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Audit Report No.34 2005–06
Performance Audit

Advance Passenger Processing

Department of Immigration and Multicultural Affairs

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of Australia 2006

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Canberra ACT
16 March 2006

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Immigration and Multicultural Affairs in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *Advance Passenger Processing*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely



Ian McPhee
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations

AFP	Australian Federal Police
APC	Advance Passenger Clearance
APEC	Asia Pacific Economic Cooperation
API	Advance Passenger Information
APP	Advance Passenger Processing
APS	Australian Public Service
CTA	Crew Travel Authority
Customs	Australian Customs Service
DIMIA	Department of Immigration and Multicultural and Indigenous Affairs. On 27 January 2006, the office of Indigenous Policy Coordination was moved from the Immigration and Multicultural and Indigenous Affairs portfolio to the new Department of Family, Community Services and Indigenous Affairs. At the time of the ANAO's field work for this audit, Advance Passenger Processing was administered by the Department of Immigration and Multicultural and Indigenous Affairs and is abbreviated to DIMIA throughout the report.
EOC	Entry Operations Centre
ETA	Electronic Travel Authority
ETAS	Electronic Travel Authority System
MAPP1	Mandatory APP–Stage 1
MAPP2	Mandatory APP–Stage 2
PACE	Passenger Analysis Clearance and Evaluation
TRIPS	Travel and Immigration Processing System

Summary and Recommendations

Summary

Background

1. The Australian Government, through the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), operates a 'layered approach' to border control, as shown in Chapter 1—Figure 1.1. That is, the particulars of each traveller are checked against DIMIA systems at several points to ensure the traveller is properly authorised to enter Australia. These 'layers' of checking include a universal visa system, the Airline Liaison Officer (ALO) network, Advance Passenger Processing (APP) and border processing at entry points at Australian airports and seaports.
2. APP is the most recent technological evolutionary stage of Australia's border processing. Unique features of APP include that it is interactive with airlines; it is designed to prevent people from boarding who do not have authority to enter Australia or who are adversely recorded by DIMIA¹, and it allows authorised agencies to examine passenger information before passengers arrive in Australia. The overall effect is to extend the border to the last point of embarkation—the airline check-in point overseas.
3. CPS Systems Pty Ltd was selected as the prime contractor (the contractor) to develop, implement and provide ongoing support for DIMIA's Electronic Travel Authority (ETA) system after a tendering process in 1995. The relationship between DIMIA and its contractor is covered by the ETA System Agreement, which provides for, among other things, enhancements to the ETA system. APP was developed as an enhancement to the ETA system.
4. APP links DIMIA with airline departure control systems. It accesses and processes data held on DIMIA's Travel and Immigration Processing System. APP is designed to enable people arriving in Australia to be processed quickly. All information needed for APP processing is collected when a passenger checks in with an airline carrier overseas and is forwarded electronically to Australia using a worldwide communications network and the ETA platform. This confirms the existence of a valid visa or ETA for people requiring an authority to travel², and confirms the status of Australian and

¹ There will be occasions when a person becomes 'of concern' after a visa has been granted. In such circumstances, DIMIA's systems are designed to identify that the person holds a visa and, in nearly all cases but particularly where there are security concerns, the person's visa will be cancelled immediately. This person would then receive a 'Do not board' directive from APP at check-in because they have inadequate documentation.

² There is also a check against DIMIA's Movement Alert List, a computer database that stores details about people and travel documents of immigration concern to Australia. The database is a key element of Australia's national security and border integrity, and is integrated with DIMIA's visa issuing and border entry processes. The ANAO has identified the Movement Alert List as a potential audit topic in its Audit Work Programme for 2006–2007.

New Zealand passport holders. APP information is then sent to Australia, allowing passengers and crew to be immigration screened in flight. When they arrive, their records are amended to show they have entered Australia.

5. Prior to 5 January 2003, DIMIA entered into arrangements with airlines to process passengers using APP on a voluntary basis³ (hereafter referred to as voluntary APP). Following the events of 11 September 2001, the Government decided to make reporting through the APP system mandatory from 5 January 2003, for all passengers and crew of airlines and international cruise ships arriving in Australia (hereafter referred to as mandatory APP). The *Border Security Legislation Amendment Act 2002* (Cwlth) amended both the *Customs Act 1901* and the *Migration Act 1958* accordingly. Appendix 2 provides information about the legislative changes. Airlines and the cruise shipping industry implemented APP incrementally through 2003–04 (see Chapter 2—Table 2.1).

6. DIMIA's business system design⁴ for the voluntary APP system described the most important measure of success of the APP system as 'the saving in the time to process a cohort of international passengers through the primary line⁵ at Australian borders'. That is, the focus of the business system design was on passenger facilitation. However, in the light of the subsequent requirement that all passengers and crew of airlines and international cruise ships arriving in Australia be processed using APP, the focus of APP was on increased control. This shift is evidenced in comments outlining the benefits to border security of mandatory APP in the Explanatory Memorandum to the *Border Security Legislation Amendment Bill 2002*, which stated that the introduction of mandatory APP will:

[S]ignificantly enhance the ability of Customs and DIMIA to assess passengers and crew, prior to their arrival in Australia, for the risk they may present in relation to a range of Commonwealth laws.

Air arrivals

7. The vast majority of travellers arrive in Australia by air, with only a very small number, mostly the crew of commercial ships, arriving by sea. Air arrivals include Australian citizens returning from overseas holidays or time abroad, migrants, tourists, business visitors, temporary residents, people on

³ A limited version was successfully trialled with Singapore Airlines in 1998. A subsequent version was progressively rolled out to Air New Zealand, Cathay Pacific, Qantas, Japan Airlines and Singapore Airlines, with British Airways coming online in April 2002 and China Airlines in June 2002.

⁴ CPS Systems, *Advance Passenger Processing, Business System Design, Version 1.4*, 26 November 1998, pp 1–4.

⁵ Customs officers, both for Customs and Immigration purposes, process passengers arriving in Australia at the primary line. Customs officers may subsequently refer passengers to DIMIA officers at the secondary line for further immigration processing.

working holidays, overseas students, diplomats, military personnel and the crew of international airlines. In 2003–04, around 9.3 million people arrived by air, which was 11 per cent more than in 2002–03, when around 8.3 million people arrived.⁶

Sea arrivals

8. The majority of people arriving in Australia by sea are the crew members of visiting commercial ships, such as container vessels and bulk cargo ships. In 2003–04, around 333 000 people (both crew and passengers) arrived in Australia by sea, a rise of 4 per cent from 2002–03, when around 320 500 arrived.⁷

Audit objective and scope

Audit objective

9. The objective of this performance audit was to assess whether DIMIA's information systems and business processes are effective in supporting APP to meet its border security and streamlined clearance objectives. In particular, the audit focused on the following:

- Mandatory APP–Stage 1 (MAPP1) project management;
- MAPP1 IT development and system performance;
- APP performance reporting;
- contract management; and
- financial management.

10. In assessing DIMIA's financial management relating to APP, the ANAO had regard to the Commonwealth's framework of legislation and policy governing the management of the Australian Government's resources.

Audit scope

11. During preliminary planning for the audit, DIMIA advised the ANAO that:

- the majority of airlines and cruise ships had implemented APP for all passengers and crew under MAPP1 but the maritime cargo sector had not commenced implementation of APP; and

⁶ DIMIA, *Managing the Border: Immigration Compliance*, Canberra, May 2005, p. 14.

⁷ Ibid.

- system enhancements (to allow for APP airline crew data to be transferred between Customs and DIMIA systems) planned for Mandatory APP–Stage 2 (MAPP2) were still being finalised.

12. For these reasons, the ANAO chose to examine DIMIA’s administration of MAPP1 for air passengers and crew arriving in Australia, and to exclude the maritime industry. In some instances, the ANAO also examined events relating to voluntary APP, before MAPP1 was implemented, to better understand and assess DIMIA’s overall performance in administering the APP system.

13. The audit does not include the following:

- an assessment of the security of the APP system;
- DIMIA’s implementation of MAPP2, as this work was still being completed at the time of the audit;
- DIMIA’s Movement Alert List. This topic has been identified as a potential audit in the ANAO Audit Work Programme for 2006–07; and
- the processing of air passengers and crew by Customs and DIMIA once they have arrived at the border. This topic has also been identified as a potential audit in the ANAO Audit Work Programme for 2006–07.

Overall conclusion

14. The development and implementation of mandatory APP has involved a number of parties, including DIMIA, the Australian Customs Service (Customs), CPS Systems (the contractor) and its subcontractors⁸, and individual airlines. The introduction of mandatory APP was a major component of the Government’s border security response to the events of 11 September 2001. APP was an innovative system and provided a basis for checking whether passengers and crew of airlines and international cruise ships were properly authorised to enter Australia at their point of embarkation prior to arriving in Australia. APP also allows authorised agencies to examine passenger information before passengers arrive in Australia.

15. Mandatory APP has now largely been implemented.⁹ DIMIA reports that as at 30 June 2005, APP reporting occurred in approximately 98 per cent of passenger air arrivals.¹⁰ The purpose of mandatory APP shifted from passenger

⁸ Société Internationale de Télécommunication Aéronautiques (SITA)—network service provider; First Data Resources; Sterling Software; IBM Australia; and Oracle Systems (Australia).

⁹ DIMIA has proposed that the Government give consideration to a fines regime to allow DIMIA to fine airlines that do not process all passengers and crew using the APP system. DIMIA is also developing performance reporting modules for APP.

¹⁰ DIMIA, *Annual Report 2004–05*, Canberra, 2005, p. 101.

facilitation to control with the advent of mandatory APP. However, DIMIA's performance information relating to APP is not sufficient to determine whether airlines are using APP as intended. Collecting additional performance information on aspects of airline performance in using APP would assist DIMIA to more effectively monitor individual airline compliance levels. Also, DIMIA can improve its performance measures to better allow it to measure the impact of mandatory APP on border security.

16. The target implementation date for MAPP1 was 1 January 2004.¹¹ DIMIA reported to its Minister that MAPP1 went live on 6 January 2004, but that it would take considerably longer for the airlines to implement it.¹² The majority of airlines implemented MAPP1 after May 2004. The ANAO considers that more comprehensive and timely testing of the MAPP1 system with airlines would have assisted the earlier and smoother transition of airlines systems to MAPP1.

17. It also took considerably longer to remove the need for duplicate reporting by airlines for crew members to both DIMIA and Customs. Even though it was specifically mentioned in the second reading speech for the Border Security Legislation Amendment Bill 2002, DIMIA did not include this functionality in its business requirements for MAPP1 and it was not implemented until February 2005.

18. Although DIMIA reports APP performance in its Annual Report, it does not provide information that would allow the impact of mandatory APP on border security to be assessed. In particular, it does not report against the intent of the Border Security Legislation Amendment Bill 2002 'to assess passengers and crew, prior to their arrival in Australia, for the risk they may present in relation to a range of Commonwealth laws'. DIMIA advised the ANAO that it is working with its contractor to identify APP performance information that would assist DIMIA in this regard. This includes identifying instances where people are denied boarding as a result of using APP.

19. DIMIA could improve the accuracy and sufficiency of its APP performance information used for airline compliance monitoring and external reporting, including information relating to: code-share arrangements between

¹¹ DIMIA's Migration Series Instructions provided for the implementation of mandatory APP as follows: Migration Series Instruction 3.13A requires that information about passengers and crew be given to DIMIA before the arrival of an international passenger aircraft, commencing 5 January 2003; Migration Regulation 3.13B requires that information about passengers and crew be given to DIMIA before the arrival of an international passenger cruise ship, commencing 1 January 2004; and Migration Regulation 3.13C requires that information about passengers and crew be given to DIMIA before the arrival of an international cargo ship, commencing 1 July 2005.

¹² Airlines needed to modify their systems to connect to MAPP1.

airlines; passengers crossing the primary line after midnight¹³; charter flights; system errors; and check-in mistakes. It is also important that all airlines receive APP performance information and that all users of the information are made aware of the factors affecting its accuracy to assist them in understanding to what extent they can rely on the information. DIMIA is working to address deficiencies in its performance information through the development of a system to support a proposed fines regime for airlines that do not process all passengers and crew using the APP system.¹⁴

20. In the case of APP, it is not apparent that DIMIA had a clearly developed or articulated strategy for managing its relationship with its contractor including contract succession arrangements, so that the Commonwealth's interests were protected. The department advised that it paid for the development costs for the APP system, which is ultimately owned by the contractor.¹⁵ In this context, the business rationale and authority for some of the decisions made by the department was not evident.

21. Although provision existed under DIMIA's ETA System Agreement with its contractor, to vary the agreement to provide for the development and on-going operation of APP, DIMIA did not establish clearly documented contractual arrangements. Instead, DIMIA has managed its relationship with its contractor relating to APP through correspondence (including letters and e-mails) between the parties. The absence of formal contract variation documentation relating to APP increases: the risk of disputation over the scope of what the parties intended to be delivered; the terms on which it would be

¹³ The incorrect recording of the date passengers arrive in Australia can adversely affect the accuracy of DIMIA's APP processing statistics. This type of error can occur, for example, if a flight arrives in Australia before midnight but passengers do not cross the primary line until after midnight. In this event, passengers are recorded by DIMIA as having arrived the day after the flight actually arrived in Australia. The recorded arrival is then inconsistent with airline and APP flight arrival information and complicates the calculation of airline take-up rates relating to APP processing.

¹⁴ Although the *Migration Act 1958* imposes a requirement on carriers to ensure that non-citizens brought to Australia are properly documented, there is no infringement regime for aircraft or ship operators that do not process all persons travelling to Australia using the APP system. However, DIMIA is proposing that the Government give consideration to a fines regime as part of the Border Integrity Bill 2006, which is intended to be introduced into the Senate during Parliament's 2006, autumn sitting. If passed, a fines regime will be introduced in late 2006, to allow DIMIA to fine airlines that do not process all passengers and crew using the APP system. DIMIA expects this regime to provide a more meaningful incentive for airlines to comply.

¹⁵ The ANAO notes that Schedule 13 of the Contract provides that on the expiration or termination of the Contract, DIMIA's IT system contractor grants to DIMIA an irrevocable, perpetual, non-transferable, royalty free licence to use the Request Processing System (Application Processor) Software source code and supporting material.

delivered; and the risk that required approvals under the FMA Act will be overlooked.¹⁶

22. The terms and conditions that DIMIA had agreed with its contractor relating to the financial arrangements for voluntary APP were unclear. In particular, DIMIA and its contractor have differing positions on the purpose of a \$900 000 payment made by DIMIA to its contractor. Essentially, DIMIA considers the payment was made to cover development costs as at 30 June 2001. Whereas DIMIA's contractor considers the payment was made by DIMIA to reduce proposed ongoing APP transaction fees. DIMIA's lack of documentation means that the rationale for its payment of \$900 000 to its contractor was not clear nor was the basis for the transaction fee structure for APP. The ANAO considers that in such an environment it is particularly important that business decisions are documented to protect the interests of the Commonwealth and to support transparency and accountability. DIMIA did not do this for key business decisions relating to the financial arrangements for APP. Also, the manner in which DIMIA managed its contractual and financial arrangements with its contractor relating to voluntary APP exposed the Commonwealth to unnecessary risks (see paragraph 48).

23. ANAO findings in recent DIMIA audits have identified a range of deficiencies in DIMIA's contract management and documentation to support key decisions, and the department has foreshadowed expenditure of \$10 million over five years to improve record keeping systems.

24. DIMIA has a cost recovery arrangement¹⁷ with its contractor designed so that part of the \$20 service charge collected by its contractor per ETA application (from the public through the ETA system Internet gateway) is used to offset expenses relating to the operation of the ETA system, including APP. Essentially, individuals from most countries seeking to enter Australia as a visitor can apply for an ETA¹⁸ via the Internet. Each individual pays a \$20 service charge to submit an ETA application via the Internet. DIMIA's contractor receives the \$20 service charge and uses part of this amount to offset DIMIA expenses relating to the ETA and APP systems.

¹⁶ Since July 2004, DIMIA has engaged an officer to oversee all contractual matters related to the contract. This is an ongoing role and the major component of the officer's duties. Also, DIMIA has engaged PSI Consulting to review the contract. In June 2005, DIMIA forwarded to its contractor a draft Deed of Variation to the contract for comment. The draft Deed of Variation addresses system enhancements, service levels and changes to the financial arrangements since 1996 that have been implemented through exchanges of correspondence.

¹⁷ Cost recovery is the recovery of some or all of the costs of a particular activity. Used appropriately, cost recovery can improve economic efficiency. Cost recovery may also have equity effects. It may improve equity by ensuring that those who use regulated products bear the costs.

¹⁸ Visitor visa (subclass 976) or short validity business entrant (subclass 977). No visa application charge is payable for these visa subclasses.

25. DIMIA could remove the potential for misunderstanding by Internet ETA applicants by posting appropriate notices on its website outlining the relationship between itself and its contractor and notifying applicants that any transaction entered into through the Internet interface would be with its contractor and not DIMIA. Also, it would be useful for DIMIA to discuss with Finance, the most appropriate way of managing its cost recovery arrangements with its contractor relating to the Internet ETA fee.

26. The audit has highlighted weaknesses in the development and operation of mandatory APP, which is now a key system in DIMIA's border control strategy. It is not apparent that DIMIA had a clear strategy for managing its relationship with its contractor including contract succession arrangements, nor did it employ a structured approach to the delivery of APP. In particular, its contractual and financial arrangements were poorly documented and exposed the Commonwealth to risk in the event of a dispute between the parties.

Recommendations and agency response

27. The ANAO made six recommendations concerning DIMIA's administration of APP. DIMIA agreed with all of these recommendations. DIMIA's full response to the audit is provided below.

The Department welcomes the audit of APP. The findings of the audit will be used to build on the ongoing work to enhance the APP system.

The APP system has operated successfully since 1998 and now has about 99 per cent coverage of airline transactions. It operates globally in a real time environment and has proven to be robust application with an availability factor of above 99.7 per cent.

APP is a key component of Australia's layered approach to border control. This means that Australia does not rely on any one system but uses a variety of checks and balances to weave the strong fabric of its border control. For example, a visa is a fundamental requirement for access to Australia and persons making applications are checked against an extensive 'watch list'. At international hubs airport liaison officers check passenger documentation. APP provides a further check to ensure the person is properly visaed for entry. Face-to-face checking then takes place at the border which now also includes automated document checking.

The development of the APP system was, and remains, leading-edge technology. No other equivalent system has been developed although a number of countries are now using the system designed for Australia. The introduction of such technology required an evolutionary approach to the technology which lacked some of the specificity of other IT development processes.

At the same time, there clearly needed to be good governance around such arrangements and a range of measures were set in place in 2004 to ensure tighter contract administration and some of the associated issues which are also identified in the report. A draft Deed of Variation to the contract was passed to CPS in 2005 which should clarify residual contractual issues.

This action has been further supported by a wide range of measures announced by the Minister in October 2005 to improve administration within the Department as part of Government's response to the Palmer and Comrie reports. These measures included significant organisational changes, including the introduction of a centre of excellence for contract and procurement processes within the newly established Legal Division.

The APP system has benefited all parties. It provides greater border security, it resolves many issues around the 'credentialing' of passengers before they arrive at the border and it has reduced the cost to airlines and shipping companies of arrivals without proper documentation. For example, in 2000–01 fines totalled around \$23m but are estimated to be around \$3m in 2006–07.

As recommended by the ANAO, more detailed monitoring of airline compliance is being developed, as is a more specific system performance reporting regime for the service provider. More detailed APP performance measures relating to border security are also currently being developed.

Key Findings

Implementation of Mandatory Advance Passenger Processing Stage 1 – MAPP1 (Chapter 2)

28. The development and implementation of mandatory APP has involved a number of parties, including DIMIA, the Australian Customs Service (Customs), DIMIA's contractor and its subcontractors¹⁹, and individual airlines. The introduction of APP on a mandatory basis was a major component of the Government's border security response to the events of 11 September 2001. Its introduction was subject to time imperatives and risks, including that of delayed introduction. The target implementation date for MAPP1 was 1 January 2004. DIMIA reported to its Minister that MAPP1 went live on 6 January 2004 but that it would take considerably longer for the airlines to implement it.²⁰ The ANAO found that the majority of airlines implemented MAPP1 after May 2004.

29. While DIMIA had estimated some costs for the project, the costing was incomplete. There was no overall picture of the total cost of the project (for DIMIA and its contractor). In addition, DIMIA was unable to provide evidence that it had approved a project budget or developed a basis to manage expenditure. Furthermore, DIMIA was unable to provide evidence that it had recorded expenditure against a project budget or provided project budget reports to DIMIA senior management.

30. DIMIA applied limited attention to defining the quality requirements for MAPP1, which reduced their ability to identify and apply adequate quality controls. In particular, DIMIA documentation did not address IT requirements relating to the quality of the products to be delivered. DIMIA did not address important criteria such as reliability, usability, accuracy and performance. Also, the document outlining the test strategy was not comprehensive (it covered only user acceptance testing) and was not finalised.

31. The ANAO suggests that, in order to fully assess the effectiveness of the implementation, DIMIA complete a review of MAPP1 to identify any outstanding issues not already addressed through subsequent work completed for MAPP2. Such a review would provide assurance that expected benefits have been achieved without any unintended adverse effects on stakeholders or on other systems.

¹⁹ Société Internationale de Télécommunication Aéronautiques (SITA)—network service provider; First Data Resources; Sterling Software; IBM Australia; and Oracle Systems (Australia).

²⁰ Airlines needed to modify their systems to connect to MAPP1.

Mandatory Advance Passenger Processing–Stage 1 (MAPP1) IT Development and System Performance (Chapter 3)

32. DIMIA and its contractor jointly implemented the MAPP1 project to enhance the existing APP system to provide functionality including advance information for: airline crew; cruise ship passengers and crew; transit passengers; and an estimated 1 per cent of passengers not required to obtain a visa.

33. In undertaking the MAPP1 project, it was important for DIMIA and Customs to coordinate their efforts in a timely manner to implement a solution that avoided duplicate reporting by airlines, consistent with the second reading speech for the Border Security Legislation Amendment Bill 2002 (delivered by the Attorney-General on 12 March 2002).²¹ However, DIMIA's business requirements for MAPP1 did not address this requirement. Subsequent to the audit, DIMIA advised the ANAO that MAPP2 (incorporating the necessary changes to Customs and DIMIA systems to remove the need for duplicate reporting by airlines for crew members) was implemented on 23 February 2005.

34. The majority of airlines had not completed MAPP1 testing prior to the system going live and therefore did not cut over to MAPP1 until after the go-live date. A major airline carrier into Australia indicated that the test scripts supplied did not allow for full testing of all error responses, which resulted in modifications to their system after having gone live.

35. When MAPP1 went live on 6 January 2004, there were several outstanding issues in end-to-end testing. DIMIA's contractor subsequently delivered the associated functionality as agreed by June 2004. DIMIA was unable to provide evidence, however, that it had subsequently conducted testing to confirm complete system functionality.

36. An examination of outage statistics for APP, provided to DIMIA by its contractor, shows a high level of availability, although in some months the target of 99.7 per cent was not met.

37. Although DIMIA had data on APP availability from its contractor's perspective, it could not provide evidence that the Department's Entry Operations Centre recorded and monitored statistics relating to outages reported by airlines. The ANAO found that although DIMIA receives system availability statistics from its contractor, it does not analyse these statistics or

²¹ Prior to the development and implementation of MAPP1, duplicate reporting by airlines to both DIMIA and Customs was necessary to achieve efficient processing using APP for airline crew members. However, this was not the case for airline passengers.

data supplied by airlines to the Entry Operations Centre, to identify causes of airline outages, that is, connectivity problems to the APP system.

Advance Passenger Processing (APP) Performance Reporting (Chapter 4)

38. DIMIA publicly reports, at an aggregate level, information about APP relating to air and sea arrivals in its Annual Report and in departmental publications such as *Managing the Border: Immigration Compliance*.

39. In its *Annual Report 2004–05*, DIMIA reported that as at 30 June 2005, APP reporting occurred in approximately 98 per cent of passenger air arrivals, an increase from 96 per cent in 2003–04 and 94 per cent in 2002–03.²²

40. The ANAO reviewed the accuracy²³, relevance²⁴ and sufficiency²⁵ of DIMIA's APP performance information used for external reporting and airline compliance monitoring. DIMIA's APP performance information used for compliance monitoring and external reporting is relevant. However, inaccuracies in DIMIA's APP performance information mean that DIMIA's monitoring of airline compliance and its external reporting on the aggregate number of airline passengers arriving in Australia, that have been processed by airlines using APP, is unreliable to some degree.

41. These inaccuracies are a consequence of the following:

- code-share arrangements between airlines;
- passengers crossing the primary line after midnight;
- charter flights;
- system errors; and
- check-in mistakes.

42. Because DIMIA has not yet been able to quantify the impact of the abovementioned factors on the accuracy of its APP statistics, it is unable to quantify the degree to which its monitoring of airline compliance and its external reporting is accurate and therefore reliable. A lack of accurate performance information reduces DIMIA's ability to monitor whether airlines are using APP, as required by legislation, to enable DIMIA to assess

²² DIMIA, *Annual Report 2004–05*, Canberra, 2005, p. 101.

²³ Measuring accurately what the agency sets out to measure.

²⁴ Ensuring measurement of what users are interested in.

²⁵ An adequate amount of performance information.

passengers and crew, prior to their arrival in Australia, for the risk they may present in relation to a range of Commonwealth laws.

43. DIMIA is working to address deficiencies in its performance information through the development of the APP Infringement Reporting System. This is expected to improve the accuracy of its APP performance information used for external reporting and airline compliance monitoring, and support a proposed fines regime for airlines that do not process all passengers and crew using the APP system.

44. The ANAO also found that DIMIA's APP performance information is not sufficient to determine whether airlines are using APP as intended. Collecting additional performance information on aspects of airline performance in using APP would assist DIMIA to more effectively monitor individual airline compliance levels.

45. Although DIMIA reports information relating to APP in its Annual Report, it does not provide information that would allow the impact of mandatory APP on border security to be assessed including:

- the number of non-citizens who were not allowed to board an aircraft to travel to Australia, as a result of being processed by APP, owing to the risk they may present in relation to a range of Commonwealth laws; and
- the number of non-citizens who were refused entry at the Australian border, owing to the risk they may present in relation to a range of Commonwealth laws, that should (or could) have been detected at the point of embarkation using APP.

46. In particular, including the above-mentioned performance information in its Annual Report would assist DIMIA in reporting its performance in respect of the strategy of extending the border to the last point of embarkation as discussed at paragraph 1.12.

47. DIMIA advised the ANAO that it is working with its contractor to identify the number of instances where a person was denied boarding as a result of processing using APP.²⁶ This information would assist DIMIA to report its performance relating to the impact of mandatory APP on border security as discussed above.

²⁶ Excluding instances where persons were initially denied boarding as a result of processing using APP, because of, for example, data entry errors but were subsequently allowed to board after further processing using APP.

Contract Management (Chapter 5)

48. DIMIA's management of its contractual arrangements with its contractor for delivering APP has exposed the Commonwealth to unnecessary risks. In particular, DIMIA has not properly protected the interests of the Commonwealth by:

- establishing clearly documented contractual arrangements with its contractor for the delivery and ongoing operation of APP including service standards against which contractor performance can be monitored.²⁷ The absence of formal contract variation documentation relating to APP increases: the risk of disputation over the scope of what the parties intended to be delivered; the terms on which it would be delivered; and the risk that required approvals under the FMA Act will be overlooked;
- identifying its contract management risks relating to APP, analysing the risks, implementing treatments, and monitoring and reviewing the success of its controls. For example, a typical internal contract management risk is that contract outputs are not identified. This risk materialised because DIMIA did not enter into a contractual arrangement with its contractor that clearly specified the development work to be completed by its contractor, associated quality standards and a timeframe for delivery prior to its contractor commencing work on developing voluntary APP;
- managing its contractual arrangements with its contractor. In particular, DIMIA was unable to provide evidence that it has specified performance level standards relating to its contractor's delivery of APP. Also, DIMIA was unable to demonstrate that it had measured and monitored contractor performance against agreed performance levels, including identifying any deficiencies for remedial action. Although DIMIA agreed to devote appropriately trained and experienced resources to managing its contract with its contractor in its response to a recommendation contained in ANAO Audit Report No. 3 1999–2000, *Electronic Travel Authority*, it was not until July 2004, that DIMIA engaged an officer to oversee all contractual matters related to the contract;
- addressing succession planning for its contract with its contractor relating to APP to assist in achieving a smooth transition to a new contract after 3 February 2007. In particular, DIMIA has limited

²⁷ DIMIA advised the ANAO that, although formal contract variations had not been completed in accordance with the provisions of the contract, variations to the contract had taken place through correspondence between the parties.

performance information to assist it in assessing the success of its contractual arrangements as a basis for succession planning.

