪ Medium

	Process	Risks	Inherent Risk Rating
▪ 9	▪ Approach to Market & Evaluation	Lack of distinguishing between consultancy and professional services resulting in incorrect contracts being used which may have a legal implication to the department.	▪ High
▪ 10	▪ Approach to Market & Evaluation	Lack of evidence of communications with suppliers during the procurement process resulting in supplier / customer disputes.	▪ Medium
▪ 11	▪ Approach to Market & Evaluation	Lack of transparency as a result of not documenting the evaluation of potential suppliers resulting in not adhering to the requirements of the CPGs and not achieving the objectives of Operation Sunlight.	▪ Medium
▪ 12	▪ Contingent Liabilities	▪ Contingent liabilities are not identified resulting in the department being exposed to legal obligations without their knowledge.	▪ High
▪ 13	Contract Management	Lack of adequate contract management resulting in sub-standard services being provided to the department.	▪ High
▪ 14	Training	Lack of understanding of procurement processes and concepts by employees resulting in the procuring of services or goods that does not achieve the objectives of the program, not achieving value for money, breach in FMA S44, breach in departmental delegations and not adhering to the requirements of the CPGs.	▪ High
▪ 15	Conflict of Interest	Conflict of interest declarations are not disclosed resulting in possible favouritism towards tender applicants and perceived (or real) kickbacks.	▪ High
▪ 16	Payments	Payments are not done within 30 days to Small and Medium size Enterprise (SMEs) organisations as required by government policy resulting in a breach of government policy and reputational risk for the department.	▪ Medium
▪ 17	System	The procurement details in SAP are incorrect resulting in the department not being able to either make payment to the correct supplier or keep accurate records of any activities with the suppliers. This can also impede effective decision making by	▪ Medium

	Process	Risks	Inherent Risk Rating
		management.	
<ul style="list-style-type: none"> ▪ 18 	Compliance	Non-compliance with Commonwealth legislation and departmental procedures resulting in a reputational risk when a significant number of breaches are reported during the Certificate of Compliance process.	<ul style="list-style-type: none"> ▪ Medium

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