49. Since July 2004, DIMIA has engaged an officer to oversee all contractual matters related to the contract. This is an ongoing role and is the major component of the officer's duties. Also, DIMIA has engaged a consultant²⁸ to review and update the contract. In June 2005, DIMIA forwarded to its contractor a draft Deed of Variation to the contract for comment. The draft Deed of Variation addresses system enhancements, service levels and changes to the financial arrangements since 1996 that have been implemented through exchanges of correspondence.²⁹

50. DIMIA's review of its contractual arrangements with its contractor also provides DIMIA with the opportunity to address contract management issues raised as part of this audit.

Financial Management (Chapter 6)

51. The terms and conditions that DIMIA had agreed with its contractor relating to financial arrangements for the management of APP were unclear. Correspondence from DIMIA to its contractor in June 1997, suggests that DIMIA agreed to 'to cover (APP) development costs to allow work to progress'. In this context, DIMIA wrote to its contractor explaining that an enclosed cheque for \$500 000 was to be repaid to DIMIA and that DIMIA was amenable to its contractor's proposed reduction of ETAC³⁰ and APP check-in transaction fees from the commencement of APP until such time as the funds were repaid in full. However, in 2001, DIMIA decided to pay its contractor \$900 000, in lieu of the \$500 000 originally agreed. DIMIA and its contractor have differing positions on the purpose of the \$900 000 payment and its relationship to the APP transaction fee structure. The actual position is unclear, however a reconstruction of key events (with ANAO comments) is shown in Table 1.

²⁸ PSI Consulting.

²⁹ Also included was a redrafted Schedule 1 (Specifications of the Supported Systems), an updated Schedule 3 (Pricing and Payments), an updated Schedule 4 (Operational and support Services) and a new Schedule 17 (Application Support).

³⁰ An ETAC is a fee payable by DIMIA to CPS Systems for each completed ETA transaction.

Table 1

APP development costs and transaction fee structure

Event	ANAO Comment
<p>1997</p> <p>IT Contractor:</p> <ul style="list-style-type: none"> agreed to undertake the development of voluntary APP at its own cost; agreed to recover its investment via annual infrastructure and transaction fees from DIMIA; and requested assistance from DIMIA, in the form of an advance on future IT contractor fees. 	<p>DIMIA agreed to pay \$500 000 in response to this request, to be repaid through reduced recurring fees over the first two years of operations.</p> <p>A formal contract variation was not completed to clearly specify the development work to be completed by the IT contractor, associated quality standards and a timeframe for delivery prior to DIMIA's IT contractor commencing work on developing voluntary APP. However, the parties agreed that:</p> <ul style="list-style-type: none"> the IT system contractor would pay for voluntary APP development costs; and DIMIA's IT contractor would retain the intellectual property for APP and would therefore be free to market APP to other governments.
<p>1998</p> <p>DIMIA:</p> <ul style="list-style-type: none"> Forwarded a cheque for \$500 000 to its IT contractor as agreed. DIMIA's IT contractor was to repay \$500 000 through reduced transaction fees once voluntary APP commenced operation. 	<p>In agreeing to terms with its IT contractor, DIMIA did not:</p> <ul style="list-style-type: none"> complete a formal variation to the ETA contract to clearly specify the arrangements between the parties; seek security for the \$500 000 payment; document the risks associated with the arrangements it was putting in place; consider the time value of money in making this advance; and agree to a transaction fee structure for voluntary APP prior to the system being developed. This meant that DIMIA relied on the goodwill of its contractor to set reasonable transaction fees for voluntary APP.
<p>2001</p> <p>DIMIA and IT Contractor Negotiations</p> <p>DIMIA considers that it:</p> <ul style="list-style-type: none"> agreed to pay its IT contractor \$900 000 for the total development costs of APP as at 30 June 2001; agreed that its previous payment of \$500 000 could be offset against the \$900 000. Consequently, DIMIA paid an additional \$400 000; and agreed to a transaction fee structure with its IT contractor independent of the \$900 000 paid to its IT contractor. 	<p>The 1997 arrangement between the parties was not progressed. In 2001, the parties came to a new arrangement, which is poorly documented. DIMIA's lack of documentation means that the rationale for its payment of \$900 000 to its contractor and the ownership of any intellectual property was not clear nor was the basis for the transaction fee structure for APP. DIMIA's IT contractor subsequently advised the ANAO that APP development costs exceeded \$900 000, and that this payment secured a reduced transaction fee structure.</p>

Source: ANAO analysis.

52. The ANAO considers that in such an environment it is particularly important that business decisions are documented to protect the interests of the Commonwealth and to aid transparency and accountability. As indicated in Table 1 above, DIMIA did not do this for key business decisions relating to the financial arrangements for APP.

53. Under FMA Regulation 13, a person must not enter into a contract, agreement or arrangement under which public money is, or may become, payable unless a proposal to spend public money for the proposed contract, agreement or arrangement has been approved under FMA Regulation 9 and, if necessary, in accordance with FMA Regulation 10.

54. DIMIA was unable to provide evidence that a proposal to spend public money had actually been approved under FMA Regulation 9 to cover APP development and transaction costs of approximately \$10 804 555.³¹ Under FMA Regulation 13 this should have taken place prior to DIMIA entering into an arrangement with its contractor under which public money would become payable. The absence of evidence of an approval in accordance with FMA Regulation 9 means that DIMIA is unable to demonstrate that a delegated officer had formed a view that the expenditure incurred under its arrangements with its contractor represented efficient and effective use of the public money involved.

55. DIMIA has a cost recovery arrangement with its contractor designed so that part of the \$20 service charge collected by its contractor per ETA application (from a visa applicant through the ETA system Internet gateway) is used to offset expenses relating to the operation of the ETA system, including APP. Essentially, individuals from most countries seeking to enter Australia as a visitor can apply for an ETA via the Internet. Each individual pays a \$20 service charge to submit an ETA application via the Internet. DIMIA's contractor receives the \$20 service charge and uses part of this amount to offset DIMIA expenses relating to the ETA and APP systems.

56. DIMIA could remove the potential for misunderstanding by Internet ETA applicants by posting appropriate notices on its website outlining the relationship between itself and its contractor and notifying applicants that any transaction entered into through the Internet interface would be with DIMIA's contractor and not DIMIA.

57. Although DIMIA has sought legal advice from the Australian Government Solicitor relating to its accounting treatment of Internet ETA receipts, DIMIA has not consulted with Finance on this issue consistent with Attorney-General's Department 'Legal Services Directions'. It would be useful

³¹ Development costs of \$1 849 555 (\$900 000 relating to voluntary APP and approximately \$949 555 relating to mandatory APP); and up to April 2005, approximately \$8.955 million for APP transaction fees.

for DIMIA to discuss with Finance the most appropriate way of managing its cost recovery arrangements with its contractor relating to the Internet ETA fee.

58. DIMIA's contractor owns the intellectual property relating to the ETA system (including APP and the Internet ETA systems³²). Although DIMIA's contractor has commercialised the APP system³³, DIMIA has not received a return on its investment in APP. This is because all commercialisation has occurred outside the period during which DIMIA was entitled to commercialisation returns under the ETA System Agreement.

³² The ETA and APP systems share the same platform.

³³ For example, New Zealand implemented APP in February 2003 and Bahrain implemented APP in December 2003.

Recommendations

Set out below are the ANAO's recommendations and responses from DIMIA.

**Recommendation
No. 1
Para 3.39**

The ANAO recommends that to assist in managing potential risks to border security, to monitor contractor performance and, to assist airlines in meeting legislative requirements relating to Advance Passenger Processing, DIMIA:

- analyse and validate system availability statistics provided by its contractor; and
- identify any common problems experienced by airlines relating to system outages and develop timely solutions in consultation with airlines to assist airlines in meeting legislative requirements relating to Advance Passenger Processing.

DIMIA response: Agree.

**Recommendation
No. 2
Para 4.25**

The ANAO recommends that to improve its performance reporting relating to border security, DIMIA develops and reports on performance measures relating to the following:

- the number of non-citizens who were not allowed to board an aircraft to travel to Australia, as a result of being processed by Advance Passenger Processing, owing to the risk they may present in relation to a range of Commonwealth laws; and
- the number of non-citizens who were refused entry at the Australian border, owing to the risk they may present in relation to a range of Commonwealth laws, that should (or could) have been detected at the point of embarkation using Advance Passenger Processing.

DIMIA response: Agree. There may be some system and practical limitations in refining the data to this point but this will be fully explored.

**Recommendation
No. 3**

Para 5.27

To assist in protecting the interests of the Commonwealth in its dealings with external parties, the ANAO recommends that as part of its review of contractual arrangements with its contractor, DIMIA:

- identify its contract management risks relating to Advance Passenger Processing, analyse these risks, implement treatments, and monitor and review the success of its controls;
- consider developing a performance-based contract by linking its contractor's fee base to key performance areas and outcomes for Advance Passenger Processing;
- establish a performance management system relating to service levels for Advance Passenger Processing;
- maintain and organise contract-related documentation for easy and reliable access; and
- define processes and procedures to assist in managing contract variations relating to Advance Passenger Processing.

DIMIA response: Agree. Some of these issues are being addressed in work previously commissioned.

**Recommendation
No. 4**

Para 6.26

The ANAO recommends that to support its future negotiation of contractual arrangements with a service provider for the provision of operational and support services relating to border control systems, DIMIA document its business strategy and include clear terms and conditions within the contract, and for variations, relating to the financial arrangements between the parties.

DIMIA response: Agree.

**Recommendation
No. 5****Para 6.35**

The ANAO recommends that DIMIA document future approvals to spend public monies relating to Advance Passenger Processing, consistent with the requirements of the *Financial Management and Accountability Act and Regulations 1997*.

DIMIA response: Agree.

**Recommendation
No. 6****Para 6.68**

The ANAO recommends that to improve transparency for Internet Electronic Travel Authority applicants, DIMIA include on its website appropriate notices outlining the relationship between itself and its contractor, and notifying applicants that any transaction entered into through the Internet interface would be with DIMIA's contractor, and not DIMIA.

DIMIA response: Agree.

Audit Findings and Conclusions

1. Introduction

This chapter describes the background to the audit and sets out the audit objective and scope, conduct of the audit, and structure of the report.

Background

Air arrivals

1.1 The vast majority of travellers arrive in Australia by air, with only a very small number, mostly the crew of commercial ships, arriving by sea. Air arrivals include Australian citizens returning from overseas holidays or time abroad, migrants, tourists, business visitors, temporary residents, people on working holidays, overseas students, diplomats, military personnel and the crew of international airlines. In 2003–04, around 9.3 million passengers arrived by air, which was 11 per cent more than in 2002–03, when around 8.3 million people arrived.³⁴

Sea arrivals

1.2 The majority of people arriving in Australia by sea are the crew members of visiting commercial ships, such as container vessels and bulk cargo ships. In 2003–04, around 333 000 people (both crew and passengers) arrived in Australia by sea, a rise of 4 per cent from 2002–03, when around 320 500 arrived.³⁵

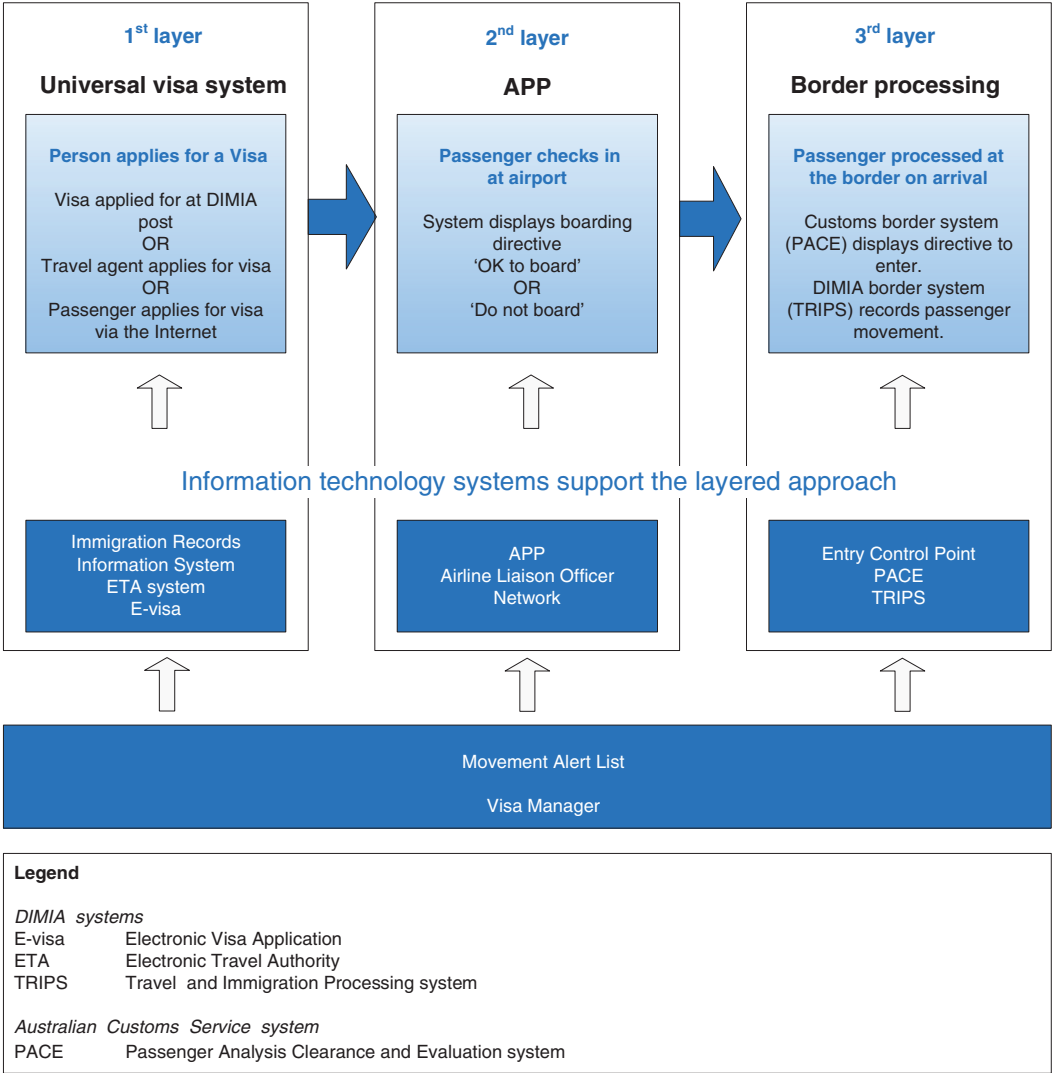
Layered border processing

1.3 The Australian Government, through the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), operates a ‘layered approach’ to border control, as shown in Figure 1.1. That is, the particulars of each traveller are checked against DIMIA systems at several points to ensure the traveller is properly authorised to enter Australia. These ‘layers’ of checking include a universal visa system, the Airline Liaison Officer (ALO) network, Advance Passenger Processing (APP) and border processing at entry points at Australian airports and seaports.

³⁴ DIMIA, *Managing the Border: Immigration Compliance*, Canberra, May 2005, p. 14.

³⁵ Ibid.

Figure 1.1
Layered border processing



Source: ANAO, based on DIMIA and Customs information.

DIMIA border security role

1.4 From a DIMIA perspective, border security involves identifying non-citizens who may pose a threat to the Australian community and preventing them from entering the country. Border security is a shared responsibility between several federal agencies, including DIMIA. Under the *Migration Act 1958*, DIMIA is responsible for regulating, in the national interest, the entry of non-citizens into Australia and their presence in the country.

New legislation for border protection

1.5 Prior to 5 January 2003, DIMIA entered into arrangements with airlines to process passengers using APP on a voluntary basis³⁶ (hereafter referred to as voluntary APP). Following the events of 11 September 2001, the Government decided to make reporting through the APP system mandatory from 5 January 2003, for all passengers and crew of airlines and international cruise ships arriving in Australia³⁷ (hereafter referred to as mandatory APP). The *Border Security Legislation Amendment Act 2002* (Cwlth) amended both the *Customs Act 1901* and the *Migration Act 1958* accordingly. Appendix 2 provides information about the legislative changes.

1.6 The benefits of mandatory APP to border security were outlined in the Explanatory Memorandum to the Border Security Legislation Amendment Bill 2002, which stated that the introduction of mandatory APP will:

significantly enhance the ability of Customs and DIMIA to assess passengers and crew, prior to their arrival in Australia, for the risk they may present in relation to a range of Commonwealth laws.

1.7 Airlines and the cruise shipping industry implemented APP incrementally through 2003–04 (see Chapter 2—Table 2.1).

Overview of the development of APP

1.8 Since 1975, Australia has required all non-citizens travelling to Australia to have a visa before arriving in Australia. Visas were generally issued in a physical format in travellers' passports, and Australian Customs Service (Customs) officers examined visas when people arrived at airports. This meant that Australia had bio-data and other information about people before they arrived, but the physical inspection at the border was the first time DIMIA and Customs officers had the opportunity to examine passengers' travel documentation after granting of the visa. Increasing passenger numbers, dissatisfaction with the time taken in visa application and arrival processes, and the evolution of technology led to options for automating some processes.

1.9 APP follows on from a range of technological developments that have been introduced into both pre-arrival and border processing as part of

³⁶ A limited version was successfully trialled with Singapore Airlines in 1998. A subsequent version was progressively rolled out to Air New Zealand, Cathay Pacific, Qantas, Japan Airlines and Singapore Airlines, with British Airways coming online in April 2002 and China Airlines in June 2002.

³⁷ Migration Regulations 1994—Regulation 3.13A requires that information about passengers and crew be given to DIMIA before the arrival of an international passenger aircraft, commencing 5 January 2003. Migration Regulations 1994—Regulation 3.13B requires that information about passengers and crew be given to DIMIA before the arrival of an international passenger cruise ship, commencing 1 January 2004. Migration Regulations 1994—Regulation 3.13C requires that information about passengers and crew be given to DIMIA before the arrival of an international cargo ship, commencing 1 July 2005.

Australia's development of a layered approach to border processing. The key technological developments (in sequential order) have been the implementation of the:

- Travel and Immigration Processing System (TRIPS);
- Electronic Travel Authority (ETA)³⁸ and
- APP.

1.10 TRIPS and ETA are described in more detail in Appendix 1.

APP for air passengers and crew

1.11 This audit focuses on APP relating to air passengers and crew arriving in Australia, and excludes the maritime industry as described later in this Chapter under 'Audit objective and scope'.

1.12 Unique features of APP for airlines include that it is interactive with airlines; it is designed to prevent people from boarding who do not have authority to enter Australia or who are adversely recorded by DIMIA³⁹, and it allows authorised agencies to examine passenger information before passengers arrive in Australia. The overall effect is to extend the border to the last point of embarkation—the airline check-in point overseas. For example, in January 2005, 11 non-citizens were detected at Kuala Lumpur airport while attempting to board a plane for Australia because they presented false Australian visas—there was no record of the visas on DIMIA's visa database.

1.13 APP links DIMIA with airline departure control systems. It accesses and processes data held on the TRIPS. APP is designed to enable people arriving in Australia to be processed quickly. All information needed for APP processing is collected when a passenger checks in with an airline carrier overseas and is forwarded electronically to Australia using a worldwide communications network and the ETA platform. This confirms the existence of

³⁸ All travellers to Australia, other than Australian and New Zealand citizens, are legally required to hold a valid visa to travel to Australia. The ETA is an electronically stored authority for travel, which facilitates the entry of tourists and short-term business travellers from countries where the risk of non-compliance with visa conditions is low, that is, in countries classified as low risk. The ETA replaces the visa label or stamp in the passport; is available through participating travel agencies and airlines over the Internet; removes the need for application forms; and enables passengers to be processed more quickly on arrival in Australia.

³⁹ There will be occasions when a person becomes 'of concern' after a visa has been granted. In such circumstances, DIMIA's systems are designed to identify that the person holds a visa and, in nearly all cases but particularly where there are security concerns, the person's visa will be cancelled immediately. This person would then receive a 'Do not board' directive from APP at check-in because they have inadequate documentation.

a valid visa or ETA for people requiring an authority to travel⁴⁰, and confirms the status of Australian and New Zealand passport holders. APP information is then sent to Australia, allowing passengers and crew to be immigration screened in flight. When they arrive, their records are amended to show they have entered Australia. Figure 1.2 provides an overview of APP for air passenger arrivals.

Use of APP by other countries

1.14 DIMIA advised that New Zealand has implemented DIMIA's version of APP and that Bahrain is introducing the same APP system. A number of other countries have implemented an Advance Passenger Information (API)⁴¹ system, including the United States and the United Kingdom.

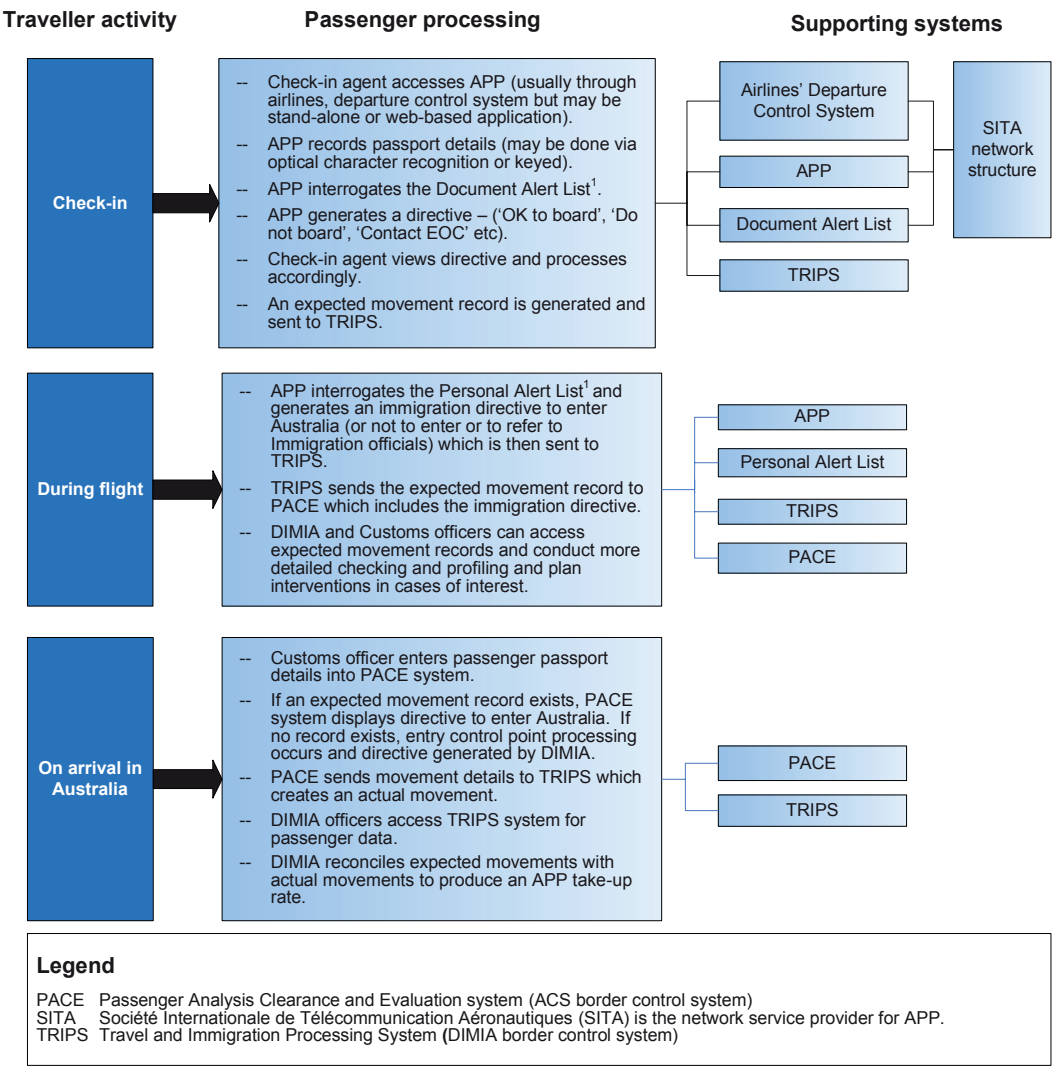
1.15 The Control Authority Working Group of the International Air Transport Association comprises representatives from the major airlines and immigration control authorities from around the world. DIMIA advised that it is regarded as a lead agency within the working group, which has adopted API guidelines based on DIMIA's APP system. DIMIA also advised that it recently prepared a Statement of Principles paper for APP based on the Australian system. DIMIA anticipates that the Control Authority Working Group will ratify the principles.

1.16 DIMIA is also assisting Asia Pacific Economic Cooperation countries to conduct feasibility studies to determine the capacity of their economies to implement API. In this way, Australia is contributing to the development of significantly enhanced border management systems in the region. DIMIA believes that the progressive implementation of API will strengthen regional border control processes, thereby enhancing Australia's capacity to manage its own borders. Appendix 3 provides more information about DIMIA's contribution to developing border management systems in the region.

⁴⁰ There is also a check against DIMIA's Movement Alert List, a computer database that stores details about people and travel documents of immigration concern to Australia. The database is a key element of Australia's national security and border integrity, and is integrated with DIMIA's visa issuing and border entry processes. The ANAO has identified the Movement Alert List as a potential audit in its Audit Work Programme 2005–2006, Canberra, July 2005, p. 78.

⁴¹ Countries using an API system receive passenger information at the border to assist with passenger screening. The key advantage of the APP system is that it allows passengers to be screened before they embark, preventing passengers with inadequate documentation from being uplifted by airlines overseas.

Figure 1.2
Overview of APP and related systems



Source: ANAO, based on DIMIA and Customs information.

Note 1: DIMIA has a movement alert list to record people of interest based on their perceived risk to Australia (known as the person alert list) and documents known to be false or stolen (known as the document alert list). Checks against the personal alert list take considerably longer than checks against the document list and are therefore not used as a basis for the APP boarding directive.

Audit objective and scope

Audit objective

1.17 The objective of this performance audit was to assess whether DIMIA's information systems and business processes are effective in supporting APP to meet its border security and streamlined clearance objectives. In particular, the audit focused on the following:

- Mandatory APP–Stage 1 (MAPP1) project management;
- MAPP1 IT development and system performance;
- APP performance reporting;
- contract management; and
- financial management.

1.18 In assessing DIMIA's financial management relating to APP, the ANAO had regard to the Commonwealth's framework of legislation and policy governing the management of the Australian Government's resources.

Audit scope

1.19 During preliminary planning for the audit, DIMIA advised the ANAO that:

- the majority of airlines and cruise ships had implemented APP for all passengers and crew under MAPP1 but the maritime cargo sector had not commenced implementation of APP; and
- system enhancements (to allow for APP airline crew data to be transferred between Customs and DIMIA systems) planned for Mandatory APP–Stage 2 (MAPP2) were still being finalised.

1.20 For these reasons, the ANAO chose to examine DIMIA's administration of MAPP1 for air passengers and crew arriving in Australia, and to exclude the maritime industry. In some instances, the ANAO also examined events relating to voluntary APP, before MAPP1 was implemented, to better understand and assess DIMIA's overall performance in administering the APP system.

1.21 The audit does not include the following:

- an assessment of the security of the APP system;
- DIMIA's implementation of MAPP2, as this work was still being completed at the time of the audit;

- DIMIA's Movement Alert List. This topic has been identified as a potential audit in the ANAO Audit Work Programme for 2006–07; and
- the processing of air passengers and crew by Customs and DIMIA once they have arrived at the border. This topic has also been identified as a potential audit in the ANAO Audit Work Programme for 2006–07.

Conduct of the audit

1.22 The ANAO conducted audit fieldwork at DIMIA's Central Office in Canberra and at Customs' Office in Canberra. This included:

- examining DIMIA and Customs documents, databases and files;
- interviewing DIMIA and Customs personnel;
- examining passenger processing at Sydney and Adelaide international airports;
- interviewing personnel at CPS Systems (the contractor)⁴²; and
- surveying nine airlines (discussed further below).

1.23 The ANAO received legal advice from the firm MinterEllison concerning aspects of DIMIA's financial management in relation to APP. This assisted in determining consistency with the requirements of the *Financial Management and Accountability Act 1997* and policy guidelines issued by the Department of Finance and Administration.

1.24 The audit was conducted in conformance with ANAO auditing standards and cost approximately \$760 000.

ANAO airline survey

1.25 The ANAO developed a questionnaire to assess airlines' satisfaction with DIMIA's implementation and ongoing management of MAPP1. The ANAO surveyed nine airlines that together carried approximately 75 per cent of passengers to Australia in 2003–04. All nine airlines responded to the survey.

1.26 Airlines were asked to rate their satisfaction with various elements of DIMIA's implementation and ongoing management of MAPP1 on a five-point satisfaction scale (very satisfied, satisfied, neutral, dissatisfied, very dissatisfied).

⁴² CPS Systems Pty Ltd was contracted by DIMIA to jointly develop, implement and provide ongoing support for the APP system.

1.27 Airlines were also given the opportunity to provide additional comments in respect of various questions. The ANAO has reproduced a number of these comments, where relevant, to provide a deeper understanding of the issues affecting airlines.

Report structure

1.28 The report is structured into the following six chapters:

- Chapter 1—Introduction: describes the background to the audit and sets out the audit objective and scope, conduct of the audit, and structure of the report;
- Chapter 2— Implementation of Mandatory Advance Passenger Processing—Stage 1 (MAPP1): examines DIMIA's project management for MAPP1. It also considers timeliness, cost and quality management relating to the implementation of MAPP1;
- Chapter 3—Mandatory Advance Passenger Processing—Stage 1 (MAPP1) IT Development and System Performance: examines DIMIA's performance in developing and testing an information technology solution for MAPP1. It also considers APP system performance;
- Chapter 4—Advance Passenger Processing (APP) Performance Reporting: examines DIMIA's corporate and business planning for APP, performance measurement and monitoring and reporting for compliance and accountability purposes;
- Chapter 5—Contract Management: examines DIMIA's management of its contract with its contractor for delivering APP. It focuses on the establishment of contractual arrangements between the parties, ongoing management of the contract and DIMIA's current review of the contract; and
- Chapter 6—Financial Management: examines central aspects of DIMIA's financial management relating to the development, implementation and ongoing use of the APP system. In particular, it focuses on DIMIA's management of development expenses for APP, monitoring of expenditure and savings for APP to identify cost outcomes, payment of APP ongoing expenses, and management of intellectual property relating to APP.

2. Implementation of Mandatory Advance Passenger Processing—Stage 1 (MAPP1)

This chapter examines DIMIA's project management for MAPP1. It also considers timeliness, cost and quality management relating to the implementation of MAPP1.

Introduction

2.1 The implementation of Advance Passenger Processing (APP) for airlines travelling to Australia commenced in 1998 on a voluntary basis. A limited version was successfully trialled with Singapore Airlines in 1998. A subsequent version was progressively rolled out to Air New Zealand, Cathay Pacific, Qantas, Japan Airlines and Singapore Airlines, with British Airways coming online in April 2002 and China Airlines in June 2002. These airlines carry approximately 67 per cent of all passengers to Australia. In 2001–02, approximately 53 per cent of air arrivals were being processed using voluntary APP.

2.2 The introduction of APP on a mandatory basis was a major component of the Government's border security response to the events of 11 September 2001. Its introduction was subject to time imperatives and risks, including that of delayed introduction.

2.3 On 16 August 2002, DIMIA advised the Minister for Immigration and Multicultural and Indigenous Affairs that APP at that time had a number of limitations: it did not cover 100 per cent of passengers on any particular plane; it did not extend to ships; and it did not cover crew. DIMIA also advised the Minister that development was under way to resolve these systems issues through a staged approach to implementation. This approach was envisaged when developing the legislation. The Minister for Immigration and Multicultural and Indigenous Affairs noted the advice from DIMIA on 31 August 2002.

2.4 DIMIA considers that the implementation of mandatory APP was of considerable size, complexity and importance. In particular, DIMIA stated in its 'Mandatory APP High Level Proposal' Version 1, dated 21 May 2003, that:

Mandatory APP cannot be implemented in one single implementation. It is a change of such magnitude that it corresponds to the ETA System or the Migration Reform Act in complexity and resourcing. It will have a major impact on PACE⁴³ processing.

⁴³ Customs Passenger Analysis Clearance and Evaluation system.

2.5 The development and implementation of mandatory APP has involved a number of parties, including DIMIA, the Australian Customs Service (Customs), CPS Systems (the contractor) and its subcontractors⁴⁴, and individual airlines. DIMIA advised the ANAO that expenditure relating to developing mandatory APP was approximately \$2.072 million at 30 June 2004.⁴⁵

A staged approach to implementing mandatory APP

2.6 Planned implementation dates for mandatory APP and outcomes achieved, as advised by DIMIA, are shown in Table 2.1.

⁴⁴ Société Internationale de Télécommunication Aéronautiques (SITA)—network service provider; First Data Resources; Sterling Software; IBM Australia; and Oracle Systems (Australia).

⁴⁵ Includes expenses incurred by DIMIA (\$1 122 187) and CPS Systems (\$949 555). Excludes expenses incurred by Customs and the airlines.

Table 2.1

Planned and actual implementation outcomes for mandatory APP

Stage/DIMIA target date ¹ and output.	Implementation outcome as advised by DIMIA ²
Mandatory APP—continued rollout of existing system: 5 January 2003: 90 per cent of all aircraft passengers to be processed.	90 per cent of all aircraft passengers processed.
30 June 2003: 99 per cent of all aircraft passengers to be processed.	95 per cent of all aircraft passengers processed.
Mandatory APP—Stage 1 (MAPP1): By 1 January 2004: To process (via APP) 100% of: <ul style="list-style-type: none"> airline crew (via the Crew Travel Authority); cruise ship passengers and crew; transit passengers; estimated 1 per cent of passengers not required to obtain a visa. 	At 10 December 2004, 98 per cent of aircraft passengers processed. At 1 July 2004, approximately 75 per cent of airline crew members processed. During the cruise shipping season January to March 2004, 99.7 per cent of cruise ship passengers and crew processed.
Mandatory APP—Stage 2 (MAPP2): By July 2004: To develop a link between Customs and DIMIA systems to allow for the transfer of APP data and expected movement records for airline and sea passengers and crew.	MAPP2 business functionality was implemented on 23 February 2005.
APP infringement regime: Late 2004 ⁴⁶ : To introduce an infringements regime to allow DIMIA to infringe airlines that do not process all passengers and crew using the APP system. To develop reporting modules for APP.	Latest estimate for implementation is late 2006.

Source: ANAO, based on DIMIA information.

- Notes:
1. Implementation target dates exclude charter and private flights.
 2. DIMIA's measurement of the percentage of airline passengers processed by airlines using APP is discussed in Chapter 4.

2.7 DIMIA worked with airlines during late 2002 and 2003 to extend the use of the existing voluntary system to include all airlines. By 30 June 2003, 95 per cent of airline passengers into Australia were processed using APP. In order to increase the coverage of APP to cover: airline transit passengers; non-visa passengers; airline crew; and cruise ship passengers and crew, a new version of APP was needed with additional functionality. This new version of APP was developed through the MAPP1 project.

2.8 The ANAO examined the robustness of DIMIA's MAPP1 project management and found that there were weaknesses in a number of areas. An analysis of the extent to which MAPP1 met time, cost and quality expectations is detailed below. A more complete assessment of DIMIA's MAPP1 project management is contained in Appendix 4.

⁴⁶ Advised to the Minister in a minute in early November 2003.

2.9 DIMIA advised the ANAO that, for the subsequent stage of the project (MAPP2), it has employed an experienced project manager and has used a structured project management approach. The ANAO did not audit MAPP2 and therefore cannot make an assessment regarding improvements in DIMIA's project management for MAPP2.

Timeliness of MAPP1 implementation

2.10 The ANAO examined whether the implementation of MAPP1 was completed in a timely manner.

2.11 DIMIA chose a target implementation date for MAPP1 of 1 January 2004. In early November 2003, DIMIA advised the Minister for Immigration and Multicultural and Indigenous Affairs that Qantas, British Airways and a number of other airlines were unlikely to have their system development completed in time for 1 January 2004⁴⁷.

2.12 A number of airlines had sought and were granted extensions to the implementation date owing to their inability to make the required system changes in the timeframe provided.

2.13 On 15 June 2004, DIMIA advised the Minister that MAPP1 system enhancements were implemented on 6 January 2004⁴⁸, and that:

This change requires airlines to make enhancements to their check-in systems and then engage in a rigorous process of compliance testing before they are able to go live.

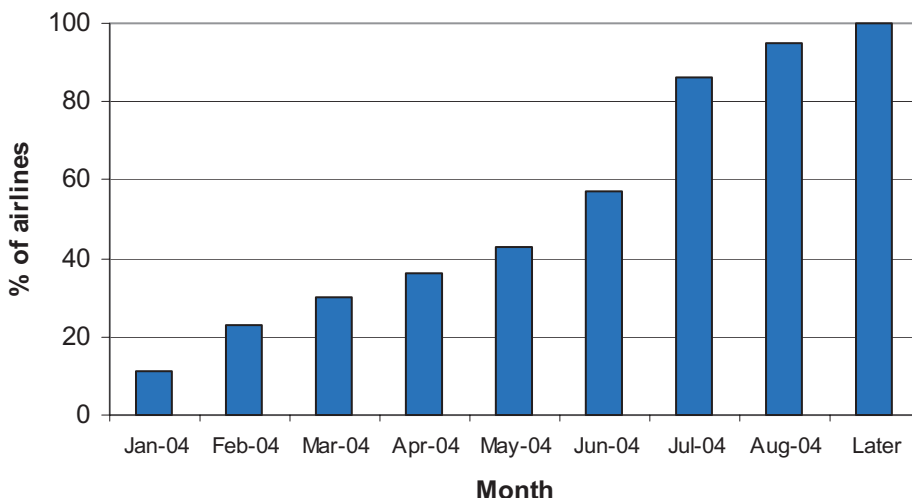
2.14 An examination of DIMIA records shows that none of the 44 airlines had 'cutover' to MAPP1 on the date system enhancements were implemented. By the end of June 2004, approximately 57 per cent of airlines had cutover to MAPP1. The ANAO notes that four airlines that did not cutover until June–July 2004, carry approximately 53 per cent of passengers into Australia. The airline's implementation of MAPP1 is shown as a cumulative percentage in Figure 2.1.

⁴⁷ Ibid.

⁴⁸ DIMIA Ministerial Submission, Information Brief, 15 June 2004.

Figure 2.1

Cumulative percentage of airlines that cutover to MAPP1, by month, in 2004



Source: ANAO analysis of DIMIA information.

2.15 Although DIMIA considers 6 January 2004 to be the date on which MAPP1 went live, DIMIA data shows that the majority of airlines implemented MAPP1 after May 2004, as shown in Figure 2.1.

2.16 Through the ANAO airline survey, airlines were asked about their level of satisfaction with:

- consultation on the implementation date for MAPP1;
- consultation on the implementation strategy for MAPP1;
- the level of support provided by DIMIA during and after implementation; and
- the on-going management of the system.

2.17 In summary, survey findings show that most airlines were satisfied with the level of consultation on an implementation date and on the implementation strategy for MAPP1. Similarly, survey findings show that most airlines were either satisfied or very satisfied with the support provided both during the implementation of MAPP1 and on an ongoing basis for APP. These findings are provided in Appendix 5.

MAPP1 Project Costs

2.18 The ANAO examined whether project costs for MAPP1 had been identified prior to receiving management approval to commence work and then tracked throughout the project to keep management informed of project expenditure and to reduce the risk of budget overruns.

2.19 The ANAO found that while DIMIA had estimated some costs for the project, the costing was incomplete. There was no overall picture of the total cost of the project (for DIMIA and its contractor). In addition, DIMIA was unable to provide evidence that it had approved a project budget or developed a basis to manage expenditure. Furthermore, the ANAO found no evidence that DIMIA recorded expenditure against a project budget or provided project budget reports to DIMIA senior management. The lack of transparency and accountability for the resources used to deliver MAPP1 makes it difficult to assess whether DIMIA implemented a cost-effective business solution.

MAPP1 Quality Management

2.20 The ANAO examined the robustness of DIMIA's quality management relating to the implementation of MAPP1. The ANAO found the following:

- DIMIA documentation did not address IT requirements relating to the quality of the products to be delivered. DIMIA did not address important criteria such as reliability, usability, accuracy and performance;
- no indication of the expected life of the system was provided, which would affect both the required quality and cost considerations;
- DIMIA did not document its quality expectations for the non-technical products to be delivered by the project, for example, user documentation, training materials, communication strategies. These products were never defined or even identified as project outputs requiring appropriate management and review; and
- the document outlining the test strategy was not comprehensive (it covered only user acceptance testing) and was not finalised.

2.21 The ANAO suggests that, in order to fully assess the effectiveness of the implementation, DIMIA complete a review of MAPP1 to identify any outstanding issues not already addressed through subsequent work completed for MAPP2. Such a review would provide assurance that expected benefits have been achieved without any unintended adverse effects on stakeholders or on other systems.

Summary

2.22 The development and implementation of mandatory APP has involved a number of parties, including DIMIA, the Australian Customs Service (Customs), DIMIA's contractor and its subcontractors⁴⁹, and individual airlines. The introduction of APP on a mandatory basis was a major component of the Government's border security response to the events of 11 September 2001. Its introduction was subject to time imperatives and risks, including that of delayed introduction. The target implementation date for MAPP1 was 1 January 2004. DIMIA reported to its Minister that MAPP1 went live on 6 January 2004 but that it would take considerably longer for the airlines to implement it.⁵⁰ The ANAO found that the majority of airlines implemented MAPP1 after May 2004.

2.23 While DIMIA had estimated some costs for the project, the costing was incomplete. There was no overall picture of the total cost of the project (for DIMIA and its contractor). In addition, DIMIA was unable to provide evidence that it had approved a project budget or developed a basis to manage expenditure. Furthermore, DIMIA was unable to provide evidence that it had recorded expenditure against a project budget or provided project budget reports to DIMIA senior management.

2.24 DIMIA applied limited attention to defining the quality requirements for MAPP1, which reduced their ability to identify and apply adequate quality controls. In particular, DIMIA documentation did not address IT requirements relating to the quality of the products to be delivered. DIMIA did not address important criteria such as reliability, usability, accuracy and performance. Also, the document outlining the test strategy was not comprehensive (it covered only user acceptance testing) and was not finalised.

2.25 The ANAO suggests that, in order to fully assess the effectiveness of the implementation, DIMIA complete a review of MAPP1 to identify any outstanding issues not already addressed through subsequent work completed for MAPP2. Such a review would provide assurance that expected benefits have been achieved without any unintended adverse effects on stakeholders or on other systems.

⁴⁹ Société Internationale de Télécommunication Aéronautiques (SITA)—network service provider; First Data Resources; Sterling Software; IBM Australia; and Oracle Systems (Australia).

⁵⁰ Airlines needed to modify their systems to connect to MAPP1.

3. Mandatory Advance Passenger Processing—Stage 1 (MAPP1) Information Technology Development and System Performance

This chapter examines DIMIA's performance in developing and testing an information technology solution for MAPP1. It also considers Advance Passenger Processing (APP) system performance.

Introduction

3.1 DIMIA and CPS Systems (the contractor), jointly implemented the MAPP1 project to enhance the existing APP system to provide functionality including advance information for: airline crew; cruise ship passengers and crew; transit passengers; and an estimated one per cent of passengers not required to obtain a visa.

3.2 In undertaking the MAPP1 project, it was important for DIMIA and Customs to coordinate their efforts to implement a timely solution that avoided duplicate reporting by airlines, consistent with the second reading speech for the Border Security Legislation Amendment Bill 2002 (delivered by the Attorney-General on 12 March 2002), which stated that:

While this scheme provides for advance passenger and crew reports to be made by the operators of aircraft and ships to both Customs and Immigration, measures have been put in place to ensure that those operators do not have to duplicate their reports.⁵¹

System development for MAPP1

DIMIA approach

3.3 Adopting a software development methodology is a way of managing risk on a project by using an integrated set of documented policies, processes and procedures. A methodical approach to software development is designed to result in fewer defects and, therefore, ultimately provides shorter delivery times and better value.

⁵¹ Prior to the development and implementation of MAPP1, duplicate reporting by airlines to both DIMIA and Customs was necessary to achieve efficient processing using APP for airline crew members. However, this was not the case for airline passengers.

3.4 The ANAO sought to establish whether DIMIA had applied a structured methodology when developing MAPP1 to facilitate the delivery of project products to the required quality within time and cost constraints. The ANAO also examined whether DIMIA had managed risks associated with its development approach. The ANAO found the following.

- In June 2003, DIMIA developed a draft Mandatory APP Development Strategy.⁵² The development methodology briefly outlined in the document addressed requirements, business rules, system interfaces, module design, file design, individual module specifications, module development, unit testing, interface testing and user acceptance testing. In developing these documents, DIMIA did not reference either a DIMIA standard or any other documented development standard.
- DIMIA did not require its contractor, to follow any agreed development methodology in developing MAPP1.

3.5 The ANAO found that the software development approach used by DIMIA and its contractor was essentially consistent with that contained in the draft Mandatory APP Development Strategy. However, the ANAO considers that the brief outline of the development methodology provided in the draft strategy should have been fully developed prior to the commencement of development work. Also, the draft strategy should have been properly authorised before development work commenced on MAPP1 in order to provide guidance and establish a development process for future projects.

3.6 The ANAO considers that DIMIA did not adequately identify and manage the risks associated with their approach, which placed considerable reliance on the expertise and experience of the team (DIMIA and its contractor) to 'make it work' within very tight timeframes.

Requirements definition for MAPP1

3.7 An organisation's system development lifecycle methodology should ensure that the business requirements to be satisfied by any proposed new or modified system (software, data and infrastructure) are clearly defined before a development, implementation or modification project is approved.⁵³

3.8 The development of the business requirements for mandatory APP drew on expertise from DIMIA as well as its contractor. The final approved version of DIMIA's high-level business requirements for mandatory APP was issued on 4 July 2003.⁵⁴ The document covers, at a high level, all proposed

⁵² Including development for MAPP1, MAPP2 and the infringement regime.

⁵³ Audit Guidelines, CobiT: Control Objectives for Information and Related Technology, 3rd edn, July 2000, IT Process A11 'Identify Automated Solutions'.

⁵⁴ Mandatory APP High Level Business Requirements, Version 3, Final, 4 July 2003.

requirements for Stages 1 to 3 of the mandatory APP project. Detailed requirements were also developed which separately addressed the development work of DIMIA and its contractor.⁵⁵

3.9 The ANAO examined the completeness of DIMIA's business requirements definition for MAPP1 and whether the requirements had been developed in a timely and controlled manner.

Completeness of business requirements for MAPP1

3.10 Business requirements for MAPP1 focussed on using APP to achieve 100 per cent processing of the following groups:

- airline crew (via the Crew Travel Authority);
- cruise ship passengers and crew;
- transit passengers; and
- the estimated one per cent of passengers not required to obtain a visa.

3.11 In assessing the completeness of the requirements for MAPP1, the ANAO considered whether business requirements for MAPP1 reflected a business perspective and addressed issues resulting from consultation with key stakeholders. The ANAO found that the requirements gathered for MAPP1 did not adequately reflect a business perspective. Requirements supplied directly by the business area were minimal and did not clearly address important issues, including:

- the need to avoid duplicate reporting by airlines to both DIMIA and Customs in relation to the processing of crew members arriving in Australia (as mentioned in the second reading speech for the Border Security Legislation Amendment Bill 2002); and
- the need for performance reporting to monitor airlines' use of APP to help DIMIA determine the level of airline compliance and identify any remedial action necessary.

3.12 The ANAO also found that Customs was not invited to comment on the high-level business requirements, even though mandatory APP required the substantial involvement of Customs to achieve DIMIA business objectives.

⁵⁵ Mandatory APP Scope of Work, Prepared for DIMIA by CPS Systems, Version 0.1, 27 June 2003 (technically, not a requirements document, but confirms CPS Systems' understanding of requirements); Crew Travel Authority High Level Business Requirements, Version 8, 20 June 2003; Crew Travel Authority, CPS Requirements, Version 3, 29 October 2003; Mandatory APP, Requirements for DIMIA System, Stage 1, Version 1, 9 November 2003; Mandatory APP, CPS Requirements, Version 6, 12 November 2003 (Version 7, 13 August 2004, includes requirements not completed by January 2004); and Mandatory APP Stage 2, Interim Solution DIMIA Business Requirements, Version 4, 19 November 2004.

Duplicate reporting—airline crew members

3.13 The ANAO examined whether DIMIA and Customs had coordinated their efforts in a timely manner to implement a solution to address duplicate reporting for airline crew members. The ANAO found the following.

- In July 2002, DIMIA and Customs signed off on a proposed solution to crew processing (the Crew Travel Authority). At the time, DIMIA could not indicate when it would be implemented, so Customs decided to develop an interim measure for crew processing with a view to a simple 'switch' to the Crew Travel Authority process once it was fully developed by DIMIA.
- The Customs timeframe for its interim measure slipped to late 2003. Given DIMIA advice that the Crew Travel Authority would be implemented in late 2003, Customs ceased work on its interim measure with the intention of proceeding with the development of the agreed solution as signed off in July 2002.
- In late May 2003, there were informal suggestions from DIMIA that there may be new design elements for the Crew Travel Authority solution. Attempts by Customs to meet with DIMIA, or secure any comments on the specifications agreed in July 2002, were unsuccessful.
- On 23 June 2003, DIMIA met with Customs and advised that there would be changes to the specifications agreed in July 2002, and that changes to Customs' Passenger Analysis Clearance and Evaluation (PACE) system would be required to enable data transfer. DIMIA also advised Customs that the establishment of the necessary links to the PACE system would not be part of MAPP1 (to be implemented on 1 January 2004).
- DIMIA advised the ANAO that it was unable to address the dual reporting issue as part of MAPP1, owing to resourcing limitations.⁵⁶ Furthermore, DIMIA advised that, while project staging precluded satisfying dual reporting in Stage 1, DIMIA and Customs continued to seek solutions to supply the required data to Customs as a partial solution to dual reporting.
- In November 2003, DIMIA stated in a requirements document for MAPP1 that:

⁵⁶ DIMIA comments on ANAO discussion paper, 5 July 2005.

DIMIA **can** send aircrew as APP data to Customs under Stage 1 to meet legislative requirements. However PACE⁵⁷ has to make changes to accept crew data.⁵⁸

- In November 2003, DIMIA and Customs were working towards delivering a 'quick fix' to the dual reporting issue for airline crew, but this did not proceed. The ANAO sought advice from Customs and DIMIA as to why it did not proceed. Customs advised the ANAO that:

because of delays associated with obtaining the DIMIA technical specifications necessary for our IT people to determine if it was possible and misdirection of communications due to staff changes, the quick fix did not proceed.

DIMIA stated that:

DIMIA was prepared to make a change and to work with Customs to implement the change and Customs could not deliver.⁵⁹

- The ANAO notes that DIMIA had planned to address the issue of duplicate reporting as part of MAPP2, originally planned to commence in January 2004⁶⁰, for completion in July 2004.⁶¹ DIMIA's business plan for MAPP2 (including a governance model and solution concept) was still not completed in April 2004.

3.14 Subsequent to audit fieldwork, DIMIA advised the ANAO that MAPP2 (incorporating the necessary changes to Customs and DIMIA systems to remove the need for duplicate reporting by airlines for crew members) was implemented on 23 February 2005.

Performance reporting

3.15 Anomalies in the airline statistics used by DIMIA to monitor airlines' compliance with mandatory APP requirements are considered in Chapter 4 of this report. A requirement for performance reporting to monitor airlines' compliance, however, was not included as part of DIMIA's business requirement for MAPP1. The ANAO sought advice from DIMIA on why this was the case. DIMIA advised the ANAO that:

Reporting beyond the levels developed prior to MAPP1 was not seen as an imperative.⁶²

⁵⁷ Customs' Passenger Analysis Clearance and Evaluation system.

⁵⁸ Mandatory APP, Requirements for DIMIA System, Stage 1, Version 1, 9 November 2003.

⁵⁹ DIMIA comments on ANAO discussion paper, 5 July 2005.

⁶⁰ DIMIA IT Governance Committee briefing of 28 August 2003.

⁶¹ DIMIA, Mandatory APP Tasks at 12 September 2003.

⁶² DIMIA comments on ANAO discussion paper, 20 June 2005, 5 July 2005.

3.16 DIMIA advised the ANAO that it is working to address deficiencies in its performance information through the development of a system to support a proposed fines regime for airlines that do not process all passengers and crew using the APP system as discussed in Chapter 4.

3.17 The ANAO considers that, given the significance of mandatory APP to DIMIA's layered approach to border control, it would have been prudent to include performance reporting functionality as a requirement of MAPP1. This would have helped DIMIA provide a greater level of assurance as to whether airlines were complying with mandatory APP requirements.

Timely and controlled development of business requirements for MAPP1

3.18 The development of business requirements in a timely and controlled manner supports systems development in accordance with business needs. The ANAO found that not all business requirements for MAPP1 were developed and finalised in a timely and controlled manner as follows.

- DIMIA did not finalise and agree business requirements for the Crew Travel Authority with its contractor until 29 October 2003⁶³—approximately one month before the planned implementation date.
- DIMIA's Business Solutions Group (BSG) identified concerns about changing requirements in a brief to the IT Governance Committee on 28 August 2003, stating that:

since inception, requirements for the project have been difficult to finalise. Some changes to requirements have been absorbed but further changes to requirements will put BSG's capacity to deliver agreed timeframes at risk.
- There was confusion by both DIMIA and its contractor regarding business requirements for MAPP1. For example, DIMIA noted in their integrated test results that:

There were differences in requirements, the most significant was that DIMIA business has not advised DIMIA systems that sea departures are not permitted. CPS was aware of this requirement and has prevented the recording of sea departures at the website.⁶⁴
- In relation to the processing of crew via documents other than a passport, DIMIA stated (in the integrated test results) that its contractor understood that crew were not permitted to travel on documents other than a passport and therefore their website only accepted 'P' (Passport) for crew, and not 'O' (for other). DIMIA subsequently advised the ANAO that:

⁶³ DIMIA, Mandatory APP Project, Crew Travel Authority, CPS Requirements, Version 3, 29 October 2003.

⁶⁴ DIMIA, Mandatory APP, Integrated testing CPS and DIMIA, Test Results, Version 1, 4 December 2003.

This was an agreed change to requirements with CPS. The problem was that CPS did not think it applied to crew whereas DIMIA applied it to all travellers...

The ANAO notes that the document, CTA⁶⁵ High Level Business Requirements, Version 8, of 20 June 2003, clearly states that:

A CTA is an electronic record to allow processing of crew for APP and at the border allows processing of crew by passport where the crew member presents a passport.

Furthermore, the more detailed Crew Travel Authority, CPS Requirements of 29 October 2003, do not refer to a requirement to process crew by documents other than a passport. It is therefore not clear from the evidence how and when it was agreed that crew were permitted to travel on documents other than a passport.

Functional design

Completeness of functional design documentation for MAPP1

3.19 DIMIA advised the ANAO that the detailed requirements documentation it produced substituted for full functional specifications for MAPP1. The ANAO examined the completeness of DIMIA's functional design for MAPP1.

3.20 The ANAO found that, while the overall quality of the documentation of the system functionality was adequate, there were the following deficiencies.

- The linkage between design elements and business requirements would have been improved by indicating the relevant parts within the business requirements documentation that are described by the design document.
- There was inadequate design documentation for the web solution developed by DIMIA's contractor. While screen layouts were provided to DIMIA after development was finished, DIMIA was unable to provide evidence that it reviewed the proposed layouts before development started.
- DIMIA was unable to provide documented evidence that all aspects of the system complied with DIMIA IT security standards and that sign-offs were obtained before the system went live.

3.21 The ANAO considers that without complete design documentation DIMIA is not able to provide adequate assurance that all aspects of APP are

⁶⁵ Crew Travel Authority.

operating as intended and in line with legislative requirements. The ANAO suggests that DIMIA ensure that design documentation for APP is both current and complete and that it is maintained for the life of the system.

Consultation with airlines for MAPP1

3.22 DIMIA's formal consultation with airlines comprised:

- airline industry consultations, 3–4 October 2002;
- aircrew processing questionnaire, late 2002 (22 airlines out of 40 responded);
- Mandatory APP for 1 January 2004, Airline Briefing Paper, Version 1.0, 9 September 2003; and
- airline industry meeting on airline / APP interface, 25 September 2003.

3.23 Also, DIMIA's contractor circulated an APP Bulletin for Airlines during the development and implementation period.

3.24 The ANAO notes that requirements documentation for mandatory APP does not reference any consultation with airlines, nor are airlines listed in the target audience for these documents. The ANAO considers that DIMIA could have better managed its consultation process with airlines by providing relevant parts of the requirements documents to a selection of airlines for feedback, where possible, to help achieve a smooth integration of airline systems with MAPP1.

3.25 To understand the effectiveness of consultation by DIMIA, the ANAO examined airlines' satisfaction levels with DIMIA's consultation on the design of MAPP1. A summary of airline responses is shown in Table 3.1.

Table 3.1

Airlines' satisfaction with DIMIA consultation on system design

Ratings	Very satisfied	Satisfied	Neutral	Dissatisfied	Very dissatisfied
Airline responses	1	2	2	3	1
<p>Comments:</p> <p>Issues to do with system design and the need to re-work some of these elements contributed to delays in implementation. For example, reference was made to DIMIA's solution for crew processing, which was not seen as workable by some airlines (and which was eventually addressed by DIMIA). Comments made by airlines in this regard were:</p> <p>‘One of the main underlying issues was DIMIA's lack of understanding of airline and airport processes and their lack of willingness to listen to carrier suggestions that the process, in particular for crew, was overly complicated.’</p> <p>‘Greater discussion prior to implementation would also have allowed for development of a suitable APP option for crew.’</p> <p>Survey responses also suggested that DIMIA's consultation on system design was not sufficiently wide-ranging to address the needs of key airlines responsible for implementing mandatory APP. For example, one airline noted that: ‘Too much time was spent talking to one carrier and their needs as opposed to all carriers.’</p> <p>Airline responses also suggest that the APP system codes and procedures are confusing for some airline check-in staff. Airline comments included:</p> <p>‘The complexity of the government override option has confused ground staff.’⁶⁶</p> <p>‘Because there are many kinds of responses from APP system, check-in staff sometimes confuse’.</p>					

Source: ANAO airline survey.

3.26 The ANAO airline survey shows that three airlines were satisfied or very satisfied, and four airlines were either dissatisfied or very dissatisfied with the consultation on the design of the MAPP1 system.

⁶⁶ In specific circumstances, airlines can override a APP message of ‘Do not board’ or ‘Contact the Entry Operations Centre’. Overrides are used to indicate to Australian immigration authorities that the passenger or crew does not hold an authority to travel to Australia (for example, a visa, Australian passport or New Zealand passport) but qualifies to enter Australia through published guidelines or by special permission from DIMIA's Entry Operations Centre.

System testing for MAPP1

3.27 Testing is a key aspect of quality management for software development projects. Testing involves operating a system or application under controlled conditions and evaluating the results. It is oriented to 'detection' (whereas quality planning and quality assurance are oriented towards 'prevention'). Detecting any problems before implementation reduces the likelihood of major re-work or project failure should the system not meet customer expectations once implemented.

3.28 The ANAO examined whether DIMIA had undertaken comprehensive and timely testing of the MAPP1 system before it was implemented in January 2004. In addition, the ANAO examined whether DIMIA had assured itself that the development teams, including its contractor, were following agreed testing plans and procedures. The ANAO found the following weaknesses in the testing regime.

- DIMIA did not develop an overarching test plan involving a breakdown of the test approach by elements such as test type, feature, functionality, process, system or module. Instead, the test strategy developed by DIMIA applied to acceptance testing only (that is, testing against the business requirements) and, while each type of testing was separately documented, it was difficult to gain an overall understanding of the testing regime for MAPP1 across both DIMIA and its contractor.
- Test scripts were not linked to the relevant section of the requirements. Doing this would have provided a transparent reference that business requirements had been thoroughly tested.
- DIMIA did not monitor testing by its contractor to ensure that agreed plans and processes were being followed. DIMIA relied on a sign-off by its contractor that it had completed the required testing, and on integrated testing between DIMIA and its contractor to identify any testing issues. The ANAO considers that this exposed DIMIA to increased risk relating to system delivery. If substantial problems had been identified during integrated testing, there was little contingency in the schedule to complete any major re-work that may have been required.
- User acceptance testing for MAPP1 was not completed before the system went live. The ANAO considers that this is acceptable so long as:
 - test scripts were prioritised and critical functionality identified to ensure critical functions were tested; and

- management (business and IT) was advised of the associated risks and signed off on the changes to the test strategy.

DIMIA was unable to provide evidence that it had completed either of these tasks.

- DIMIA did not perform usability testing⁶⁷ with airline check-in staff before the system went live to ensure the system was user-friendly. Subsequent issues described by airlines regarding difficulties with interpreting system responses and guidelines (described in Table 3.1) could have been minimised by testing with intended users before release.
- The majority of airlines had not completed MAPP1 testing prior to the system going live and therefore did not cut over to MAPP1 until after the go-live date. A major airline carrier into Australia indicated that the test scripts supplied did not allow for full testing of all error responses, which resulted in modifications to their system after having gone live. Specifically, in communication with the ANAO, the airline carrier noted that:

The DIMIA IT Team did not fully understand airline operational requirements and were not flexible in making required changes to test scenarios.

- When MAPP1 went live on 6 January 2004, there were several outstanding issues in end-to-end testing. DIMIA's contractor subsequently delivered the associated functionality as agreed by June 2004. DIMIA was unable to provide evidence, however, that it had subsequently conducted testing to confirm complete system functionality.
- DIMIA's contractor states⁶⁸ that DIMIA had not undertaken testing for some system changes (post-implementation) and had relied on the testing of its contractor. The ANAO considers that this indicates an over-reliance by DIMIA on the testing completed by its contractor, rather than DIMIA independently testing the changes implemented.
- In the main, DIMIA was unable to provide evidence of signed documentation as proof of sign-off for testing work completed. DIMIA did, however, provide various emails and unsigned documents that attest to acceptance of the completed testing. DIMIA received confirmation (via email) that its contractor had completed testing in accordance with the test plans. DIMIA has sign-offs for integrated

⁶⁷ Usability testing is testing for user-friendliness. Programmers and testers are usually not appropriate usability testers.

⁶⁸ DIMIA minutes of testing issues meeting, 10 June 2004.

testing and for some elements of user acceptance testing. DIMIA also provided the ANAO with a series of forms titled 'Natural Program Transfer Requests' signed by a business representative. But the ANAO considers it is not clear from the information on the forms as to what exactly was being signed off.

3.29 In addition to sign-offs for testing, the ANAO would expect the system owner to have provided a formal sign-off indicating acceptance of the system as a whole and an approval to implement the system. The ANAO considers that the sign-offs provided by DIMIA do not constitute a clear business sign-off that MAPP1 was complete, nor a direction to implement the system.

3.30 The ANAO considers that the testing for MAPP1 should have been more timely and comprehensive to provide assurance that any problems had been detected and rectified before the system was implemented. Monitoring its contractor's testing and obtaining appropriate documented sign-offs for all testing would have helped DIMIA provide such assurance. Additionally, without formal documentation that the business accepted the system, it is unclear whether the system was considered to have met the needs of the business area on implementation.

System performance—MAPP1

System outages

3.31 The ANAO considers it critical that DIMIA monitors APP system outages⁶⁹ to assess:

- potential risks to border security;
- individual stakeholder performance relating to contractual obligations; and
- the impact on airline's ability to meet legislative requirements relating to APP.

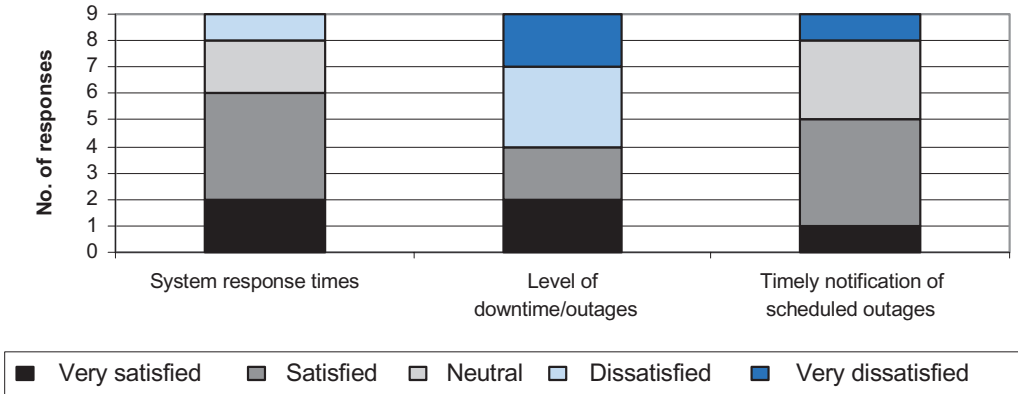
3.32 The ANAO examined the number of outages in respect of the APP system to ascertain system availability. An examination of outage statistics for APP, provided to DIMIA by its contractor, shows a high level of availability, although in some months the target of 99.7 per cent was not met. However, the ANAO found that although DIMIA receives system availability statistics from its contractor, it does not analyse these statistics to confirm their accuracy. Undertaking such an analysis would assist DIMIA in monitoring contractor performance.

⁶⁹ An unplanned interruption in system availability as a result of computer hardware or software problems, or operational problems.

3.33 The ANAO also assessed airlines' satisfaction with system performance, through the ANAO airline survey, by asking airlines about their satisfaction with system response times, the level of downtime/outages, and the timely notification of scheduled outages for APP. A summary of the results is provided in Figure 3.1.

Figure 3.1

Airlines' satisfaction with system performance



Source: ANAO airline survey.

3.34 While airlines were generally satisfied with system response times, they were considerably less satisfied with the level of outages they experienced, with five out of the nine airlines either dissatisfied or very dissatisfied. In particular, one airline noted that:

Over the past few months we have undoubtedly seen an increasing number of outages and timeouts (the latter averaging 200+ per day over the last X-mas period). This would seem to indicate a system which is under stress.

3.35 On the issue of scheduled APP system outages, airlines surveyed were generally satisfied or neutral, although one airline indicated they were very dissatisfied with the notification provided.

3.36 DIMIA advised that the airlines often assume that all connectivity problems are related to the APP system but that its contractor has many documented incidents indicating that incorrect troubleshooting procedures were adopted by the airlines. DIMIA also advised that it is often third-party services connecting airlines' check-in counters to the APP system that are responsible for the reported outages.

3.37 However, DIMIA could not provide evidence that the Department's Entry Operations Centre recorded and analysed statistics relating to outages reported by airlines, to identify causes of airline outages, that is connectivity problems to the APP system. Monitoring these enquiries will enable DIMIA to:

- better provide assurance about the performance of APP; and
- identify any common problems experienced by airlines (including potential training issues) and develop timely solutions in consultation with airlines to assist airlines in meeting legislative requirements relating to APP.

3.38 Communicating to airlines the outcomes of DIMIA analyses of outage statistics provided by its contractor, and airline reports of system outages, could also assist DIMIA to address airline perceptions relating to APP system availability.

Recommendation No. 1

3.39 The ANAO recommends that to assist in managing potential risks to border security, to monitor contractor performance and, to assist airlines in meeting legislative requirements relating to Advance Passenger Processing, DIMIA:

- analyse and validate system availability statistics provided by its contractor; and
- identify any common problems experienced by airlines relating to system outages and develop timely solutions in consultation with airlines to assist airlines in meeting legislative requirements relating to Advance Passenger Processing.

DIMIA response

3.40 Agree.

Summary

3.41 DIMIA and its contractor jointly implemented the MAPP1 project to enhance the existing APP system to provide functionality including advance information for: airline crew; cruise ship passengers and crew; transit passengers; and an estimated one per cent of passengers not required to obtain a visa.

3.42 In undertaking the MAPP1 project, it was important for DIMIA and Customs to coordinate their efforts in a timely manner to implement a solution that avoided duplicate reporting by airlines, consistent with the second reading speech for the Border Security Legislation Amendment Bill 2002 (delivered by the Attorney-General on 12 March 2002).⁷⁰ However, DIMIA's

⁷⁰ Prior to the development and implementation of MAPP1, duplicate reporting by airlines to both DIMIA and Customs was necessary to achieve efficient processing using APP for airline crew members. However, this was not the case for airline passengers.

business requirements for MAPP1 did not address this requirement. Subsequent to the audit, DIMIA advised the ANAO that MAPP2 (incorporating the necessary changes to Customs and DIMIA systems to remove the need for duplicate reporting by airlines for crew members) was implemented on 23 February 2005.

3.43 The majority of airlines had not completed MAPP1 testing prior to the system going live and therefore did not cut over to MAPP1 until after the go-live date. A major airline carrier into Australia indicated that the test scripts supplied did not allow for full testing of all error responses, which resulted in modifications to their system after having gone live.

3.44 When MAPP1 went live on 6 January 2004, there were several outstanding issues in end-to-end testing. DIMIA's contractor subsequently delivered the associated functionality as agreed by June 2004. DIMIA was unable to provide evidence, however, that it had subsequently conducted testing to confirm complete system functionality.

3.45 An examination of outage statistics for APP, provided to DIMIA by its contractor, shows a high level of availability, although in some months the target of 99.7 per cent was not met.

3.46 Although DIMIA had data on APP availability from its contractor's perspective, it could not provide evidence that the Department's Entry Operations Centre recorded and monitored statistics relating to outages reported by airlines. The ANAO found that although DIMIA receives system availability statistics from its contractor, it does not analyse these statistics or data supplied by airlines to the Entry Operations Centre, to identify causes of airline outages, that is, connectivity problems to the APP system.

4. Advance Passenger Processing (APP) Performance Reporting

This chapter examines DIMIA's corporate and business planning for APP, performance measurement and monitoring and reporting for compliance and accountability purposes.

Introduction

Role of DIMIA's Border Control and Compliance Division

4.1 DIMIA's Border Control and Compliance Division (BCC) plays a key role in maintaining and enhancing the integrity of Australia's immigration and citizenship programs by enforcing immigration and citizenship laws. BCC aims to support the implementation of departmental programs in a way that provides confidence to the Government and the community that people entering or staying in Australia are identified correctly, use the established channels to enter and are properly entitled to remain in Australia.⁷¹ BCC is responsible for implementing and managing APP.

Corporate and business planning for APP

4.2 To gain assurance that a comprehensive planning approach is taken to APP, the ANAO examined whether APP has been adequately included in DIMIA's corporate and business planning framework. The ANAO found that this has been the case, as shown in Table 4.1.

⁷¹ DIMIA, Border Control and Compliance, Strategic Plan, Canberra, p. 8.

Table 4.1**Inclusion of APP in DIMIA's corporate and business planning**

DIMIA planning component	Relevance to APP
Outcomes and outputs framework	<p>APP is reported under Outcome 1 'Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people'. APP planning relates to DIMIA's Portfolio Budget Statements outcome effectiveness measure 'Decrease in unauthorised arrivals over time in the context of passenger movements'.⁷²</p> <p>APP is reported under Output Group 1.3 'Enforcement of Immigration Law', Output 1.3.1 'Regulate Entry and Departure'. DIMIA's Portfolio Budget Statements also describe performance measures for Output 1.3.1 relating to APP as follows:</p> <p>Output (quantity): 'Passenger and crew arrivals/departures processed within the integrity framework' (target: 23 million); and</p> <p>Output (quality): 'Increasing or maintain proportion of arriving air passengers and crew processed via APP'.⁷³</p>
Business Directions 2002–05	APP planning relates to the strategy 'protect the integrity of the border by working closely with other border agencies to maintain effective screening processes, streamlined entry of approved travellers and accurate records of people movements' listed under Outcome 1, Output Group 1.3 'Enforcement of Immigration Law'.
BCC Strategic Plan	The BCC Strategic Plan outlines six key areas of concern to BCC in a 'Hierarchy of Concern'. Areas of concern are ranked from 'high level of concern' to 'low level of concern'. APP relates to a number of concerns listed, for example, 'Identity Fraud'.
BCC Risk Management Plan 2004–05	<p>The BCC Risk Management Plan defines 7 overarching risks and 35 more specific lower-level risks that complement them and may impact on BCC operations. APP relates to the following three overarching risks included in the BCC Risk Management Plan:</p> <ul style="list-style-type: none"> ● inaccurate verification of identity and immigration status; ● immigration fraud and malpractice; and ● relevance of border protection and compliance policy.

⁷² DIMIA, Portfolio Budget Statements 2005–06, Budget Related Paper 1.12, Canberra, p. 58.

⁷³ DIMIA, Portfolio Budget Statements 2005–06, Budget Related Paper 1.12, Canberra, p. 70.

DIMIA planning component	Relevance to APP
DIMIA Fraud Control Plan/Fraud Risk Assessment Report 2004–06	DIMIA's Fraud Control Plan is designed to discuss and comment on the overall fraud control arrangements in the department with respect to compliance with the <i>Commonwealth Fraud Guidelines</i> (2002) and, where appropriate, identify areas where there are deficiencies or potential for improvement. The plan includes recommendations for improvement that are allocated to the relevant functional area for implementation within a nominated timeframe. It contains no information on the risk of fraud relating to APP.
BCC Business Plan 2003–04	<p>The BCC Business Plan 2003–04, describes performance information and objectives for delivering Output 1.3.1 'Regulate Entry and Departure'. Performance information relating to APP is:</p> <ul style="list-style-type: none"> • continuous provision of a helpdesk function for airline staff and external agencies for the resolution of identity and immigration status concerns; and • number/proportion of arriving passengers referred⁷⁴ at the border for reasons which should (or could) have been detected at point of embarkation. <p>APP relates to an objective 'verification of the identity and immigration status of passengers at point of embarkation' for the delivery of Output 1.3.1.</p>
BCC Program Performance Requirements 2004–05	Program Performance Requirements provide guidance on staff responsibilities related to delivering key activities within BCC. The requirements also outline performance standards and quality assurance measures. APP relates to a key activity 'Arrival and departure' for airports.

Source: ANAO analysis of DIMIA corporate and business planning.

Performance measurement

4.3 Establishing valid and reliable performance measures contributes to more effective accountability and good management. It supports an agency's ability to plan, adjust strategies and deal with problems in a timely manner.

Outcome performance measure

4.4 Within DIMIA's outcomes and outputs framework, APP contributes towards achieving Outcome 1:

Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people.

⁷⁴ Where a passenger's immigration status is not clear on arrival at the border, Customs officers (primary line) refer the passenger to DIMIA officers (secondary line) for further immigration processing.

4.5 Against this outcome, APP relates to the outcome effectiveness measure:

Decrease in unauthorised arrivals over time in the context of passenger movements.⁷⁵

4.6 The ANAO examined the relevance and comprehensiveness of the abovementioned outcome effectiveness measure in assisting DIMIA to measure and report its performance relating to Outcome 1. The ANAO considers that DIMIA's outcome effectiveness measure is relevant in providing performance information related to the lawful entry of people to Australia. This is because passengers arriving in Australia need to be properly authorised to lawfully enter Australia. The ANAO also considers that DIMIA's outcome effectiveness measure is wide ranging because although it refers to 'passenger movements', it captures performance information relating to all types of people travelling to Australia, including crew members who are deemed to hold a Special Purpose Visa on arrival. However, the ANAO suggests that DIMIA could include reference to crew members in its outcome effectiveness measure description to improve clarity.

4.7 The Commonwealth's Performance Management Principles, as endorsed by Ministers, state that performance information is most effective if current performance can be compared qualitatively or quantitatively against specific benchmarks, targets or activity levels where appropriate.⁷⁶ Although DIMIA's outcome effectiveness measure 'Decrease in unauthorised arrivals over time in the context of passenger movements' does not specify a target level of unauthorised arrivals to be achieved, or a timeframe, DIMIA does monitor the number of unauthorised air arrivals as shown in Figure 4.1 below.

4.8 DIMIA advises that in 2003–04, over 9.3 million people arrived in Australia by air of whom 1 241 or about 0.01 per cent were refused immigration clearance at airports. This is an increase of 32 per cent compared to 937 people refused in 2002–03. Furthermore, DIMIA advises that this can be attributed to a number of factors including more sophisticated fraud detection measures, closer scrutiny of some profiles and an increase in total passenger arrivals.⁷⁷

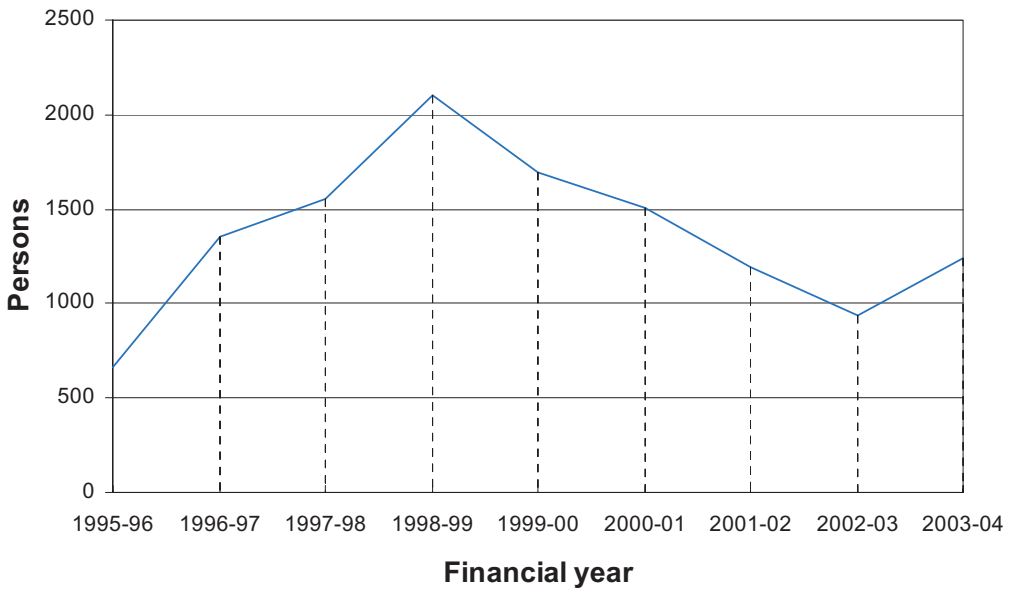
⁷⁵ DIMIA, Portfolio Budget Statements 2005–06, Budget Related Paper 1.12, Canberra, p. 58.

⁷⁶ See <http://www.finance.gov.au/budgetgroup/Commonwealth_Budget_-_Overview/performance_management_princip.html>.

⁷⁷ DIMIA, *Managing the Border: Immigration Compliance*, 2003–04 edition, p.21.

Figure 4.1

Unauthorised air arrivals



Source: DIMIA, *Managing the Border: Immigration Compliance*, 2003–04 edition, p.21.

Output performance measures

4.9 APP contributes to Output Group 1.3 ‘Enforcement of Immigration Law’, Output 1.3.1 ‘Regulate Entry and Departure’. Specifically, APP relates to two of DIMIA’s output performance measures:

- Quantity: ‘Passenger and crew arrivals/departures processed within the integrity framework’ (target: 23 million)⁷⁸; and
- Quality: ‘Increasing or maintain proportion of arriving air passengers and crew processed via APP’.⁷⁹

4.10 The ANAO examined the relevance and comprehensiveness of DIMIA’s output performance measures.

Quantity performance measure

4.11 The ANAO considers that DIMIA’s quantity measure is relevant in providing performance information relating to its output. In particular, the ANAO understands that DIMIA’s integrity framework refers to its layered approach to border processing (discussed in Chapter 1). APP contributes to

⁷⁸ Only passengers and crew arriving in Australia are processed using APP.

⁷⁹ DIMIA, Portfolio Budget Statements 2005–06, Budget Related Paper 1.12, Canberra, p. 70.

this layered approach. Also, the ANAO considers that the performance measure is comprehensive as it identifies a target of 23 million arrivals.

Quality performance measure

4.12 Since 5 January 2003, it has been mandatory to use the APP system to report all airline passengers and crew arriving in Australia. In undertaking planning for mandatory APP, DIMIA planned to process 100 per cent of all passengers and crew on aircraft by July–December 2003. To date, this target has not been achieved. However, the ANAO notes that on 10 December 2004, DIMIA advised the Minister for Immigration and Multicultural and Indigenous Affairs that:

Continued growth in levels of APP reporting has seen a gradual increase to approximately 98 per cent which is a very positive result, but it has become apparent that 100 per cent reporting will be difficult to achieve due to airline systems downtime which is a feature of those airlines with a weaker infrastructure.

4.13 DIMIA's quality of output performance measure addresses the issue of coverage. The ANAO considers that DIMIA's performance measure is relevant to its output. However, DIMIA's measurement of the quality of its output delivery could be made more comprehensive by developing additional quality performance measures with appropriate targets to assist in monitoring and improving the administration of APP. For example, DIMIA could report its performance concerning its timeliness in responding to APP enquiries from airline check-in staff.

Airline infringement notices

4.14 The *Migration Act 1958* imposes a liability upon carriers to ensure that non-citizens brought to Australia are properly documented. This means that passengers must hold valid travel documents and visas on arrival. Where a passenger arrives without a visa or is otherwise improperly documented, the carrier may be liable for a penalty or prosecution under either section 229 or 230 of the *Migration Act 1958*. Section 504(1)(j) of the *Migration Act 1958* provides that an infringement notice may be imposed in lieu of this penalty for each individual breach of these provisions. The infringement notice imposes a liability of AUS \$5000 on the carrier. Infringement notices imposed on carriers for bringing improperly documented people to Australia have fallen from a peak of 5 048 in 1999–2000 to 1 211 in 2003–04—a drop of 76 per cent over the five years.⁸⁰

4.15 In addition to reporting APP performance against its Portfolio Budget Statements target as discussed above, DIMIA also considers the number of

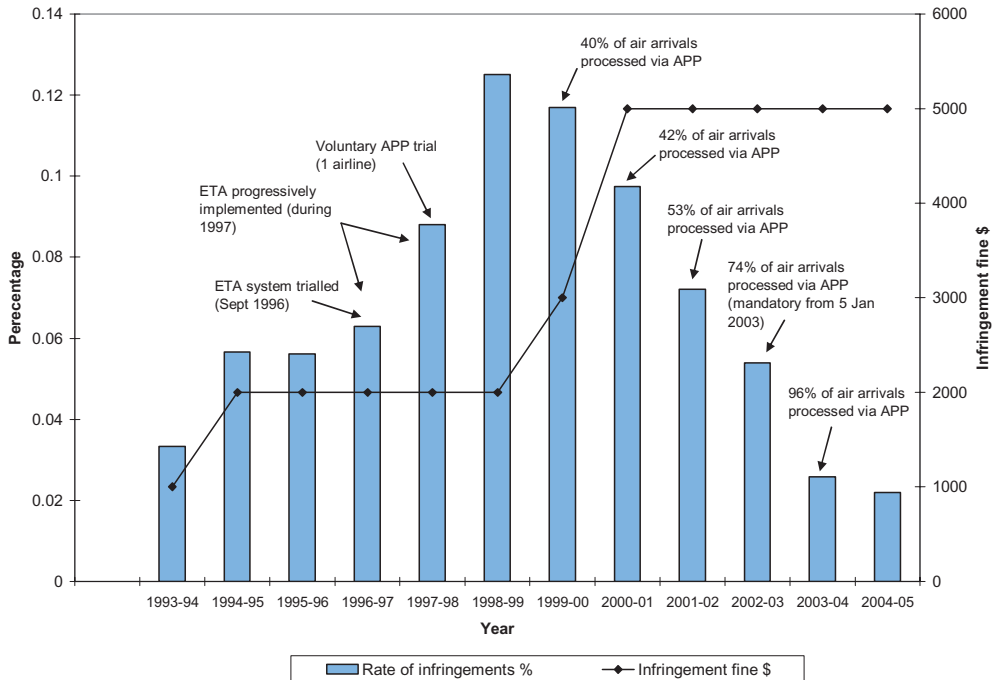
⁸⁰ DIMIA, *Managing the Border: Immigration Compliance*, 2003–04 edition, p.25.

net⁸¹ infringement notices to airlines as a percentage of passenger air arrivals.⁸² (The vast majority of notices relate to airlines transporting passengers who are not properly documented.) This percentage has decreased from approximately 0.06 per cent in 1999–00, to approximately 0.01 per cent in 2003–04, which covers the period since APP (voluntary and mandatory) was introduced.

4.16 In the interest of gaining a more complete understanding of DIMIA's progress in reducing the number of net infringement notices to airlines as a percentage of passenger air arrivals, the ANAO extended the above analysis to include the period 1993–94 to 2004–05. This provides a 10-year trend that covers the period before the existence of both the Electronic Travel Authority (ETA) and APP systems (1993–94) and the period when the ETA system existed but APP did not (1997–98), as shown in Figure 4.2. The ANAO analysis differs from DIMIA's analysis because it does not include Australian and New Zealand citizens in the number of passenger air arrivals. The ANAO did this because Australian and New Zealand citizens are not required to hold a valid visa to enter Australia. Consequently, airlines would not receive infringements for transporting Australian or New Zealand citizens to Australia without a valid visa.

⁸¹ Net infringement notices are the total infringement notices issued by DIMIA to airlines less infringement notices withdrawn by DIMIA.

⁸² DIMIA, *Annual Report 2003–04*, Canberra, 2004, p. 79.

Figure 4.2**Net infringement notices to airlines as a percentage of passenger air arrivals**

Source: ANAO, based on DIMIA data.

4.17 Figure 4.2 shows that net infringement notices issued to airlines as a percentage of passenger air arrivals have reduced from an average of 0.05 per cent for the period 1993–94 to 1995–96 (before the implementation of the ETA and APP systems) to 0.02 per cent in 2004–05 (after the implementation of the ETA and APP systems). Figure 4.2 also shows that the number of infringements for airlines initially rose after the ETA system was introduced.

4.18 In 1999, the ANAO commented that:

There are a number of factors which contribute to this result; as airlines recognise. These include:

- inadequate checks by airport check-in staff;
- customers being unaware of the visa requirements or travel agents failing to advise the customers of visa requirements;
- passengers from the US who may originate from small airports but be checked through to international flights. Because check-in staff at the smaller airports only see a handful of ETAs per year, they are not clear about the procedures; and

- a high turnover of check-in staff—up to 50 per cent per annum for some airlines.⁸³

4.19 Furthermore, Figure 4.2 shows that the number of net infringement notices issued to airlines, as a percentage of passenger air arrivals, started to decrease after 1998–99. The ANAO notes that, in addition to an increasing number of airline passengers being processed using APP from 1999–00 onwards (40 per cent of air arrivals), the level of airline infringement notice fines also increased considerably (from \$2 000 in 1998–99 to \$3 000 in 1999–00 and then to \$5 000 in 2000–01). This makes it difficult to determine the extent of the contribution made by APP alone in reducing net infringement notices to airlines as a percentage of passenger air arrivals. A generally tighter security environment after the events of 11 September 2001, may also have contributed to a reduction in unauthorised arrivals in the context of passenger movements.

Measuring the benefits of mandatory APP for border security

4.20 DIMIA’s business system design for the voluntary APP system described the most important measure of success of the APP system as ‘the saving in the time to process a cohort of international passengers through the primary line at Australian borders’.⁸⁴ That is, the focus of the business system design was on passenger facilitation. The ANAO considers that there is a clear link between improving passenger facilitation and DIMIA’s Outcome 1.

4.21 In the light of the subsequent requirement that all passengers and crew of airlines and international cruise ships arriving in Australia be processed using APP, the focus of APP was on increased control. This shift is evidenced in comments outlining the benefits to border security of mandatory APP in the Explanatory Memorandum to the Border Security Legislation Amendment Bill 2002, which stated that the introduction of mandatory APP will:

[S]ignificantly enhance the ability of Customs and DIMIA to assess passengers and crew, prior to their arrival in Australia, for the risk they may present in relation to a range of Commonwealth laws.

4.22 The ANAO considers that DIMIA could improve its performance reporting relating to the impact of mandatory APP on border security by including in its Annual Report information on:

- the number of non-citizens who were not allowed to board an aircraft to travel to Australia, as a result of being processed by APP, owing to the risk they may present in relation to a range of Commonwealth laws; and

⁸³ ANAO, Audit Report No. 3 1999–2000, *Electronic Travel Authority*, Canberra, 2000, pp 62–63.

⁸⁴ CPS Systems, *Advance Passenger Processing, Business System Design*, Version 1.4, 26 November 1998, pp 1–4.

- the number of non-citizens who were refused entry at the Australian border, owing to the risk they may present in relation to a range of Commonwealth laws, that should (or could) have been detected at the point of embarkation using APP.

4.23 In particular, including the above-mentioned performance information in its Annual Report would assist DIMIA in reporting its performance in respect of the strategy of extending the border to the last point of embarkation as discussed at paragraph 1.12.

4.24 DIMIA advised the ANAO that it is working with CPS Systems (the contractor) to identify the number of instances where a person was denied boarding as a result of processing using APP, owing to the risk they may present in relation to a range of Commonwealth laws.⁸⁵ This information would assist DIMIA to report its performance relating to the impact of mandatory APP on border security as discussed above.

Recommendation No. 2

4.25 The ANAO recommends that to improve its performance reporting relating to border security, DIMIA develops and reports on performance measures relating to the following:

- the number of non-citizens who were not allowed to board an aircraft to travel to Australia, as a result of being processed by Advance Passenger Processing, owing to the risk they may present in relation to a range of Commonwealth laws; and
- the number of non-citizens who were refused entry at the Australian border, owing to the risk they may present in relation to a range of Commonwealth laws, that should (or could) have been detected at the point of embarkation using Advance Passenger Processing.

DIMIA response

4.26 Agree. There may be some system and practical limitations in refining the data to this point but this will be fully explored.

⁸⁵ Excluding instances where persons were initially denied boarding as a result of processing using APP, because of, for example, data entry errors but were subsequently allowed to board after further processing using APP.

APP performance monitoring and reporting

External reporting on compliance

4.27 DIMIA publicly reports, at an aggregate level, information about APP relating to air and sea arrivals in its Annual Report and in departmental publications such as *Managing the Border: Immigration Compliance*.

4.28 In its *Annual Report 2004–05*, DIMIA reported that as at 30 June 2005, APP reporting occurred in approximately 98 per cent of passenger air arrivals, an increase from 96 per cent in 2003–04 and 94 per cent in 2002–03.⁸⁶

4.29 DIMIA also monitors APP processing statistics for individual airlines and provides feedback to assist in improving the level of compliance with mandatory APP requirements.

Internal reporting on compliance

4.30 On 10 December 2004, DIMIA advised the Minister for Immigration and Multicultural and Indigenous Affairs, in relation to the aviation environment, that:

While our reporting on compliance for APP passenger checking is now reasonably sophisticated, we are working with airlines to further refine the reporting mechanism. We are some months away from a similar reporting mechanism for crew, however our monitoring indicates that compliance for crew APP checks is very high.

4.31 DIMIA advised the ANAO that the rollout of Stage 2 of mandatory APP on 23 February 2005, enables it to identify crew arriving without a Crew Travel Authority, further enhancing its monitoring of crew compliance.

Robustness of APP performance information

4.32 Performance monitoring and reporting are important aspects of APP administration. Without the timely collection and analysis of APP performance information, fully informed decisions about the management of APP cannot be made including identifying trends or problems early for remedial action.

4.33 The ANAO reviewed the accuracy⁸⁷, relevance⁸⁸ and sufficiency⁸⁹ of DIMIA's APP performance information used for external reporting and airline compliance monitoring. It found that APP performance information used by

⁸⁶ DIMIA, *Annual Report 2004–05*, Canberra, 2005, p. 101.

⁸⁷ Measuring accurately what the agency sets out to measure.

⁸⁸ Ensuring measurement of what users are interested in.

⁸⁹ An adequate amount of performance information.

DIMIA for these purposes contained inaccuracies. These inaccuracies are a consequence of the following:

- code-share arrangements between airlines;
- passengers crossing the primary line⁹⁰ after midnight;
- charter flights;
- system errors; and
- check-in mistakes.

Code-share arrangements between airlines

4.34 Code-share is a common arrangement in the airline industry. The incorrect recording of code-share arrangements between airlines has the potential to adversely affect the accuracy of DIMIA's APP processing statistics. An example of how this can occur is shown in Figure 4.3. In calculating the aggregate percentage of air arrivals processed by airlines using APP, DIMIA assumes that the discrepancies in individual airline APP statistics are owing to code-share arrangements between airlines, and that by combining APP statistics for all airlines, all code-share discrepancies will be balanced. The ANAO found that APP was not designed to capture information on individual airline code-share arrangements, and that DIMIA has not sought to test the impact of code-share flights on APP statistics to verify its assumption.

⁹⁰ Customs officers, both for Customs and Immigration purposes, process passengers arriving in Australia at the primary line. Customs officers may subsequently refer passengers to DIMIA officers at the secondary line for further immigration processing.

Figure 4.3

Example of a code-share arrangement affecting APP processing statistics

Airline A purchases 20 seats on an Airline B flight. Passengers who purchase tickets through Airline A to travel on Airline B are travelling on a code-share arrangement. These code-share passengers would check-in with Airline A before departing for Australia on the Airline B flight.

If these code-share passengers subsequently complete passenger cards showing they travelled to Australia with Airline B, Customs officers (using the Passenger Analysis and Clearance Evaluation system) at the border will not be able to match their arrival to an Expected Movement Record for Airline B. This is because these passengers checked in with Airline A.

Without an Expected Movement Record for these passengers, the Customs Passenger Analysis and Clearance Evaluation system verifies each passenger's immigration status. Upon confirmation that each passenger is properly authorised to enter Australia, Customs officers would create an Actual Movement Record against Airline B for each passenger's arrival. The Expected Movement Record previously generated by Airline A, where the code-share passengers checked in, is unmatched in the Passenger Analysis and Clearance Evaluation system.

Consequently, Airline B APP processing statistics would show that more people arrived in Australia with this airline than the airline processed using APP. The reverse would be the case for Airline A.

Source: DIMIA.

Passengers crossing the primary line after midnight

4.35 The incorrect recording of the date passengers arrive in Australia can also adversely affect the accuracy of DIMIA's APP processing statistics. This type of error can occur, for example, if a flight arrives in Australia before midnight but passengers do not cross the primary line until after midnight. In this event, passengers are recorded by DIMIA as having arrived the day after the flight actually arrived in Australia. The recorded arrival is then inconsistent with airline and APP flight arrival information and complicates the calculation of airline take-up rates relating to APP processing. DIMIA has not yet been able to quantify the impact of passengers crossing the primary line after midnight on the accuracy of its APP statistics.

Charter flights

4.36 APP is currently not in place for charter flights. Some commercial airlines already providing APP data to DIMIA also operate the occasional charter flight. In these cases, DIMIA requests APP information for the charter

flight. DIMIA's overall calculation of the APP take-up rate excludes charter flights. Consequently, DIMIA is removing charter flights from its reporting system so as not to adversely affect its performance reporting of the APP take-up rate for individual airlines and the overall APP take-up rate.

System errors

4.37 Some airlines using stand-alone systems have expressed concern to DIMIA that they are unable to monitor their performance in using the APP system. Also, smaller airlines have advised DIMIA that technical communication difficulties may result in passengers being processed using APP more than once. DIMIA has not yet been able to quantify the impact of system errors on the accuracy of its APP statistics.

Check-in mistakes

4.38 DIMIA advised the ANAO that in a small number of instances, passengers boarding flights of some airlines that connect with a flight destined for Australia are sometimes pre-processed at the point of origin. If any of these pre-processed passengers do not board the flight departing for Australia, the point of embarkation must contact the point of origin to cancel the passenger's APP record. This does not always happen, resulting in these passengers still being recorded as expected movements. Consequently, the airline is recorded as having processed more passengers using APP than actually travelled to Australia. DIMIA has not yet been able to quantify the impact of check-in mistakes on the accuracy of its APP statistics.

4.39 Overall, the ANAO found that DIMIA's APP performance information used for compliance monitoring and external reporting is relevant. However, inaccuracies in DIMIA's APP performance information mean that DIMIA's monitoring of airline compliance and its external reporting on the aggregate number of airline passengers arriving in Australia, that have been processed by airlines using APP, is unreliable. Because DIMIA has not yet been able to quantify the impact of the abovementioned factors on the accuracy of its APP statistics, it is unable to quantify the degree to which its monitoring of airline compliance and its external reporting is inaccurate. A lack of accurate performance information reduces DIMIA's ability to monitor whether airlines are using APP consistent with legislation to allow DIMIA to assess passengers and crew, prior to their arrival in Australia, for the risk they may present in relation to a range of Commonwealth laws. DIMIA is working to address deficiencies in its performance information through the development of a system to support a proposed fines regime for airlines that do not process all passengers and crew using the APP system.

4.40 The ANAO also found that DIMIA's APP performance information is not sufficient to determine whether airlines are using APP as intended. Collecting additional performance information on aspects of airline

performance in using APP would assist DIMIA to more effectively monitor individual airline compliance levels. Such an approach could, for example, include the following:

- systematic analysis of airline queries to the DIMIA Entry Operations Centre. These checks would assist in assuring DIMIA that its policies and procedures are being appropriately applied by airlines. In this regard, one area of particular concern to the ANAO is the use of override codes by airlines. Collecting and analysing performance information relating to the appropriate application of these overrides would assist DIMIA in monitoring the performance of airlines;
- visits to airports by DIMIA officers to check airline use of the APP system at passenger check-in points; and
- with the agreement of the airlines, reviews of airline training programs, manuals and operating procedures to determine compliance with APP requirements.

Providing compliance feedback to airlines

4.41 As part of the ANAO airline survey, airlines were asked about the usefulness of performance information provided by DIMIA to assist them in improving their compliance with mandatory APP requirements.

4.42 In particular, the ANAO asked airlines whether they had received feedback from DIMIA about their effective use of APP. The majority of respondents were currently receiving performance feedback, while two airlines had never received such feedback. The ANAO asked airlines receiving performance feedback whether the feedback had assisted them in complying with mandatory APP. Five of the seven respondents indicated that the feedback had been useful, but four airlines indicated a lack of confidence in the performance information provided by DIMIA, as follows:

‘MAPP (mandatory APP) achievement report may be a little unclear for us (almost all data is over 100 per cent).’

‘DIMIA have also started providing APP status reports, which will be of great assistance once they have been refined.’

‘The provision of accurate performance feedback would be useful. Thus far the figures are confused with our code-share partners.’

‘Data quality in the performance statistics needs to be improved to make them meaningful. Currently the data received is wildly at variance with our own data (e.g. number of passengers on board). Drawing conclusions from such data would be unwise.’

4.43 The ANAO considers that DIMIA can improve the accuracy and sufficiency of its performance information to better support airline compliance

monitoring and accountability (including the provision of feedback to airlines). It is also important that all airlines receive APP performance information and that all users of the information are made aware of the factors affecting its accuracy to assist them in understanding to what extent they can rely on the information.

APP fines regime

4.44 Although the *Migration Act 1958* imposes a requirement on carriers to ensure that non-citizens brought to Australia are properly documented, there is no infringement regime for aircraft or ship operators that do not process all persons travelling to Australia using the APP system. However, DIMIA is proposing a fines regime as part of the Migration Legislation Amendment (Border Integrity) Bill, which is intended to be introduced in Parliament's 2006, autumn sitting. If passed, the fines regime will not be implemented until towards the end of 2006 to allow DIMIA to fine airlines that do not process all passengers and crew using the APP system. DIMIA expects this regime to provide a more meaningful incentive for airlines to comply.

4.45 Subsequent to audit fieldwork, DIMIA advised the ANAO that it would not be using APP performance reporting on individual airlines to assist in deciding whether an airline infringement notice should be issued. Instead, DIMIA has developed a draft Statement of Requirements for the APP Infringement Reporting System⁹¹ which outlines high-level business and system requirements for a proposed solution for managing the issue of infringement notices. DIMIA also expects that the APP Infringement Reporting System will assist it in improving the accuracy of its APP performance information (discussed above) used for external reporting and airline compliance monitoring.

4.46 The ANAO notes that the draft Statement of Requirements identifies the following difficulty in proving airline infringements:

In order to get an accurate list of potential infringements the data matching process requires an up-to-date, complete and accurate list of expected and actual movement records...The main data quality issue is with the expected records that are attributed to data transmission problems between IT systems involved, system outages, and erroneous, inadequate check-in data supplied and border processing data entered by Customs officer in PACE⁹².

Once the traveller has left the primary line, it is very difficult to prove which airline actually brought them to Australia. For this reason, it may be best to stop the person via a referral so that further evidence can be acquired.

⁹¹ DIMIA, Border and Entry Systems Section, APP Infringement Reporting System (AIRS), Statement of Requirements, Version 1.0, Canberra, 23 August 2005.

⁹² Passenger Analysis Clearance and Evaluation system.

Unfortunately this will disadvantage the traveller who, through no fault of their own, has not been checked in properly by their airline. There would also be an increase in the number of referrals which will affect processing times and hence will increase the workload performed by airport staff.

If all passengers who don't appear to have an expected record are not referred, then we will have to rely on the flight code as entered by the Primary Line Officer. This may very well be accurate but if an infringement is challenged by the airline it will be difficult to prove.

4.47 Also, although all airlines are required to process all aircraft passengers using the APP system, the draft Statement of Requirements recognises that it will be impossible to know if this has been done by airlines for transit passengers. Consequently, these passengers are outside the scope of the APP Infringement Reporting System. Furthermore, the draft Statement of Requirements recognises that unless the scope of the APP Infringement Reporting System is extended to handle code-share flights by using a flight schedule table from the *Official Airline Guide*, the system will not be able to report the potential infringements accurately. The draft Statement of Requirements also notes that 'the flight table schedule is extremely expensive and prohibits us from using the solution suggested'. Instead, the draft Statement of Requirements proposes that DIMIA will liaise with Customs on the issue of staff training so that when an expected record for a passenger is not found by Customs, the passenger can be asked for information on the flight that they disembarked.

4.48 The ANAO considers it particularly important that DIMIA satisfactorily resolves the above-mentioned difficulties before introducing a fines regime.

Summary

4.49 DIMIA publicly reports, at an aggregate level, information about APP relating to air and sea arrivals in its Annual Report and in departmental publications such as *Managing the Border: Immigration Compliance*.

4.50 In its *Annual Report 2004–05*, DIMIA reported that as at 30 June 2005, APP reporting occurred in approximately 98 per cent of passenger air arrivals, an increase from 96 per cent in 2003–04 and 94 per cent in 2002–03.⁹³

4.51 The ANAO reviewed the accuracy⁹⁴, relevance⁹⁵ and sufficiency⁹⁶ of DIMIA's APP performance information used for external reporting and airline

⁹³ DIMIA, *Annual Report 2004–05*, Canberra, 2005, p. 101.

⁹⁴ Measuring accurately what the agency sets out to measure.

⁹⁵ Ensuring measurement of what users are interested in.

⁹⁶ An adequate amount of performance information.

compliance monitoring. DIMIA's APP performance information used for compliance monitoring and external reporting is relevant. However, inaccuracies in DIMIA's APP performance information mean that DIMIA's monitoring of airline compliance and its external reporting on the aggregate number of airline passengers arriving in Australia, that have been processed by airlines using APP, is unreliable to some degree.

4.52 These inaccuracies are a consequence of the following:

- code-share arrangements between airlines;
- passengers crossing the primary line⁹⁷ after midnight;
- charter flights;
- system errors; and
- check-in mistakes.

4.53 Because DIMIA has not yet been able to quantify the impact of the abovementioned factors on the accuracy of its APP statistics, it is unable to quantify the degree to which its monitoring of airline compliance and its external reporting is accurate and therefore reliable. A lack of accurate performance information reduces DIMIA's ability to monitor whether airlines are using APP, as required by legislation, to enable DIMIA to assess passengers and crew, prior to their arrival in Australia, for the risk they may present in relation to a range of Commonwealth laws.

4.54 DIMIA is working to address deficiencies in its performance information through the development of the APP Infringement Reporting System. This is expected to improve the accuracy of its APP performance information used for external reporting and airline compliance monitoring, and support a proposed fines regime for airlines that do not process all passengers and crew using the APP system.⁹⁸

4.55 The ANAO also found that DIMIA's APP performance information is not sufficient to determine whether airlines are using APP as intended. Collecting additional performance information on aspects of airline

⁹⁷ Customs officers, both for Customs and Immigration purposes, process passengers arriving in Australia at the primary line. Customs officers may subsequently refer passengers to DIMIA officers at the secondary line for further immigration processing.

⁹⁸ Although the *Migration Act 1958* imposes a requirement on carriers to ensure that non-citizens brought to Australia are properly documented, there is no infringement regime for aircraft or ship operators that do not process all persons travelling to Australia using the APP system. However, DIMIA is proposing a fines regime as part of the Migration Legislation Amendment (Border Integrity) Bill, which is intended to be introduced in Parliament's 2006, autumn sitting. If passed, the fines regime will not be implemented until towards the end of 2006 to allow DIMIA to fine airlines that do not process all passengers and crew using the APP system. DIMIA expects this regime to provide a more meaningful incentive for airlines to comply.

performance in using APP would assist DIMIA to more effectively monitor individual airline compliance levels.

4.56 Although DIMIA reports information relating to APP in its Annual Report, it does not provide information that would allow the impact of mandatory APP on border security to be assessed including:

- the number of non-citizens who were not allowed to board an aircraft to travel to Australia, as a result of being processed by APP, owing to the risk they may present in relation to a range of Commonwealth laws; and
- the number of non-citizens who were refused entry at the Australian border, owing to the risk they may present in relation to a range of Commonwealth laws, that should (or could) have been detected at the point of embarkation using APP.

4.57 In particular, including the above-mentioned performance information in its Annual Report would assist DIMIA in reporting its performance in respect of the strategy of extending the border to the last point of embarkation as discussed at paragraph 1.12.

4.58 DIMIA advised the ANAO that it is working with its contractor to identify the number of instances where a person was denied boarding as a result of processing using APP.⁹⁹ This information would assist DIMIA to report its performance relating to the impact of mandatory APP on border security as discussed above.

⁹⁹ Excluding instances where persons were initially denied boarding as a result of processing using APP, because of, for example, data entry errors but were subsequently allowed to board after further processing using APP.

5. Contract Management

This chapter examines DIMIA's management of its contract with CPS Systems (the contractor) for delivering the Advance Passenger Processing (APP) system. It focuses on the establishment of contractual arrangements between the parties, ongoing management of the contract and DIMIA's current review of the contract.

Introduction

5.1 Contract managers have a number of key areas to address in order to achieve optimum results from contracting services. This includes the overriding imperative of achieving value for money and reducing the risk to the Commonwealth.

5.2 Contract management systems that operate well ensure that:

- goods or services are delivered under contract according to the time, cost, quantity and/or quality standards specified in the contract; and
- the organisation has sufficient information to enable it to make a timely decision about succession arrangements at the conclusion of the term of the contract.¹⁰⁰

5.3 CPS Systems (the contractor) was selected as the prime contractor to develop, implement and provide ongoing support for DIMIA's Electronic Travel Authority (ETA) system after a tendering process in 1995. The relationship between DIMIA and its contractor is covered by the ETA System Agreement (the contract) that was prepared in consultation with the then Office of Commercial Law in the Attorney-General's Department.¹⁰¹

5.4 Clause 58.1 of the contract between DIMIA and its contractor provides for the following enhancements to the ETA system:

The Customer¹⁰² may, from time to time, request that enhancements be made to the ETA System ("Enhancements") so that the ETA System includes additional functionality. The Enhancements may include, but are not limited to, advance passenger information and advance passenger clearance functionality within the ETA System.

5.5 Furthermore, Clause 58.3 of the contract provides that if the contractor is requested to carry out any enhancements in accordance with Clause 58, the

¹⁰⁰ ANAO, Better Practice Guide, *Contract Management*, Canberra, February 2001, p. 23.

¹⁰¹ The prime contract specifies five subcontractors: Société Internationale de Télécommunication Aéronautiques (SITA)—network service provider; First Data Resources; Sterling Software; IBM Australia; and Oracle Systems (Australia).

¹⁰² DIMIA.

provisions set out in Clause 9 'Variation of Contract' will apply. In essence, Clause 9 of the contract provides that:

- the proposing party is to submit a copy of the proposed variation/s to the other party;
- if the receiving party accepts the variation/s the contract is deemed to include the accepted variations; and
- the price payable for any variation/s is to be agreed.

5.6 Clause 38.1 of the contract provides that the provisions of the contract shall not be varied either in law or in equity, except by agreement in writing signed by the customer and the contractor.

5.7 DIMIA advised the ANAO that expenditure specific to APP under the contract, to April 2004, was approximately \$11.2 million.¹⁰³ In addition, shared expenditure between the APP and ETA systems under the contract was incurred relating to telecommunications, facilities management and infrastructure.

Contractual arrangements

5.8 To protect the interests of the Commonwealth, it is important that DIMIA has appropriate contractual arrangements with its contractor for the delivery and ongoing operation of APP. This includes service standards against which contractor performance can be monitored. The ANAO reviewed whether DIMIA had clearly documented its contractual arrangements with its contractor relating to the development, implementation and provision of ongoing support for APP. In particular, the ANAO examined whether the contract had been effectively varied to incorporate the development and ongoing support of APP. This would require a properly executed contract variation in accordance with Clause 38.1 that included details of the (APP) system to be delivered by its contractor to DIMIA.

5.9 The ANAO found that DIMIA's contractor had developed a business system design for APP on 26 November 1998. While the business system design document includes a section seeking written endorsement from DIMIA senior managers, this endorsement was not given. Nor did any other documented basis exist for a variation to the contract. The ANAO also found that DIMIA had not effectively varied the contract through written agreement, signed by both DIMIA and its contractor (consistent with Clause 38.1), to include the business system design to make its requirements clear for the

¹⁰³ Includes expenditure for both voluntary APP and mandatory APP as follows: development costs of \$2.024 million and transaction costs of \$9.156 million (including Crew Travel Authority transactions of \$0.201 million).

(APP) system to be delivered by its contractor. DIMIA advised the ANAO that, although formal contract variations had not been completed in accordance with the provisions of the contract, variations to the contract had taken place through correspondence between the parties.

5.10 Principles of good contract management require variations to a contract to be formally documented so that the variation is fully scoped and the pricing for the variation is clearly established. Only if this occurs can parties operate under a contract with certainty and the contract be properly and effectively managed. The ANAO considers that the absence of formal contract variation documentation relating to APP increases: the risk of disputation over the scope of what the parties intended to be delivered; the terms on which it would be delivered¹⁰⁴; and the risk that required approvals under the FMA Act will be overlooked.

Management of the contract

Contract risk management

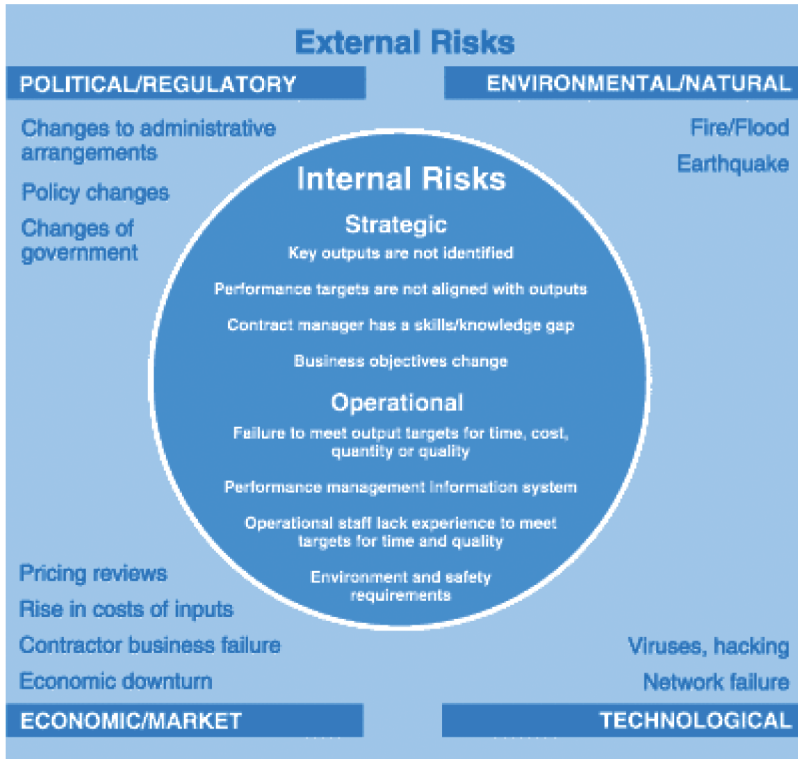
5.11 Once a contract is in place, attention needs to be given to contract management risks. Risks from both internal and external sources (including the performance of the provider) need to be managed to ensure effective delivery of the contracted service.¹⁰⁵ Figure 5.1 provides examples of the more common internal and external risks found in contract management.

¹⁰⁴ Since July 2004, DIMIA has engaged an officer to oversee all contractual matters related to the contract. This is an ongoing role and the major component of the officer's duties. Also, DIMIA has engaged PSI Consulting to review the contract. In June 2005, DIMIA forwarded to CPS Systems a draft Deed of Variation to the contract for comment. The draft Deed of Variation addresses system enhancements, service levels and changes to the financial arrangements since 1996 that have been implemented through exchanges of correspondence.

¹⁰⁵ ANAO, Better Practice Guide, *Contract Management*, Canberra, February 2001, p. 15.

Figure 5.1

Internal and external risks found in contract management



Source: ANAO, Better Practice Guide, *Contract Management*, Canberra, February 2001, p. 16.

5.12 The ANAO found that DIMIA had not adequately identified its contract management risks relating to APP, and therefore not analysed the risks, implemented treatments, and monitored and reviewed the success of its controls. For example, a typical internal contract management risk is that contract outputs are not identified. This risk materialised because DIMIA did not enter into a contractual arrangement with its contractor that clearly specified the development work to be completed by its contractor, associated quality standards and a timeframe for delivery prior to its contractor commencing work on developing voluntary APP.

Ongoing day-to-day contract management

5.13 The principal objectives of managing contract delivery include:

- developing service-level agreements¹⁰⁶;

¹⁰⁶ One of the first steps in the ongoing management of a contract (whether performance-based or not) is developing and documenting contracted service delivery standards in conjunction with the provider.

- managing performance-based contracts¹⁰⁷;
- developing a performance management system¹⁰⁸; and
- managing ongoing day-to-day issues.¹⁰⁹

5.14 In 1999, ANAO Audit Report No. 3 1999–2000, *Electronic Travel Authority* commented, in relation to the contract between DIMIA (then DIMA) and its contractor, that:

DIMA's contract management practices could be significantly enhanced to provide assurance that the Commonwealth's interests are adequately protected. There has been no formal monitoring nor review of the contract.¹¹⁰

5.15 In 1999, the ANAO recommended that DIMIA devote appropriately trained and experienced resources to managing its contract with its contractor. DIMIA agreed with the recommendation.

5.16 The ANAO examined whether DIMIA had established adequate processes and procedures for the day-to-day management of the contract, consistent with the above-mentioned better practice principles. The ANAO found that DIMIA had not:

- established service-level agreements for the APP system;
- developed a performance-based contract linking its contractor's fee base to key performance areas and outcomes for APP;
- established a performance management system relating to service levels for APP;
- maintained and organised contract-related documentation for easy and reliable access; and

¹⁰⁷ The objective of performance-based contracts is to provide incentive for continuous improvement and innovation.

¹⁰⁸ In order for the contract to be monitored, a performance management system should be developed and applied to monitoring service levels. A performance management system should, where circumstances suggest, comprise the following: a commercial contract defining the commercial and business relationship; a procedural manual containing instructions on how to perform the services; a service-level agreement detailing the standards for each service; appropriate and effective methods for measuring and monitoring performance; targets aimed at continuous improvement; components to measure continuous improvement; timely problem solving; and reporting documents that demonstrate the achievement of the service levels in the contract and the service-level agreement.

¹⁰⁹ Issues such as documentation, information systems, issues resolution, variations and payment processing are the day-to-day ongoing contract management issues of the contract management process and, unless clearly defined and agreed, have the potential to considerably disrupt service delivery.

¹¹⁰ ANAO, Audit Report No. 3 1999–2000, *Electronic Travel Authority*, Canberra, p. 74.

- defined processes and procedures to assist in managing contract variations relating to APP. Examples include:
 - a standard contract variation form that provides for changes in the price, quantity, timeframe and appropriate authorisations;
 - authority levels to match variation levels (for example, the contract manager may have an upper limit on price variations, with all other variations to be approved by the DIMIA executive);
 - monitoring of contract variations as part of a performance management system; and
 - maintenance of a contract variation register to monitor the number and types of variations proposed and agreed.

5.17 The ANAO considers that DIMIA has not adequately managed its contractual arrangements with its contractor. In particular, DIMIA was unable to provide evidence that it has specified performance level standards relating to its contractor's delivery of APP. Also, DIMIA was unable to demonstrate that it had measured and monitored contractor performance against agreed performance levels, including identifying any deficiencies for remedial action.

5.18 Although DIMIA agreed in July 1999, in its response to a recommendation contained in ANAO Audit Report No. 3 1999–2000, *Electronic Travel Authority* to devote appropriately trained and experienced resources to managing its contract with its contractor, it was not until July 2004, that DIMIA engaged an officer to oversee all contractual matters related to the contract as discussed later in this Chapter.

Succession planning

5.19 In situations of on-going system development and maintenance, it is important not to underestimate the planning and management effort required to assist in achieving a smooth transition from one contract to another. The uninterrupted delivery of goods and services is key to continued delivery of organisational outputs or business continuity. It is also important to ensure that the Commonwealth's position to negotiate a subsequent arrangement is not placed at risk.

5.20 An essential process in the succession phase is a final evaluation¹¹¹ and feedback on the contract provider and review of the performance of the

¹¹¹ A review should include an evaluation of relationships; the contract; procedures; performance; costs and customer satisfaction.

contract. It is important that any lessons learned be identified and applied to further contract negotiations and contracts.¹¹²

5.21 The initial term of the contract between DIMIA and its contractor was five years from the actual acceptance date, which was 3 February 1997. Provision is included in the contract to extend it automatically for a further term ‘unless the operational and support services have failed to meet the minimum performance levels’. The contract period for operational and support services has been extended to 3 February 2007.

5.22 The ANAO examined the adequacy of DIMIA’s succession planning for its contract with its contractor relating to APP. The ANAO found that:

- DIMIA was unable to provide evidence of a business strategy that included succession planning to protect the Commonwealth’s interests once its contractual arrangements with its IT service provider for APP had expired;
- DIMIA’s contractual arrangements with its contractor do not include a succession provision to assist DIMIA in managing this phase of the contract;
- DIMIA has not developed a succession plan outlining all tasks to be completed and allocated responsibility for completing them; and
- owing to inadequate ongoing management of its contractual relationship with its contractor (discussed above), it is unlikely that DIMIA has sufficient performance information to evaluate the contractor’s performance to manage succession arrangements after 3 February 2007.

5.23 DIMIA’s management of intellectual property relating to APP is discussed at paragraph 6.83. The ANAO notes that Schedule 13 of the Contract provides that on the expiration or termination of the Contract, DIMIA’s contractor grants to DIMIA an irrevocable, perpetual, non-transferable, royalty free licence to use the Request Processing System (Application Processor) Software source code and supporting material. However, based on the above findings, the ANAO considers that DIMIA has not adequately addressed all succession planning issues for its contract with its contractor relating to APP to assist in achieving a smooth transition from one contract to another.

¹¹² ANAO, Better Practice Guide, *Contract Management*, Canberra, February 2001, p. 79.

DIMIA review of contractual arrangements

5.24 Since July 2004, DIMIA has engaged an officer to oversee all contractual matters related to the contract. This is an ongoing role and is the major component of the officer's duties. Also, DIMIA has engaged a consultant¹¹³ to review and update the contract to address system enhancements and changes to the financial arrangements since 1996 that have been implemented through exchanges of correspondence, including:

- development of a new set of contract documents that reflect the changed nature of the relationship between DIMIA and its contractor that has taken place since the contract was first signed in 1996, including (but not limited to):
 - updated pricing information;
 - detailed information on the operation of the APP system;
 - provisions covering minimum consultation requirements between DIMIA and its contractor;
 - provisions covering new IT security requirements;
 - service-level agreements on the range of work DIMIA's contractor routinely carries out on the system; and
 - examination of the removal of expired elements of the contract.
- identifying issues related to the operation of the contract, including escrow¹¹⁴ of the ETA source codes; and
- subcontracts that are not included in the principal contract for the provision of IT network systems in Atlanta¹¹⁵, the provision of server services in Sydney and the provision of data tape transportation and storage services in Sydney.

5.25 In June 2005, following DIMIA's review of the contract, DIMIA forwarded to its contractor a draft Deed of Variation to the contract for comment.¹¹⁶ DIMIA advised that the draft Deed of Variation addresses all issues identified by the review.

¹¹³ PSI Consulting.

¹¹⁴ An escrow agreement sets out the terms by which source code lodged with an independent party is released to a customer, usually on default or insolvency of the software proprietor.

¹¹⁵ APP communications gateway.

¹¹⁶ Also included was a redrafted Schedule 1 (Specifications of the Supported Systems), an updated Schedule 3 (Pricing and Payments), an updated Schedule 4 (Operational and support Services) and a new Schedule 17 (Application Support).

5.26 The ANAO considers that DIMIA's review of its contractual arrangements with its contractor also provides DIMIA with the opportunity to address contract management issues raised as part of this audit.

Recommendation No. 3

5.27 To assist in protecting the interests of the Commonwealth in its dealings with external parties, the ANAO recommends that as part of its review of contractual arrangements with its contractor, DIMIA:

- identify its contract management risks relating to Advance Passenger Processing, analyse these risks, implement treatments, and monitor and review the success of its controls;
- consider developing a performance-based contract by linking its contractor's fee base to key performance areas and outcomes for Advance Passenger Processing;
- establish a performance management system relating to service levels for Advance Passenger Processing;
- maintain and organise contract-related documentation for easy and reliable access; and
- define processes and procedures to assist in managing contract variations relating to Advance Passenger Processing.

DIMIA response

5.28 Agree. Some of these issues are being addressed in work previously commissioned.

Summary

5.29 DIMIA's management of its contractual arrangements with its contractor for delivering APP has exposed the Commonwealth to unnecessary risks. In particular, DIMIA has not properly protected the interests of the Commonwealth by:

- establishing clearly documented contractual arrangements with its contractor for the delivery and ongoing operation of APP including service standards against which contractor performance can be monitored.¹¹⁷ The absence of formal contract variation documentation relating to APP increases the risk of dispute over the scope of what

¹¹⁷ DIMIA advised the ANAO that, although formal contract variations had not been completed in accordance with the provisions of the contract, variations to the contract had taken place through correspondence between the parties.

the parties intended to be delivered; the terms on which it would be delivered; and the risk that required approvals under the FMA Act will be overlooked;

- identifying its contract management risks relating to APP, analysing the risks, implementing treatments, and monitoring and reviewing the success of its controls. For example, a typical internal contract management risk is that contract outputs are not identified. This risk materialised because DIMIA did not enter into a contractual arrangement with its contractor that clearly specified the development work to be completed by its contractor, associated quality standards and a timeframe for delivery prior to its contractor commencing work on developing voluntary APP;
- managing its contractual arrangements with its contractor. In particular, DIMIA was unable to provide evidence that it has specified performance level standards relating to its contractor's delivery of APP. Also, DIMIA was unable to demonstrate that it had measured and monitored contractor performance against agreed performance levels, including identifying any deficiencies for remedial action. Although DIMIA agreed to devote appropriately trained and experienced resources to managing its contract with its contractor in its response to a recommendation contained in ANAO Audit Report No. 3 1999–2000, *Electronic Travel Authority*, it was not until July 2004, that DIMIA engaged an officer to oversee all contractual matters related to the contract;
- addressing succession planning for its contract with its contractor relating to APP to assist in achieving a smooth transition to a new contract after 3 February 2007. In particular, DIMIA has limited performance information to assist it in assessing the success of its contractual arrangements as a basis for succession planning.

5.30 Since July 2004, DIMIA has engaged an officer to oversee all contractual matters related to the contract. This is an ongoing role and is the major component of the officer's duties. Also, DIMIA has engaged a consultant¹¹⁸ to review and update the contract. In June 2005, DIMIA forwarded to its contractor a draft Deed of Variation to the contract for comment. The draft Deed of Variation addresses system enhancements, service levels and changes to the financial arrangements since 1996 that have been implemented through exchanges of correspondence.¹¹⁹

¹¹⁸ PSI Consulting.

¹¹⁹ Also included was a redrafted Schedule 1 (Specifications of the Supported Systems), an updated Schedule 3 (Pricing and Payments), an updated Schedule 4 (Operational and support Services) and a new Schedule 17 (Application Support).

5.31 DIMIA's review of its contractual arrangements with its contractor also provides DIMIA with the opportunity to address contract management issues raised as part of this audit.

6. Financial Management

This chapter examines central aspects of DIMIA's financial management relating to the development, implementation and ongoing use of the Advance Passenger Processing (APP) system. In particular, it focuses on DIMIA's management of development expenses for APP, monitoring of expenditure and savings for APP to identify cost outcomes, payment of APP ongoing expenses, and management of intellectual property relating to APP.

Introduction

6.1 The *Financial Management and Accountability Act 1997* (the FMA Act) provides the framework for the proper management of public money and public property. It sets out the financial management, accountability and audit obligations on Commonwealth agencies (including departments) forming part of the general government sector. It includes the requirement to manage public resources efficiently, effectively and ethically, and to maintain proper accounts and records of the receipt and expenditure of Commonwealth money. As a department of state, DIMIA is subject to the requirements of the FMA Act.

6.2 Additionally, the *Commonwealth Procurement Guidelines*¹²⁰ establish the core procurement policy framework and articulate the Government's expectations for all departments and agencies subject to the FMA Act, and for their officials¹²¹ when performing duties in relation to procurement. *Value for money* is the core principle underpinning Australian Government procurement.

APP system development

6.3 In 1998, DIMIA and CPS Systems (the contractor) jointly implemented the APP system for use by airlines on a voluntary basis (voluntary APP).¹²² Subsequently, as a major component of the Government's border security response to the events of 11 September 2001, the APP system was made mandatory, resulting in further development work being undertaken by DIMIA and its contractor (mandatory APP).

¹²⁰ Issued by the Minister for Finance and Administration (Finance Minister) under Regulation 7 of the *Financial Management and Accountability Regulations 1997*.

¹²¹ Official is defined in section 5 of the FMA Act to mean a person who is in an Agency or is part of an Agency.

¹²² A limited version was successfully trialled with Singapore Airlines in 1998. A subsequent version was progressively rolled out to Air New Zealand, Cathay Pacific, Qantas, Japan Airlines and Singapore Airlines, with British Airways coming online in April 2002 and China Airlines in June 2002. These airlines carry approximately 67 per cent of all passengers to Australia.

Financial arrangements for voluntary APP

Background

6.4 DIMIA's existing contract for the Electronic Travel Authority (ETA) system provides that an Advance Passenger Clearance system¹²³ could be developed by DIMIA's contractor as an enhancement to the ETA system. The ANAO sought to identify from available documentary sources, the financial and ownership arrangements that DIMIA has put in place with its contractor relating to the development of APP.

6.5 Under the ETA system agreement (1996) DIMIA's contractor owns the intellectual property relating to the ETA system (including the APP and Internet ETA systems).

6.6 Clause 2 of Schedule 3 of the ETA¹²⁴ System Agreement (discussed in Chapter 5) provides for the following:

If an APC [Advanced Passenger Clearance] is to be developed by the Contractor, then the Contractor's reasonable costs of developing and providing the APC system may, subject to negotiation and agreement by the Customer, be paid by the Customer or met by the Contractor and recovered through a revised fee per ETAC.¹²⁵

6.7 Based on correspondence from DIMIA to its contractor in June 1997, relating to financial arrangements for voluntary APP development funding, DIMIA agreed 'to cover development costs to allow work to progress'.

6.8 On 12 November 1997, a minute to the Secretary advised that:

Systems development costs are estimated to be in the vicinity of \$500 000. CPS has agreed to a fixed cost arrangement, with development costs based on normal commercial charge out rates.

6.9 However, in providing comment on the proposed audit report, CPS Systems advised the ANAO as follows:

CPS never agreed to "a fixed cost arrangement"...and at the time it would have been somewhat impossible to fully estimate. It was moreover unnecessary to arrive at an accurate figure at that time since CPS was prepared to bear the total development cost, whatever it may be, because of the marketing opportunities to other Governments. DIMA merely required assurance that the costs exceeded the \$500,000 advance it was making, which it duly received via time sheets of the development effort to date.¹²⁶

¹²³ Known as Advance Passenger Processing.

¹²⁴ Electronic Travel Authority.

¹²⁵ An ETAC is a fee payable by DIMIA to CPS Systems for each completed ETA transaction.

¹²⁶ CPS Systems e-mail of 14 February 2006.

6.10 Furthermore, DIMIA's contractor wrote to DIMIA on 18 November 1997, as follows:

...We accept that the Department has offered to pay for the first \$500 000 of development rather than the total development cost. Accordingly we propose that we invoice the amount to the end of October now and raise invoices monthly for work carried out in each month until the total reaches \$500 000.

...If the Department goes ahead with use of APP for all incoming and outgoing passengers (including those on Qantas and Ansett), we will then begin charging APP transactions at the reduced rate of 22 cents per transaction, *and will further reduce the charges by amounts that will repay the development costs to the Department.*

Subject to mutual agreement we propose implementing this by reclassifying the development payment as a prepayment of APP transactions and reducing the APP charges for the next 24 months by 1/24th of the development costs. [Emphasis added]

6.11 On 12 March 1998, DIMIA wrote to its contractor explaining that an enclosed cheque for \$500 000 was to be repaid to DIMIA and that DIMIA was amenable to its contractor's proposed reduction of ETAC and APP check-in transaction fees from the commencement of APP until such time as the funds were repaid in full.

6.12 Based on DIMIA's correspondence to its contractor on 12 March 1998, it appears a debt of \$500 000 was then owed by DIMIA's contractor to the Commonwealth. The ANAO examined whether DIMIA had recovered its \$500 000 through reduced ETAC and APP check-in transaction fees as outlined in correspondence between DIMIA and its contractor.¹²⁷

DIMIA position

6.13 On 28 June 2001, DIMIA confirmed with its contractor (by e-mail) an oral agreement it had made with its contractor for the 'costing structure' for APP as follows:

- The total development costs of APP up to 30 June 2001 has been agreed at \$900 000 (plus GST);
- The \$500 000 advanced to CPS Systems, to assist in the speedy development of APP, will be used to offset part of the \$900 000, leaving \$400 000 to be paid by DIMIA on or before 30 June 2001;
- DIMA agrees to pay CPS Systems \$X¹²⁸ for APP transactions, in any financial year commencing on 1 July 2001 and terminating on the expiry date of the ETAS Agreement; and

¹²⁷ Section 47(1) of the FMA Act requires that a Chief Executive must pursue recovery of each debt for which the Chief Executive is responsible.

¹²⁸ This information has not been included for reasons of commercial sensitivity.

- DIMA agrees that TIETAC fees shall remain at \$Y.¹²⁹

6.14 DIMIA's contractor invoiced DIMIA for \$900 000 consistent with DIMIA's correspondence of 28 June 2001, as shown in Table 6.1. DIMIA paid the invoice for \$400 000 from its contractor meaning that DIMIA paid a total of \$900 000.

Table 6.1

Invoice to DIMIA from its contractor for voluntary APP development costs

Description	Amount
Advance Passenger Processing facility	\$900 000
GST thereon, at 10% ¹³⁰	\$90 000
Less: Previously paid	(\$500 000)
Amount due and payable by 30 June, 2001	\$490 000

Source: DIMIA

6.15 Based on the above, DIMIA no longer required its contractor to repay \$500 000 to DIMIA through reduced transaction fees until such time as the funds were repaid in full as originally agreed. Instead DIMIA paid a total of \$900 000 to its contractor. On this issue, DIMIA advised the ANAO on 10 August 2005, that:

The Department agreed to pay the total development costs as at 30 June 2001, which were \$900,000. Payment took into account the prepayment of \$500,000 made in 1998.

6.16 On 2 November 2005, DIMIA advised that its negotiations with its contractor of 2001 represented a new arrangement and took into account DIMIA's previous payment of \$500 000. However, on 16 November 2005, DIMIA advised the ANAO as follows:

Further to our discussions of 2 November 2005 on this issue, DIMIA confirms its advice of 10 August...

The negotiations on the quantum of the development costs and the transaction fees were independent of the issue of repaying the \$500 000.¹³¹

6.17 That is, DIMIA advised the ANAO that the transaction fee structure agreed in 2001, was not related to DIMIA's payment to its contractor of

¹²⁹ Ibid.

¹³⁰ Although the CPS Systems invoice recorded GST of \$90 000 as being payable by DIMIA, this amount was not paid by DIMIA as the Commonwealth does not pay the GST.

¹³¹ DIMIA e-mail of 16 November 2005.

\$500 000. DIMIA had decided to pay the full development costs of \$900 000 relating to voluntary APP consistent with its advice to the ANAO of 10 August 2005.

6.18 The ANAO considers that it is not possible to determine with certainty the precise nature of DIMIA's financial or service delivery arrangements with its contractor because of a lack of documentation and the need to rely on DIMIA's recollections of events.

CPS Systems position

6.19 The ANAO met with an individual formerly employed by DIMIA's contractor as a senior manager. This person was involved in agreeing the financial arrangements relating to the development and operation of the APP system. Based on documents held by the contractor and this person's own recollections, the ANAO was advised as follows:

- in finalising financial arrangements with DIMIA relating to voluntary APP, DIMIA's contractor proposed that in relation to on-going APP costs, it would invoice DIMIA for infrastructure costs and also for each APP transaction. Also, the contractor would reduce its fee per APP transaction until DIMIA had recovered the \$500 000 previously provided to the contractor;
- DIMIA proposed an alternative arrangement whereby DIMIA could make a one-off payment to its contractor to keep the fee per transaction as low as possible. Also, the transaction fee would include all APP on-going costs. Subsequently, the contractor suggested two options to DIMIA. The first option provided for DIMIA to make a one-off payment to the contractor of \$900 000 towards APP and included a transaction fee structure for APP transactions.¹³² The second option provided for DIMIA to make a one-off payment to the contractor of \$1 100 000 towards APP and included a different transaction fee structure for APP transactions; and
- DIMIA agreed with its contractor on the first option. This was subsequently confirmed in the abovementioned e-mail of 28 June 2001. As DIMIA had already provided \$500 000 to its contractor to assist with cash flow funding for the development of APP, the parties agreed that the contractor would invoice DIMIA for APP development costs for an amount of \$900 000 less \$500 000 with a balance of \$400 000 to be paid

¹³² During the meeting CPS Systems advised the ANAO that development costs were in fact much higher. The amount of \$900 000 was only an upfront payment to reduce transaction costs.

by DIMIA.¹³³ DIMIA subsequently paid its contractor \$400 000 as invoiced.

6.20 Also, in providing comment on the proposed audit report DIMIA's contractor advised the ANAO that:

It was agreed that DIMA would pay CPS \$500,000 in this regard and that CPS would pay this back by means of reducing the yet to be agreed infrastructure/transaction fees over the first two years of operations. DIMA characterised this advance as part of the Development cost whereas CPS saw it as merely an advance on fees or effectively a loan to be repaid. Regardless of the terminology, there was no misunderstanding between DIMA and CPS regarding this amount and there never has been.¹³⁴

6.21 Regardless of DIMIA's purpose in providing the \$500 000, its contractor's perception is that this amount was a loan to be repaid in full and that the loan has been repaid in full. The contractor considers that this occurred when DIMIA agreed to make a payment of \$900 000 to its contractor and DIMIA paid the invoice described above.

6.22 DIMIA's position on this issue differs from its contractor's position regarding the purpose of the \$900 000 payment and its relationship to the transaction fee structure for APP. A lack of documentation means that DIMIA cannot demonstrate its business rationale for:

- its initial payment of \$500 000 to its contractor;
- its decision that it would pay \$900 000 to its contractor several years after development work on APP commenced; and
- the basis for the transaction fee structure for APP.

6.23 The ANAO considers that in such an environment it is particularly important that business decisions are documented to protect the interests of the Commonwealth and to aid transparency and accountability. DIMIA did not do this for key business decisions relating to the financial arrangements for APP

6.24 In conducting its contractual and financial arrangements with its contractor, DIMIA exposed the Commonwealth to risks. Owing to poor contractual and financial arrangements by DIMIA:

- there was no consideration of the time value of money in making an advance of \$500 000 to its contractor;

¹³³ CPS Systems invoice 010606 refers.

¹³⁴ CPS Systems e-mail of 14 February 2006.

- there was no formal variation to the contract to clearly specify the development work to be completed by its contractor, associated quality standards and a timeframe for delivery prior to its contractor commencing work on developing voluntary APP; and
- a transaction fee structure for voluntary APP was not agreed between the parties prior to the system being developed. This left DIMIA exposed in regard to the level at which its contractor could have sought to set transaction fees after the system had been built. Consequently, DIMIA relied on the goodwill of its contractor to negotiate transaction fees for voluntary APP at a reasonable level.

6.25 The ANAO also considers that it would also have been prudent for DIMIA to have sought security from its contractor relating to DIMIA's payment of \$500 000 and for DIMIA to have considered the risks associated with the arrangements it was putting in place.

Recommendation No. 4

6.26 The ANAO recommends that to support its future negotiation of contractual arrangements with a service provider for the provision of operational and support services relating to border control systems, DIMIA document its business strategy and include clear terms and conditions within the contract, and for variations, relating to the financial arrangements between the parties.

DIMIA response

6.27 Agree.

Approval of expenditure for APP

6.28 Expenditure incurred by DIMIA relating to services provided by its contractor for APP are as follows:

- Development costs of \$1 849 555 (\$900 000 relating to voluntary APP and approximately \$949 555 relating to mandatory APP); and
- Up to April 2005, approximately \$8.955 million for APP transaction fees.¹³⁵

6.29 FMA Regulations 9 to 13 set out the legal requirements that must be satisfied before Chief Executives, or their delegates or authorised officials, can enter into commitments to spend public money under section 44 of the FMA Act.

¹³⁵ DIMIA e-mail of 9 June 2005.

6.30 Requirements relating to an approval to spend public monies are addressed by the *Financial Management and Accountability Regulations 1997*¹³⁶ as follows:

- Finance Regulation 9—‘Approval of spending proposals - principles’¹³⁷;
- Finance Regulation 10—‘Approval of future spending proposals’¹³⁸;
- Finance Regulation 12—‘Approval to be recorded’¹³⁹; and
- Finance Regulation 13— ‘Entering into Contracts etc’.¹⁴⁰

6.31 As discussed in Chapter 5, DIMIA advised the ANAO that although formal contract variations had not been completed in accordance with the provisions of the contract, variations to the contract had taken place through correspondence between the parties.

6.32 Under FMA Regulation 13, a person must not enter into a contract, agreement or arrangement under which public money is, or may become, payable unless a proposal to spend public money for the proposed contract, agreement or arrangement has been approved under FMA Regulation 9 and, if necessary, in accordance with FMA Regulation 10. In determining the document form and ‘terms of the approval’ to be recorded, approvers should be satisfied that they provide appropriate evidence of compliance with FMA Regulation 9. The terms of the approval to be recorded will depend upon a number of factors, including the risks or significance of the spending proposal approved. The terms of the approval may include the parties, purpose,

¹³⁶ Section 65 of the FMA Act provides for ‘Regulations’ for ‘ensuring or promoting’ the following: The proper use and management of public money, public property and other resources of the Commonwealth; and proper accountability for the use and management of public money, public property and other resources of the Commonwealth.

¹³⁷ Finance Regulation 9 provides for the following: (1) An approver must not approve a proposal to spend public money (including a notional payment within the meaning of section 6 of the Act) unless the approver is satisfied, after making such inquiries as are reasonable, that the proposed expenditure: (a) is in accordance with the policies of the Commonwealth; and (b) will make efficient and effective use of the public money; and (c) if the proposal is one to spend special public money, is consistent with the terms under which the money is held by the Commonwealth; and (2) Subregulation (1) does not apply to a proposal by an intelligence or security agency to spend operational money within the meaning of section 5 of the Act as modified in accordance with Schedule 2.

¹³⁸ If any of the expenditure under a spending proposal is expenditure for which an appropriation of money is not authorised by the provisions of an existing law or a proposed law that is before the Parliament, an approver must not approve the proposal unless the Finance Minister has given written authorisation for the approval. The Finance Minister has delegated this authority to Chief Executives under the *Financial Management and Accountability (Amendments relating to Regulation 10) Delegation 2003*.

¹³⁹ If approval of a proposal to spend public money is not given in writing, the approver must record the terms of the approval in a document as soon as practicable after giving the approval.

¹⁴⁰ A person must not enter into a contract, agreement or arrangement under which public money is, or may become, payable (including a notional payment within the meaning of section 6 of the Act) unless a proposal to spend public money for the proposed contract, agreement or arrangement has been approved under Regulation 9 and, if necessary, in accordance with Regulation 10.

timeframe, amounts involved and any conditions on the approval. Where a spending proposal has been authorised in accordance with FMA Regulation 10, the approver should also document that fact.¹⁴¹

6.33 The ANAO examined whether DIMIA had acted in a manner consistent with the requirements of the abovementioned regulations in regard to approvals to spend public monies relating to APP.

6.34 DIMIA was unable to provide evidence that a proposal to spend public money had actually been approved under FMA Regulation 9 to cover APP development and transaction costs of approximately \$10 804 555.¹⁴² Under FMA Regulation 13 this should have taken place prior to DIMIA entering into an arrangement with its contractor under which public money would become payable. The absence of evidence of an approval in accordance with FMA Regulation 9 means that DIMIA is unable to demonstrate that a delegated officer had formed a view that the expenditure incurred under its arrangements with its contractor represented efficient and effective use of the public money involved.

Recommendation No. 5

6.35 The ANAO recommends that DIMIA document future approvals to spend public monies relating to Advance Passenger Processing, consistent with the requirements of the *Financial Management and Accountability Act and Regulations 1997*.

DIMIA response

6.36 Agree.

Monitoring expenditure and savings for APP

Monitoring expenditure for APP

6.37 The development, implementation and ongoing operation of APP has been funded internally by DIMIA. The ANAO examined whether DIMIA had monitored project expenditure relative to estimates to assist in determining whether APP was delivering against expected cost outcomes. The ANAO found that although DIMIA was able to provide the ANAO with information on expenditure relating to voluntary APP and MAPP1, it had not monitored this expenditure against project estimates to assist in determining whether voluntary APP and MAPP1 were delivering against expected cost outcomes.

¹⁴¹ Finance Circular 2004/05.

¹⁴² Development costs of \$1 849 555 (\$900 000 relating to voluntary APP and approximately \$949 555 relating to mandatory APP); and up to April 2005, approximately \$8.955 million for APP transaction fees.

Also, DIMIA was unable to provide evidence of an agreed cost between itself and its contractor for developing mandatory APP. However, DIMIA advised the ANAO that expenditure related to developing mandatory APP, as at 30 June 2004, was approximately \$2.072 million.¹⁴³

Monitoring savings for APP

6.38 DIMIA did not identify any expected savings from the introduction of voluntary APP and mandatory APP as part of a business plan. However, DIMIA provided indicative estimates of savings that it considered would have resulted in the following areas:

- transaction costs;
- airline infringement notices;
- refugee claimants;
- border processing; and
- benefits to other agencies.

Transaction costs

6.39 Before APP was implemented, airline check-in agents were able to verify that passengers and crew had an authority to travel to Australia by using the ETA system at a cost of \$X¹⁴⁴ per transaction to DIMIA. APP provides the same authority check and, in addition, provides DIMIA and other border agencies with advance passenger information. The unit price of APP transactions ranges from \$Y to \$Z¹⁴⁵, depending on volume. DIMIA estimates of savings made on transaction costs as a result of airline check-in agents using APP instead of TIETAC transactions¹⁴⁶ are shown in Table 6.2.

Table 6.2

Estimated savings on APP transaction costs

	2001–02 \$m	2002–03 \$m	2003–04 \$m
Estimated APP savings	\$0.535	\$1.143	\$2.134

Source: DIMIA.

¹⁴³ Includes expenses incurred by DIMIA (\$1 122 187) and CPS Systems (\$949 555).

¹⁴⁴ This information has not been included for reasons of commercial sensitivity.

¹⁴⁵ Ibid.

¹⁴⁶ ETA transactions.

Airline infringement notices

6.40 DIMIA advised that, since the introduction of APP, airline infringement notices¹⁴⁷ have reduced from 3 211 in 2001–02, to 1 211 in 2003–04. In addition to airlines benefiting from a reduction in airline infringement notices, DIMIA also benefits because it has reduced costs associated with processing any infringements. In this regard, DIMIA estimates a saving of approximately \$80 000 from 2001–02 to 2003–04.

Refugee claimants

6.41 DIMIA advised that the average cost of processing a passenger who arrives by air, claims refugee status on arrival and is then placed in detention is \$25 000. In 2002–03, 21 passengers engaged Australia's protection obligations. DIMIA estimates the cost of processing these cases was \$575 000.

6.42 DIMIA considers that APP checks before a passenger departs for Australia help keep the number of passengers claiming protection to low levels. Furthermore, often passengers claiming protection destroy their documentation on route to Australia, which makes it difficult to establish their identity and nationality after arrival. Importantly, APP provides personal details and information about the travel document used by the passenger to board the aircraft.

Border processing

6.43 APP is designed to push the immigration border back to the point of embarkation where a passenger's authority to travel to Australia is checked. DIMIA advised that it is more economical for it to deal with an undesirable or undocumented passenger overseas than at the Entry Control Point when the passenger has entered the Australian Migration Zone. There are also clear benefits to the passenger in determining, before departure, that there are problems with their documentation.

6.44 DIMIA advised that the number of refused entry cases is trending downwards, although the figure was up slightly in 2003–04, partly because DIMIA immigration inspectors use APP data to identify high-risk passengers. The number of passengers refused entry at Australian airports since 2000–01, is shown in Table 6.3.

¹⁴⁷ Where a passenger arrives without a visa or is otherwise improperly documented, the carrier may be liable for a penalty or prosecution under either section 229 or 230 of the *Migration Act 1958* (the Act). Section 504(1)(j) of the Act provides that an infringement notice may be imposed in lieu of this penalty for each individual breach of these provisions. The infringement notice imposes a liability of AUS\$5000 on the carrier.

Table 6.3**Number of passengers refused entry at Australian airports since 2000–01**

	2000–01	2001–02	2002–03	2003–04
Number of passengers	1508	1193	937	1241

Source: DIMIA.

Benefits to other agencies

6.45 DIMIA considers that mandatory APP is a critical part of Australia's overall security platform and that benefits also accrue to Customs and other law enforcement agencies. These benefits include APP checks against the DIMIA Movement Alert List to identify persons of interest to the Australian Government, as well as providing an Expected Movement Record to assist, for example, passenger processing by Customs and the Australian Quarantine Inspection Service at the border.

Payment of APP expenses

6.46 The APP system shares the same platform as DIMIA's ETA system. Invoices received by DIMIA from its contractor currently identify expenses for the two systems as described below.

- ETA and APP infrastructure fees;
- Crew Travel Authority(CTA)/ APP infrastructure fees;
- facilities management fees for housing the Application Processor;
- telecommunications charges for various connections to the Communications Gateway.
- a fee for each completed transaction type (ETA / APP / CTA);
- time and materials fees charged at the contractor's published rates;
- contractor travel and accommodation expenses incurred in providing the services; and
- ETA / APP disaster recovery service.

6.47 DIMIA has a cost recovery arrangement¹⁴⁸ with its contractor designed so that part of the \$20 service charge collected by its contractor per ETA application (from a visa applicant through the ETA system Internet gateway) is

¹⁴⁸ Cost recovery is the recovery of some or all of the costs of a particular activity. Used appropriately, cost recovery can improve economic efficiency. Cost recovery may also have equity effects. It may improve equity by ensuring that those who use regulated products bear the costs.

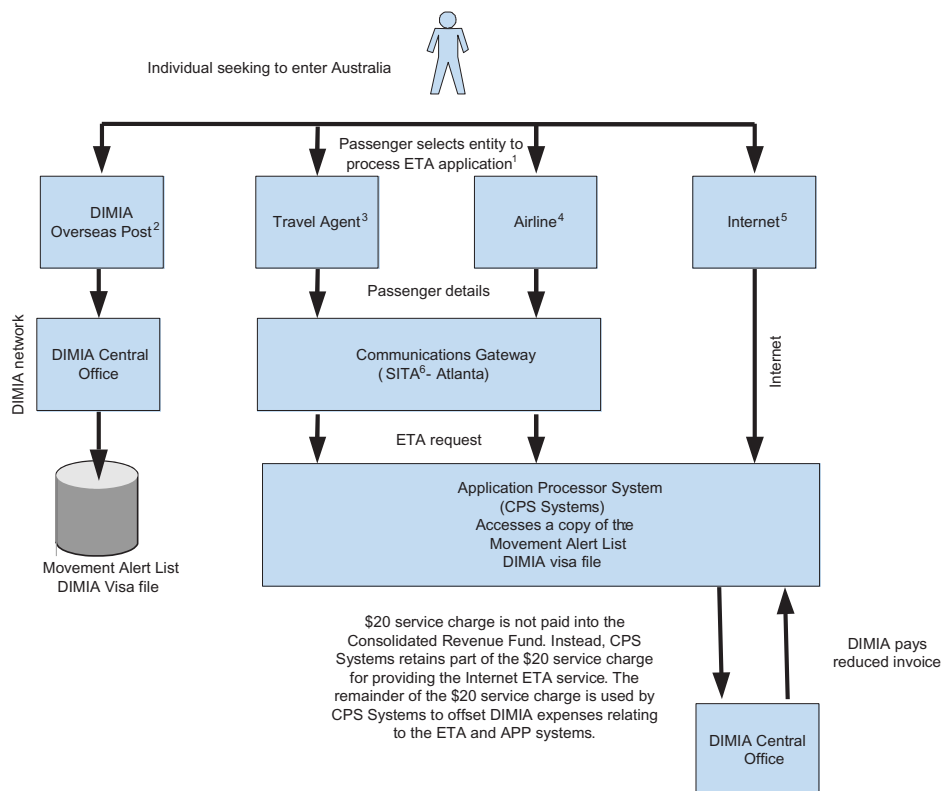
used to offset expenses relating to the operation of the ETA system, including APP¹⁴⁹ as shown in Figure 6.1. Essentially, individuals from most countries seeking to enter Australia as a visitor can apply for an ETA¹⁵⁰ via the Internet. Each individual pays a \$20 service charge to submit an ETA application via the Internet. DIMIA's contractor receives the \$20 service charge and uses part of this amount to offset DIMIA expenses relating to the ETAS and APP systems. Since off-setting arrangements commenced on 1 August 2002, there have been 748,883 ETA Internet transactions charged up until 30 June 2005, totaling \$14 977 660. The ANAO examined the cost recovery and offsetting arrangement for consistency with policy guidelines issued by Finance. APP transaction fees relating to the processing of passengers at international airports are paid by DIMIA as shown at Figure 6.2.

¹⁴⁹ For example, in June 2004, 21 958 Internet ETA transactions were processed at a cost of \$20 to the applicant, totalling \$439 160. Of this amount, \$298 059 was credited to DIMIA for expenses relating to the ETA and APP systems and \$141 101 was retained as revenue by CPS Systems. Of the \$298 059 credited to DIMIA, \$138 484 was credited against transaction fees and \$115 377 was credited to DIMIA for expenses relating to facilities management (\$2200) and Infrastructure fees (\$113 177) covering both the ETA and APP systems. A further \$44 197 was credited to DIMIA for expenses relating to time and materials, which included testing, analysis/design, consulting, programming and project management performed for the APP system.

¹⁵⁰ Visitor visa (subclass 976) or short validity business entrant (subclass 977). No visa application charge is payable for these visa subclasses.

Figure 6.1

DIMIA's cost recovery arrangement for Internet ETA receipts

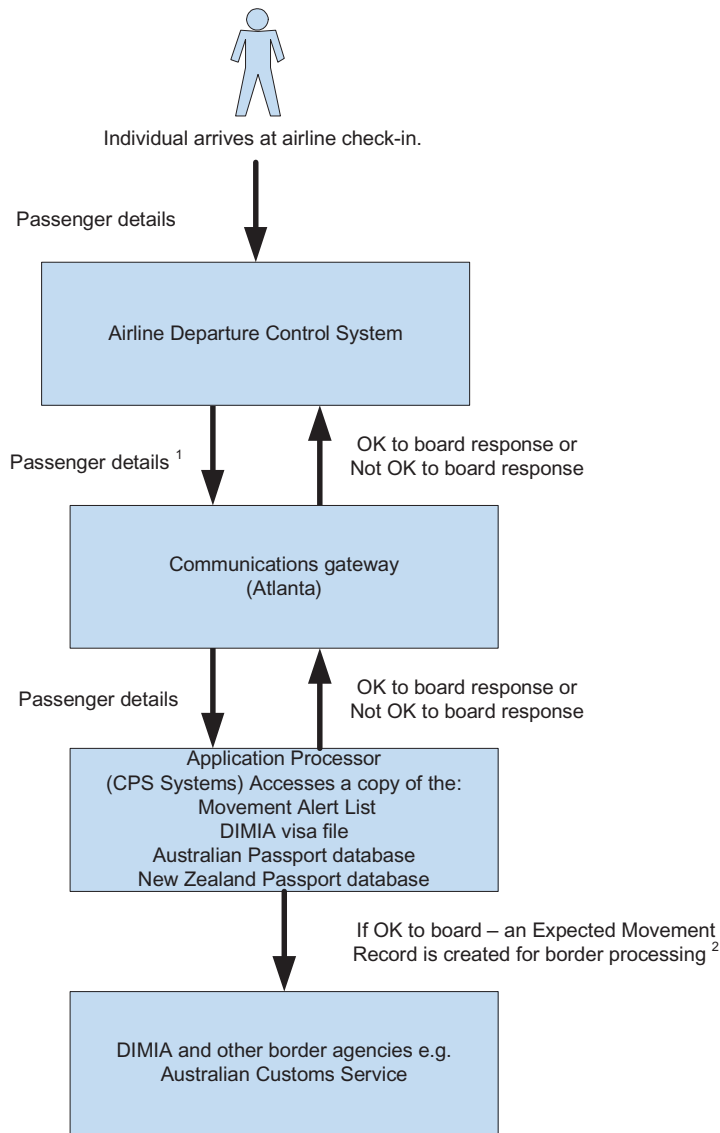


Notes :

1. Individuals seeking to enter Australia may apply for: a tourist (sub-class 976) ETA or a Business short (sub-class 977) ETA or a Business long (sub-class 956) Electronic Travel Authority.
2. DIMIA collects a Visa Application charge for a Business long (sub-class 956) ETA.
3. Travel agent may charge a service fee. CPS Systems processes a Visa Application Charge for a Business long (sub-class 956) ETA. The fee is collected by a sub-contractor, First Data Resource, on behalf of DIMIA.
4. Airlines may charge a service fee. CPS Systems processes a Visa Application Charge for a Business long (sub-class 956). The fee is collected by a sub-contractor, First Data Resources, on behalf of DIMIA.
5. CPS Systems collects a service fee of \$20. Business long (sub-class 956) ETA is not available on the Internet.
6. Société Internationale de Télécommunication Aéronautiques (SITA)—network service provider.

Source: DIMIA

Figure 6.2
Passenger processing at international airports



Notes

1. APP transactions processed by airlines are paid for by DIMIA.
2. The Expected Movement Record is continually checked against the Movement Alert List during the flight to Australia.

Source: DIMIA

Finance policy

6.48 In 2005, Finance advised government agencies of the Government's new cost recovery policy.¹⁵¹ The policy was to be phased in for all existing arrangements over a period not exceeding five years (by 2007–2008). DIMIA is scheduled to review its cost recovery arrangements as part of the Expenditure Review Committee process in 2006–07.

6.49 Key points of the Government's policy include:

- any charges should reflect the costs of providing the product or service and should generally be imposed on a fee-for-service basis or, where efficient, as a levy; and
- costs that are not directly related or integral to the provision of products or services should not be recovered from users.

6.50 Section 31 of the FMA Act allows the Minister for Finance and Administration (Finance Minister) to enter into agreements with other Ministers for the purposes of appropriation items in appropriation Acts which are marked net appropriation. The appropriation Acts provide that the relevant item is increased in accordance with the agreement. This enables agencies to spend receipts that would not otherwise be supported by an appropriation, by increasing the annual appropriation.¹⁵²

DIMIA cost recovery and offsetting arrangement

6.51 On 4 November 2004, DIMIA signed a section 31 agreement with the Finance Minister, replacing a previous agreement dated 29 June 1999. However, DIMIA's section 31 agreement does not include the cost recovery arrangement that DIMIA has in place with its contractor (described above). Instead, DIMIA has based its cost recovery arrangement with its contractor on legal advice it received from the Australian Government Solicitor on 8 January 2001¹⁵³, on what was then DIMIA's proposal to make ETAs available over the Internet.

6.52 Specifically, the Australian Government Solicitor's advice to DIMIA considered whether DIMIA could charge a service fee to persons accessing the ETA system via the Internet. The advice discussed the distinctions between a compulsory exaction which would be regarded as a tax and a compulsory exaction which would be regarded as a fee for service. The advice went on to make the point that, even where the particular charge was properly to be regarded as a fee for service, necessary statutory authority for the imposition

¹⁵¹ Department of Finance and Administration, Finance Circular No. 2005/09.

¹⁵² Department of Finance and Administration, Finance Circular No. 2004/09, p. 1.

¹⁵³ The advice bears the date '8 January 2000' but that is clearly an error.

of the fee needed to be found. The advice discussed the difficulty of relying on the regulation-making power in section 504 of the *Migration Act 1958* as a basis for making a regulation to provide for the Internet ETA fee. No regulations have been made to provide statutory authority for the Internet ETA fee.

6.53 The further question considered in the Australian Government Solicitor's advice of 8 January 2001, was whether it would be possible for DIMIA, on behalf of the Commonwealth, to enter into an agreement with its contractor under which its contractor could impose, in its own right, an Internet ETA fee. The advice concluded that there was no legal impediment to DIMIA coming to a contractual arrangement that would permit DIMIA's contractor to charge third parties for Internet access to the ETA system. The advice went on to say that the arrangement could be structured in such a way as to permit DIMIA to control the level at which the charges would be levied by its contractor and in a way that would allow DIMIA to offset its costs under the ETA System Agreement through the revenues earned by DIMIA's contractor. The advice further said:

We note, however, that a range of additional issues would arise if a person was, for practical purposes, *required* to pay CPS the fee before being able to apply for a relevant visa. In such circumstances a court might well take the view that this compulsory charge was sufficiently related to the making of a visa application to be regarded as a fee payable 'in respect' of that application for the purposes of s.46(1)(c) of the Migration Act. Further, if the charge was so characterised, there would be a strong basis for arguing that the only compulsory charges which may be imposed in respect of an application for a visa are those recognised in the Migration Act and Regulations.

6.54 The issue of 'compulsion' was revisited in advice of 9 August 2005, from the Australian Government Solicitor to DIMIA. The advice said:

The point is that a person is not required to pay CPS the \$20 fee before being able to apply for an ETA visa. The fee is an Internet lodgement fee, it is not a visa application charge for the purposes of sections 45A and 45B of the Migration Act. As I understand it, ETA applicants are not required to lodge their applications by the Internet and may instead seek an ETA through or from travel agents, airlines or Australian overseas missions...

The \$20 Internet service fee collected by CPS in the present case falls outside the classic definition [of a tax] for two reasons. First, as mentioned above, the fee is not compulsory. Secondly, even if it were considered compulsory for those wishing to lodge applications for ETA visas via the Internet, the \$20 fee may properly be regarded as a payment for services rendered.

6.55 It appears from Australian Government Solicitor advice to DIMIA in 2001 and 2002, that DIMIA proposed to pursue a contractual arrangement permitting DIMIA's contractor to charge third parties for Internet access to the ETA system. Thus, in the Australian Government Solicitor's advice of 9 February 2001, one of the features of the proposal as set out in that letter was

that ‘applicants utilising the Internet interface be provided with clear notice of the differentiation between the Business Long visa fee (which is charged by DIMIA¹⁵⁴ and being collected by CPS on behalf of DIMIA) and any ‘service fee’ which may be charged by CPS for the use of the Internet interface’.

6.56 That letter advised that the proposal would require an amendment of the ETA System Agreement in order to incorporate the Internet interface into the system specifications. However, DIMIA did not complete a formal contract variation in this regard. In a letter dated 5 March 2003, in which the Australian Government Solicitor responded to a request for clarification on the proposal that DIMIA’s contractor collect a fee in its own right for Internet ETA applications, the Australian Government Solicitor said:

If CPS collected and retained fees in its own right, rather than collecting fees on behalf of the Commonwealth, the funds collected would not be public money and would therefore not be subject to the *Financial Management and Accountability Act 1997*. Under this option, the funds are retained by CPS, which are then used to reduce the amount payable by the Commonwealth to CPS. The advantage of this for DIMIA is that the funds can be offset against CPS’s costs for the ETA system rather than going into consolidated revenue and without the need for complex appropriation arrangements.

First there needs to be a set of contract variations in relation to the ETA Internet interface so that [the] contract is up to date and Internet ETAs are included. Secondly, these variations should include provisions that enable CPS to charge a fee for service and offset this against moneys owed by DIMIA to CPS.

ANAO legal advice

6.57 The ANAO sought legal advice from the firm MinterEllison on the following issues relating to charging the Internet ETA fee:

- the legal authority for the fee;
- the implications for the Commonwealth in the absence of a formal contract variation for the Internet ETA fee;
- the implications for the Commonwealth if Internet ETA applicants believe they are dealing with DIMIA rather than its contractor;
- accounting for Internet ETA receipts; and
- the consistency of Internet ETA fee arrangements with Finance cost recovery guidelines.

¹⁵⁴ DIMIA was known as the Department of Immigration and Multicultural Affairs.

Legal authority for the fee

6.58 Put simply, the legal principles relevant to charging fees in the present circumstances are:

- a statutory basis needs to be found for charging a fee relating to the performance of a statutory function or a statutory activity—the Australian Government Solicitor’s advices in the present case explain why it was difficult to implement a regulation to provide for the fee in the present circumstances;
- if the activity undertaken does not have a statutory basis but is discretionary, a fee can be charged, on the basis of contract law, for the service delivered or the facility supplied;
- a charge under a contract may, however, be a tax if legal or practical compulsion is involved relating to entry into the contract.¹⁵⁵

6.59 On the basis of the above principles, if there is no statutory authority for the Internet ETA fee, then the ability to charge the fee must lie in a contractual arrangement between the Internet applicant for the ETA and the person (either DIMIA’s contractor or DIMIA) supplying the service (see further discussion below).

6.60 The ETA website (www.eta.immi.gov.au) appears to establish a valid contractual basis for the fee. The site indicates that one can either apply for a visa or for an ETA. If one wishes to apply for an ETA, this can be done through the Internet site, or a travel agent or airline. It is likely, therefore, that a court would conclude that there is a contractual basis for charging the \$20 fee to those applicants who choose to lodge their applications via the Internet.

Implications for the Commonwealth in the absence of a formal contract variation for the fee

6.61 The ANAO asked DIMIA whether a mechanism exists to control the amounts to be charged by DIMIA’s contractor relating to Internet access to the ETA system, and to ensure that the fees charged are offset against DIMIA’s costs. DIMIA responded as follows:

The fee is charged on a fully commercial basis for services provided to Internet ETA clients. The fee has not varied since it was introduced. As part of a contract review process commenced in June 2004 a draft Deed of Variation which includes the Internet fees is currently under negotiation between DIMIA and CPS.

¹⁵⁵ *Commonwealth v Colonial Combing, Spinning and Weaving Co. Ltd ('The Wooltops Case')* (1922) 31 CLR 421, 443–5.

DIMIA receives a monthly invoice with details of the service fee collected via the Internet ETA and the amount offset against CPS charges.

6.62 In the absence of any contractual arrangement between DIMIA and its contractor relating to the Internet ETA fee, the only means available to DIMIA to control the level of the fee is through any control it can exercise over the website content describing the ETA arrangements and specifying the Internet ETA fee.¹⁵⁶ Although DIMIA's contractor operates the website, it does so on behalf of DIMIA, and DIMIA is the copyright owner of the material on it.

6.63 The absence of contractual arrangements also means that appropriate documentation is not available to cover arrangements for DIMIA to offset costs under the ETA System Agreement against the revenues earned by its contractor from the Internet ETA fee.

Implications for the Commonwealth if applicants believe they are dealing with DIMIA rather than its contractor

6.64 As set out in the Australian Government Solicitor's advice of 9 February 2001, the original proposal for establishing Internet access to the ETA system envisaged that the website would contain clear notices outlining the relationship between DIMIA and its contractor and notifying applicants that any transaction entered into through the Internet interface would be with DIMIA's contractor and not DIMIA. The aim was to avoid confusion for Internet ETA applicants.

6.65 However, such notices do not appear on the website and it is 'badged' as a DIMIA website. The only mention of DIMIA's contractor is under the 'About this site' heading, where it states:

This site was developed and is operated by CPS Systems Pty Ltd on behalf of the Department of Immigration and Multicultural and Indigenous Affairs...

6.66 From the point of view of transparency, it is undesirable for applicants who apply for an Internet ETA to believe they are paying the fee to the Australian Government, when in fact the payment goes to DIMIA's contractor. To the extent that it might be able to be said that the Commonwealth was carrying on a business in providing a facility for ETAs, a question might arise whether the representations made by the Commonwealth on the website amount to engaging in conduct that is misleading or deceptive in contravention of section 52 of the *Trade Practices Act 1974*.

6.67 DIMIA could remove the potential for confusion for Internet ETA applicants by posting clear notices on its website outlining the relationship between itself and its contractor, and notifying applicants that any transaction

¹⁵⁶ See 'About this site' at www.eta.immi.gov.au

entered into through the Internet interface would be with DIMIA's contractor, and not DIMIA.

Recommendation No. 6

6.68 The ANAO recommends that to improve transparency for Internet Electronic Travel Authority applicants, DIMIA include on its website appropriate notices outlining the relationship between itself and its contractor, and notifying applicants that any transaction entered into through the Internet interface would be with DIMIA's contractor, and not DIMIA.

DIMIA response

6.69 Agree.

Accounting for Internet ETA receipts

6.70 The accounting treatment of Internet ETA receipts was dealt with in an unsigned draft advice of the Australian Government Solicitor to DIMIA, dated 3 December 2002. In that advice, the Australian Government Solicitor made the general point that all money received and held for and on behalf of the Commonwealth is 'public money' for the purposes of the FMA Act, and needs to be dealt with in accordance with that Act. The draft advice furthermore stated:

It follows from this analysis that if the Department wishes to 'set off' amounts of fees collected by CPS against amounts the Commonwealth owes CPS it would be necessary for it either (i) to have access to an appropriation, or (ii) for the amount of the fees to be collected and retained by CPS in its own right rather than for those fees to be collected on behalf of the Commonwealth.

Under this second option, the Commonwealth would not strictly be setting off amounts. Rather, it would be using CPS's retention of the fees as a basis for correspondingly reducing the amount which it was required to pay CPS. I note that...previously advised there appears to be no impediment to your Department coming to a contractual arrangement with CPS which would permit CPS to charge persons an Internet access fee. This was subject to the proviso that these persons had a practical choice whether to use the Internet when applying for an ETA.

6.71 If DIMIA's contractor has been collecting the Internet ETA fee on behalf of DIMIA, the amounts concerned would be 'public money' and would need to be paid into the Consolidated Revenue Fund and dealt with in accordance with the requirements of the FMA Act and Regulations. DIMIA's contractor would be regarded as an 'outsider' for the purposes of section 12 of the FMA

Act¹⁵⁷ and would need to be authorised by the Finance Minister to receive such money.

6.72 Owing to its lack of documentation, DIMIA was unable to provide evidence that clarified whether its contractor was collecting the Internet ETA fee in its own right. In practice DIMIA's contractor collects the Internet Electronic Travel Authority fee and applies a substantial portion of the fee as a credit against fees that would otherwise be payable by DIMIA to its contractor under the ETA System Agreement. If DIMIA's contractor collects the Internet ETA fee in its own right, the funds concerned would not be 'public money' within the meaning of the FMA Act. However, as mentioned above, the ETA website states that the website is operated by DIMIA's contractor 'on behalf of' DIMIA and the only contractual document in existence between DIMIA and its contractor, namely, the ETA System Agreement, does not contain any clause negating an agency relationship between DIMIA and its contractor.

6.73 The ANAO considers that this matter needs to be addressed as a priority. If DIMIA's contractor is collecting the Internet ETA fee in its own right, the ETA System Agreement needs to be amended and the wording of the website should be clarified to explain the arrangement between DIMIA and its contractor.

6.74 Alternatively, if DIMIA's contractor is acting as an agent of the Commonwealth, DIMIA could formalise its accounting arrangements for the Internet ETA fee through its section 31 agreement with Finance, consistent with general Commonwealth appropriation arrangements. Under the arrangement with DIMIA's contractor, DIMIA derives a financial benefit (in terms of reduced outlays in fees to its contractor) from the Internet ETA fee similar to the financial benefit it would derive if the Internet ETA fee were payable to it.

6.75 The Attorney-General's Department has issued 'Legal Services Directions'¹⁵⁸ advising FMA agencies¹⁵⁹ in relation to 'Advice on legislation administered by other agencies' that:

¹⁵⁷ Section 12 of the FMA Act provides that: 'An official or Minister must not enter into an agreement or arrangement for the receipt or custody of public money by an outsider unless: (a) the Finance Minister has first given a written authorisation for the arrangement; or (b) the arrangement is expressly authorised by this Act or by another Act. For this purpose, outsider means any person other than the Commonwealth, an official or a Minister.'

¹⁵⁸ Pursuant to section 55ZF of the Judiciary Act 1903, with effect from 1 September 1999.

¹⁵⁹ Paragraphs 1 — 11 of the Directions apply to Commonwealth agencies (including Departments of State and Parliamentary Departments) which are subject to the *Financial Management and Accountability Act 1997* (FMA Act), unless special provision is made in accordance with paragraph 12. Paragraph 12 also deals with the special application of the Directions to agencies not covered by the FMA Act, in particular, bodies covered by the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

If legal advice is required (whether from AGS, the Attorney-General's Department, private lawyers, counsel or in-house lawyers) on the interpretation of legislation not administered by an FMA agency to which the advice is to be provided, the agency is to: (a) provide the agency responsible for the legislation with a reasonable opportunity to consult on the matter prior to the advice being obtained, and (b) provide a copy of the request for advice and the advice to the administering agency.¹⁶⁰

6.76 An agency is not required to provide an opportunity for prior consultation if:

advice is needed urgently (eg in the case of an urgent request by a Minister or a request arising without notice in litigation). Furthermore, prior consultation is not required, and

the request for advice and the advice do not have to be copied to the administering agency, if: (a) disclosure would constitute a breach of law, (b) a Cabinet, law enforcement or national security matter would be inappropriately disclosed, or (c) the Attorney-General or the Attorney-General's delegate has agreed that the advice, or a category of advice which covers the one in question, does not need to be disclosed.

However, an agency is to inform the administering agency of the substance of advice it receives to the extent that is possible without disclosing information which needs to remain confidential.

Consultation and disclosure are not required for advice on a routine matter which does no more than advise on the application of the law to particular facts, by relying on the settled interpretation of the legislation.¹⁶¹

6.77 The ANAO asked DIMIA whether it had consulted with Finance on the current arrangement whereby DIMIA's contractor collects a fee for Internet access to the ETA system and offsets it against DIMIA costs. DIMIA responded that 'the decision was based on legal advice received from AGS'. DIMIA has not consulted with Finance on its arrangement with its contractor relating to the accounting treatment of Internet ETA receipts, as required by the Attorney-General's Department 'Legal Services Directions'.

6.78 The ANAO also asked DIMIA whether it could verify, independently of information provided by its contractor, that the correct amount of revenue is being offset against DIMIA costs and how DIMIA would detect an understatement of revenue offset. DIMIA responded as follows:

Through its Crystal reporting system, DIMIA can report on the number of Internet ETAs issued. That figure can be compared against revenue received by CPS as reported in monthly invoices. Part of that revenue offset against other charges as described earlier. Monthly invoices are monitored.

¹⁶⁰ Attorney-General's Department, Legal Services Directions, p. 6.

¹⁶¹ Attorney-General's Department, Legal Services Directions, pp. 6-7.

Consistency of fee arrangements with Finance cost recovery guidelines

6.79 The Australian Government cost recovery guidelines are set out in Finance Circular No. 02/2002. If the Internet ETA fee is charged by DIMIA's contractor in its own right, the guidelines have no application. However, if the fee is charged by DIMIA, the setting of the fee would be subject to policy requirements relating to FMA Act agencies setting and charging fees, potentially including a Cost Recovery Impact Statement. The ANAO suggests that DIMIA discuss its cost recovery and offsetting arrangements for the Internet ETA fee with Finance to identify the most appropriate management approach, consistent with general Commonwealth appropriation arrangements.

APP intellectual property

6.80 Intellectual property refers to the rights granted by law in relation to the fruits of human intellectual activity.¹⁶² It includes all copyright, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trade marks (including service marks), registered designs, circuit layouts, confidential information and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields. Each intellectual property type is recognised and protected under Australian law.

6.81 Intellectual property is recognised as an increasingly important resource, contributing to and enhancing both the operations of an organisation and its value. The Australian Government, due to the breadth and diversity of its activities, is a significant generator, acquirer and user of intellectual property.¹⁶³

Commonwealth intellectual property policies

6.82 Agencies are responsible for devising their own approaches for managing the intellectual property they generate and/or acquire. In 2004, the ANAO tabled Audit Report No. 25 2003–04, *Intellectual Property Policies and Practices in Commonwealth Agencies*. The 2004 audit included a recommendation for a whole-of-government policy on intellectual property.¹⁶⁴

¹⁶² Department of Communications, Information Technology and the Arts, *The Commonwealth IT IP Guidelines*, Canberra, 2000.

¹⁶³ ANAO, Audit Report No. 25 2003–04, *Intellectual Property Policies and Practices in Commonwealth Agencies*, Canberra, p. 17.

¹⁶⁴ ANAO, Audit Report No. 25 2003–04, *Intellectual Property Policies and Practices in Commonwealth Agencies*, Canberra, p. 59.

Ownership of APP intellectual property

6.83 DIMIA advised the ANAO that, to April 2004, it has paid its contractor a total of \$2.024 million for developing APP.¹⁶⁵ However, DIMIA's contractor owns the intellectual property relating to the ETA system (including APP and the Internet ETA systems).

6.84 The ANAO examined whether DIMIA had considered value for money in its dealings with its contractor relating to the intellectual property rights associated with developing the ETA and APP systems. In particular, the ANAO examined whether DIMIA had sold or transferred intellectual property relating to APP to its contractor in accordance with effective cost recovery principles.

6.85 Given its significant investment in developing the ETA and APP systems, the ANAO asked DIMIA for the rationale behind its approach to legal ownership of the intellectual property in these systems. DIMIA was unable to provide documented evidence relating to its decisions on this issue. However, DIMIA advised the ANAO as follows:

Ownership of the IP for the Application Processor (AP) component of the Electronic Travel Authority system was provided to CPS¹⁶⁶ under the 1996 contract. However, DIMIA still has use of the IP¹⁶⁷ on the termination of the contract and can confer that onto any other successful tenderer. However, it is also critical to understand that the AP is just one of a number of system components required for the operation of ETA and APP systems. CPS, and its partner SITA¹⁶⁸, have IP rights for the other system components. What this means is that there may be little, or any, value in the IP for DIMIA as CPS may well be in a sole supplier position ie not because of the AP but because of its unique relationship with SITA. This is an issue we are considering in developing our approach to market testing the arrangement.

In response to the question, when the ETA system was developed in 1996, DIMIA determined that it did not have the capacity to commercialise electronic visa systems such as the ETA system. Accordingly, providing CPS the IP for the AP component allowed them to commercialise the system or sell all or parts of the system to other Governments. In return DIMIA was to receive a return of 4.5 per cent of the Infrastructure fee and Transaction fees payable on the sale of each new system.

At the time of negotiating the contract, a number of Governments had expressed interest in the ETA system and the Department was hopeful of a number of sales in the following two to three years. As it eventuated, CPS did

¹⁶⁵ Comprises expenditure on voluntary APP and MAPP.

¹⁶⁶ CPS Systems.

¹⁶⁷ Intellectual property.

¹⁶⁸ Société Internationale de Télécommunication Aéronautiques (SITA)—network service provider.

not commercialise the ETA system, though it has developed APP systems for New Zealand (February 2003) and Bahrain (December 2003).

6.86 The ANAO also asked DIMIA whether its contractor had reduced its price to DIMIA for the development of the ETA and APP systems because DIMIA did not retain any legal ownership of the intellectual property in these systems. DIMIA responded as follows:

No, as noted above, DIMIA was to receive a 4.5 per cent return in the event of commercialisation.

Commercialisation of APP

6.87 Commercialisation of agency intellectual property is one option agencies may pursue in managing intellectual property. While it is not always possible or appropriate, depending on the mandate of the agency, and the nature of the intellectual property, an agency may choose to release intellectual property to the market place.

6.88 Agencies can retain revenue from commercialisation activities if they are captured within the scope of agreements under section 31 of the FMA Act, made with Finance for the purpose of retaining revenue for future spending.¹⁶⁹

6.89 The ANAO examined whether DIMIA has taken appropriate measures to manage the Commonwealth's interests relating to returns on its investment in APP in the event of any commercialisation of the system.

6.90 Clause 77.1 of the ETA System Agreement provides:

The Contractor [CPS Systems] acknowledges that the Customer [DIMIA] has made a significant and strategic investment in the development and implementation of the ETA System and that, notwithstanding the Contractor's legal ownership of Intellectual Property in the elements of the ETA System, the Customer is entitled to receive an appropriate return on that investment in the event of any commercialisation of the ETA System during the Initial Management Term...

6.91 The 'Initial Management Term' is defined by Clause 71.4 to mean the five years following the actual acceptance date, which was 3 February 1997. The 'Initial Management Term' is therefore the period from 3 February 1997 to 2 February 2002. 'Commercialisation' is defined in Clause 1.1 to mean 'any commercial exploitation of all or any part of the ETA System'¹⁷⁰ or any modification, adaptation, enhancement or development of all or any part of the ETA System...including...sale, hire, [or] licensing...'

¹⁶⁹ ANAO, Audit Report No. 25 2003–04, *Intellectual Property Policies and Practices in Commonwealth Agencies*, Canberra, pp. 46–47.

¹⁷⁰ Includes APP.

6.92 The ANAO found that although DIMIA's contractor has commercialised the APP system¹⁷¹, DIMIA has not received a return from the commercialisation. This is because all commercialisation has occurred outside the period during which DIMIA was entitled to commercialisation returns under Clause 77.1 of the ETA System Agreement.

6.93 The ANAO asked DIMIA why it agreed to limit its return from commercialisation to a five year period (the Initial Management Term). DIMIA was unable to provide documented evidence of a decision on this issue. However, DIMIA responded as follows:

The five year commercialisation period reflected the initial term of the contract. At the end of this initial term CPS had not commercialised the ETA or APP systems. While it is not clear from existing files and cannot be confirmed due to the loss of corporate knowledge, it appears that as there had been no commercialisation of the systems after the first five years, the extension of the commercialisation provision was not seen as a significant issue. And as noted, there has been no commercialisation of the ETA system to date and only limited commercialisation of the APP system.

Summary

6.94 The terms and conditions that DIMIA had agreed with its contractor relating to financial arrangements for the management of APP were unclear. Correspondence from DIMIA to its contractor in June 1997, suggests that DIMIA agreed to 'to cover (APP) development costs to allow work to progress'. In this context, DIMIA wrote to its contractor explaining that an enclosed cheque for \$500 000 was to be repaid to DIMIA and that DIMIA was amenable to its contractor's proposed reduction of ETAC¹⁷² and APP check-in transaction fees from the commencement of APP until such time as the funds were repaid in full. However, in 2001, DIMIA decided to pay its contractor \$900 000, in lieu of the \$500 000 originally agreed. DIMIA and its contractor have differing positions on the purpose of the \$900 000 payment and its relationship to the APP transaction fee structure. The actual position is unclear, however a reconstruction of key events (with ANAO comments) is shown in Table 6.4.

¹⁷¹ For example, New Zealand implemented APP in February 2003 and Bahrain implemented APP in December 2003.

¹⁷² An ETAC is a fee payable by DIMIA to CPS Systems for each completed ETA transaction.

Table 6.4

APP development costs and transaction fee structure

Event	ANAO Comment
<p>1997</p> <p>IT Contractor:</p> <ul style="list-style-type: none"> agreed to undertake the development of voluntary APP at its own cost; agreed to recover its investment via annual infrastructure and transaction fees from DIMIA; and requested assistance from DIMIA, in the form of an advance on future IT contractor fees. 	<p>DIMIA agreed to pay \$500 000 in response to this request, to be repaid through reduced recurring fees over the first two years of operations.</p> <p>A formal contract variation was not completed to clearly specify the development work to be completed by the IT contractor, associated quality standards and a timeframe for delivery prior to DIMIA's IT contractor commencing work on developing voluntary APP. However, the parties agreed that:</p> <ul style="list-style-type: none"> the IT system contractor would pay for voluntary APP development costs; and DIMIA's IT contractor would retain the intellectual property for APP and would therefore be free to market APP to other governments.
<p>1998</p> <p>DIMIA:</p> <ul style="list-style-type: none"> Forwarded a cheque for \$500 000 to its IT contractor as agreed. DIMIA's IT contractor was to repay \$500 000 through reduced transaction fees once voluntary APP commenced operation. 	<p>In agreeing to terms with its IT contractor, DIMIA did not:</p> <ul style="list-style-type: none"> complete a formal variation to the ETA contract to clearly specify the arrangements between the parties; seek security for the \$500 000 payment; document the risks associated with the arrangements it was putting in place; consider the time value of money in making this advance; and agree to a transaction fee structure for voluntary APP prior to the system being developed. This meant that DIMIA relied on the goodwill of its contractor to set reasonable transaction fees for voluntary APP.
<p>2001</p> <p>DIMIA and IT Contractor Negotiations</p> <p>DIMIA considers that it:</p> <ul style="list-style-type: none"> agreed to pay its IT contractor \$900 000 for the total development costs of APP as at 30 June 2001; agreed that its previous payment of \$500 000 could be offset against the \$900 000. Consequently, DIMIA paid an additional \$400 000; and agreed to a transaction fee structure with its IT contractor independent of the \$900 000 paid to its IT contractor. 	<p>The 1997 arrangement between the parties was not progressed. In 2001, the parties came to a new arrangement, which is poorly documented. DIMIA's lack of documentation means that the rationale for its payment of \$900 000 to its contractor and the ownership of any intellectual property was not clear nor was the basis for the transaction fee structure for APP. DIMIA's IT contractor subsequently advised the ANAO that APP development costs exceeded \$900 000, and that this payment secured a reduced transaction fee structure.</p>

Source: ANAO analysis.

6.95 The ANAO considers that in such an environment it is particularly important that business decisions are documented to protect the interests of the Commonwealth and to aid transparency and accountability. As indicated in Table 6.4 above, DIMIA did not do this for key business decisions relating to the financial arrangements for APP.

6.96 Under FMA Regulation 13, a person must not enter into a contract, agreement or arrangement under which public money is, or may become, payable unless a proposal to spend public money for the proposed contract, agreement or arrangement has been approved under FMA Regulation 9 and, if necessary, in accordance with FMA Regulation 10.

6.97 DIMIA was unable to provide evidence that a proposal to spend public money had actually been approved under FMA Regulation 9 to cover APP development and transaction costs of approximately \$10 804 555.¹⁷³ Under FMA Regulation 13 this should have taken place prior to DIMIA entering into an arrangement with its contractor under which public money would become payable. The absence of evidence of an approval in accordance with FMA Regulation 9 means that DIMIA is unable to demonstrate that a delegated officer had formed a view that the expenditure incurred under its arrangements with its contractor represented efficient and effective use of the public money involved.

6.98 DIMIA has a cost recovery arrangement¹⁷⁴ with its contractor designed so that part of the \$20 service charge collected by its contractor per ETA application (from a visa applicant through the ETA system Internet gateway) is used to offset expenses relating to the operation of the ETA system, including APP. Essentially, individuals from most countries seeking to enter Australia as a visitor can apply for an ETA¹⁷⁵ via the Internet. Each individual pays a \$20 service charge to submit an ETA application via the Internet. DIMIA's contractor receives the \$20 service charge and uses part of this amount to offset DIMIA expenses relating to the ETAS and APP systems.

6.99 DIMIA could remove the potential for misunderstanding by Internet ETA applicants by posting appropriate notices on its website outlining the relationship between itself and its contractor and notifying applicants that any transaction entered into through the Internet interface would be with DIMIA's contractor and not DIMIA.

¹⁷³ Development costs of \$1 849 555 (\$900 000 relating to voluntary APP and approximately \$949 555 relating to mandatory APP); and up to April 2005, approximately \$8.955 million for APP transaction fees.

¹⁷⁴ Cost recovery is the recovery of some or all of the costs of a particular activity. Used appropriately, cost recovery can improve economic efficiency. Cost recovery may also have equity effects. It may improve equity by ensuring that those who use regulated products bear the costs.

¹⁷⁵ Visitor visa (subclass 976) or short validity business entrant (subclass 977). No visa application charge is payable for these visa subclasses.

6.100 Although DIMIA has sought legal advice from the Australian Government Solicitor relating to its accounting treatment of Internet ETA receipts, DIMIA has not consulted with Finance on this issue consistent with Attorney-General's Department 'Legal Services Directions'. It would be useful for DIMIA to discuss with Finance the most appropriate way of managing its cost recovery arrangements with its contractor relating to the Internet ETA fee.

6.101 DIMIA's contractor owns the intellectual property relating to the ETA system (including APP and the Internet ETA systems¹⁷⁶). Although DIMIA's contractor has commercialised the APP system¹⁷⁷, DIMIA has not received a return on its investment in APP. This is because all commercialisation has occurred outside the period during which DIMIA was entitled to commercialisation returns under the ETA System Agreement.



Ian McPhee
Auditor-General

Canberra ACT
16 March 2006

¹⁷⁶ The ETA and APP systems share the same platform.

¹⁷⁷ For example, New Zealand implemented APP in February 2003 and Bahrain implemented APP in December 2003.

Appendices

Appendix 1: DIMIA Travel and Immigration Processing Systems and Electronic Travel Authority system

Travel and Immigration Processing Systems (TRIPS)

1. TRIPS is the backbone of DIMIA's computerised border clearance processing. In the late 1980s DIMIA began to collect and store in a centralised database information about all passengers travelling to Australia. Details of visas issued to non-citizens were retrieved from all overseas posts and from offices in Australia. The Department of Foreign Affairs and Trade provided a copy of the Australian passport file and the New Zealand Government provided a copy of the New Zealand passport file. These key databases are updated daily.
2. TRIPS is a broad collection of mainframe computer systems, including the Visa database, the Australian and NZ passport files, the Movement Alert List and the Movements database. TRIPS is designed to facilitate the processing of passengers moving through immigration clearance at Australia's border by verifying the identity of passengers on arrival, checking their authority to enter, flagging persons of interest and recording the actual arrival or departure. TRIPS also includes an application for airport immigration inspectors to process passengers 'referred' on arrival and to automatically issue infringement notices to airlines. TRIPS was completed during 1990–91.

Electronic Travel Authority (ETA)

3. An ETA is an electronically stored authority issued to holders of ETA eligible passports by DIMIA for travel to Australia. The ETA facilitates the processing of short stay tourist and business visitors by eliminating the need to fill out DIMIA visa applications, which then have to be processed at DIMIA posts. The need to provide evidence of the visa (usually in the form of an evidence label) is also eliminated.
4. The ETA system allows travel agents and airline reservations personnel to apply for an ETA on behalf of citizens of 34 gazetted nationalities. Eligible applicants can also apply for an ETA over the Internet. Before being granted, all applications are checked against DIMIA's Movement Alert List to assist in maintaining border security. DIMIA advises that a response, of either granting the ETA or referring the applicant to the nearest DIMIA overseas post, is generally returned within seconds. Access to ETA system is provided through a worldwide network with communication links to airline and travel agent computer reservation and booking systems. The ETA system was implemented in 1996. Nearly 85 per cent of visitors to Australia now travel on ETAs.

Appendix 2: Mandatory Advance Passenger Processing legislation

Border Security Legislation Amendment Bill 2002 (Cwlth)

1. Following the events of 11 September 2001, the Government decided to make reporting through the Advance Passenger Processing (APP) system mandatory for all passengers and crew of airlines and international cruise ships arriving in Australia.

2. In the second reading of the Border Security Legislation Amendment Bill 2002, the purpose of the Bill was described as:

...to implement the government's election commitments to increase national security by further protecting our borders.

3. Additionally, the second reading advised that:

The government has decided that, for border security reasons, it is important for Customs and the Department of Immigration and Multicultural and Indigenous Affairs to be able to assess any risks that passengers and crew might pose before they arrive in Australia.

Border Security Legislation Amendment Act 2002 (Cwlth)

4. The Border Security Legislation Amendment Act 2002 (Cwlth) amended both the *Customs Act 1901* and the *Migration Act 1958* to provide for the following:

- the operator of a ship or aircraft, due to arrive in Australia, must report information on passengers and crew arriving at the port or airport;¹⁷⁸
- the manner in which the operator of a ship or aircraft due to arrive in Australia must report information on passengers and crew;¹⁷⁹ and
- as soon as practicable, after information is provided to either Customs or DIMIA, each agency must provide the information to the other.¹⁸⁰

5. The *Border Security Legislation Amendment Act 2002* (Cwlth) received Royal Assent on 5 July 2002. Its provisions came into effect on 5 January 2003.

¹⁷⁸ *Customs Act 1901*, sections 64ACA(1) and 64ACB(1), and the *Migration Act 1958*, section 245(L)(2).

¹⁷⁹ *Customs Act 1901*, sections 64ACA(2) and 64ACB(2), and the *Migration Act 1958*, section 245(J).

¹⁸⁰ *Customs Act 1901*, sections 64ACA(11) and 64ACB(8), and the *Migration Act 1958*, section 245(L)(6).

DIMIA Migration Regulations and Instruments of Approval

6. DIMIA's Advance Passenger Information legislation is reflected in the *Migration Act 1958* (Cwlth) and its subordinate Regulations and Instruments of Approval. In this context:

- the Migration Act broadly specifies the APP reporting requirements;
- the Migration Regulations state who the requirements apply to; and
- the Instruments of Approval specify the systems to be used for reporting.

DIMIA Migration Regulations 1994—(Regulations 3.13A, 3.13B and 3.13C)

7. As required by the Migration Act, the Migration Regulations specify the kinds of aircraft or ship that must provide passenger and crew reporting as follows:

- Migration Regulation 3.13A requires that information about passengers and crew be given to DIMIA before the arrival of an international passenger aircraft, commencing 5 January 2003;
- Migration Regulation 3.13B requires that information about passengers and crew be given to DIMIA before the arrival of an international passenger cruise ship, commencing 1 January 2004; and
- Migration Regulation 3.13C requires that information about passengers and crew be given to DIMIA before the arrival of an international cargo ship, commencing 1 July 2005.

DIMIA Instruments of Approval—(Migration Act 1958: sections 245J and 245K)

8. The Instruments of Approval are documents that have been approved by the Secretary of DIMIA. There are two Instruments. One Instrument relates to s245J of the Migration Act and specifies Australia's APP system as the approved primary system for reporting. It also identifies the passenger information or biographical data that is to be reported, and the passengers the reporting applies to (certain passengers are exempt from an APP passenger report). Another Instrument relates to s245K of the Migration Act and identifies fall-back reporting procedures in the event of a system failure.

Appendix 3: International interest in Advance Passenger Information and Advance Passenger Processing systems

1. International interest in Advance Passenger Information (API) and Advance Passenger Processing (APP) systems has been steadily growing since APP was adopted by Australia in 1998. Australia has played a leading role in informing and encouraging other countries to see the benefits of API and has also contributed to the development of a global set of standards for API and APP through the Four Countries Conference, the International Aviation Transport Authority and Asia Pacific Economic Cooperation.
2. APEC leaders have endorsed API as a pathfinder initiative. 'Pathfinder initiatives' provide the opportunity for those economies that can move faster on some initiatives to proceed more quickly than others, thereby building the momentum across the whole of APEC. Economies can join the initiative as their capacity enables them to do so following the 'path' established by other economies.
3. Australia is providing a range of APEC economies with a 'Feasibility Study' report assessing the capacity of their existing border management systems to integrate within the API environment. When conducting the studies, Australia looks at the broad spectrum of border management processes and systems already in place and assesses what model of API would be most appropriate based on the individual economy's business needs, existing and planned infrastructure, and policies and processes.
4. Each economy's circumstances are different so the model of API recommended and the capacity building required in each economy are unique to that economy. One size does not fit all for implementing an API system, though global standards are vital to ensure that the interface with airlines is similar. This ensures that airlines do not have to make different and costly changes to their own systems for every state.
5. As at 19 November 2004, Australia has conducted a total of seven APEC funded studies in Thailand, the Philippines, Indonesia, Korea, Chinese Taipei, Chile and China. A further five feasibility studies are scheduled to take place by the end of December 2005, in Brunei, Papua New Guinea, Peru, Singapore and Vietnam.

Source: DIMIA.

Appendix 4: Project management

Project Management Methodology

1. The ANAO considers that it is important that projects are guided by an agreed and documented methodology. A documented project method adds rigour to project planning and management and increases the likelihood that a project will meet the business requirements within acceptable budget and time constraints.

2. Before undertaking the MAPP1 project, DIMIA conducted a post-implementation review of its Electronic Travel Authority (ETA) system project conducted jointly with CPS Systems in 1997. The review was critical of the lack of a project management methodology and stated that:

as more business driven applications emerge, the use of such a methodology is vital to the successful conduct of the development and implementation of new systems.

3. Given the size, complexity and importance of the mandatory APP project as a whole and the findings of DIMIA's post-implementation review of its ETA system, the ANAO examined whether DIMIA had adopted a formal project management methodology for MAPP1. The ANAO found that DIMIA had not followed any corporate or other recognised standard in managing MAPP1. The lack of a methodology to guide the management of the project contributed to major weaknesses in key areas of project management, as shown in Table A4.1.

Table A4.1

DIMIA project management for MAPP1

Key element	Criteria	ANAO Assessment	ANAO findings/comments
Project methodology	Agreed methodology applied	X	<ul style="list-style-type: none"> Neither CPS Systems nor DIMIA defined or applied a recognised method to their project management. Over-reliance on the skills and experience of the project manager leads to increased risk of cost or time overruns and/or reduced quality.
Project governance	Defined roles	X	<ul style="list-style-type: none"> Lines of management were not clearly defined. The roles of DIMIA's IT Governance Committee and ETAS Steering Committee in overseeing the project were unclear and this lack of clarity diminished accountability. The project manager role was unclear (shared between CPS Systems, DIMIA IT and DIMIA Business), leading to key management functions being overlooked (including risk, budget and schedule management).
	Project formally endorsed	X	<ul style="list-style-type: none"> The MAPP1 project was not formally endorsed. The lack of clarity on project oversight meant that it was unclear who should have provided this endorsement. This can impact on senior management ownership of project objectives, approach, cost and timeframes.
	Regular reporting	X	<ul style="list-style-type: none"> No regular reporting regime was in place. Ad hoc reports on project status were provided to the IT Governance Committee but they did not detail budget status, schedule status or risk updates. Without regular reports, management was not in a position to monitor progress, detect and address actual or potential problems and compare achievement with the plan.
Planning	Existence of a plan detailing the why, what, how and who of the project	X	<ul style="list-style-type: none"> DIMIA developed a high-level proposal outlining project staging and key deliverables. While considered a predecessor to a project plan, such a plan was not developed. DIMIA did go on to develop a mandatory APP Schedule for Stage 1 (MAPP1). While the schedule identified key milestones, it did not identify dependencies and resources. Lack of clarity on the 'way ahead' can increase the time or cost taken to deliver a project and makes it difficult to assess performance.
	Plan signed off	X	<ul style="list-style-type: none"> The IT Governance Committee was advised of target dates for implementation but this does not constitute approval of a plan for the project. It was not clear who was making decisions for the project and on what information.

Key element	Criteria	ANAO Assessment	ANAO findings/comments
	Evidence of consultation	Limited	<ul style="list-style-type: none"> • Consultation during planning for MAPP1 occurred regularly between DIMIA and CPS Systems. • Consultation with airlines occurred during preliminary planning for MANDATORY APP but not during the detailed planning for MAPP1. Airlines had no opportunity to provide input to DIMIA to help minimise the financial and operational impacts of MAPP1. As a consequence, it was not possible for DIMIA to assess whether its management of the implementation of MAPP1 affected airlines more or less than was anticipated.
Planning (cont.)	Consolidated plans	X	<ul style="list-style-type: none"> • DIMIA and CPS Systems did not coordinate and consolidate their plans for the project. This made tracking project progress difficult and limited transparency of the work being done by CPS Systems.
	Actuals updated	X	<ul style="list-style-type: none"> • DIMIA did not record actual dates achieved relative to planned project milestones. This reduced transparency and accountability relating to the performance of the project teams.
Risk management	Comprehensive and timely risk assessment undertaken in line with DIMIA standard	Limited	<ul style="list-style-type: none"> • DIMIA was unable to demonstrate that it had undertaken a timely and comprehensive risk assessment for MAPP1 and that resulting risks were centrally documented and managed throughout the project. • DIMIA's preliminary risk assessment and proposed contingency strategy for mandatory APP did not assess the impact and likelihood of business and project risks. • Lack of a comprehensive risk assessment increased DIMIA's exposure to these risks (that is, the probability of specific risks occurring and the potential impact if they did eventuate).¹⁸¹
	Risks managed appropriately, with new risks identified and incorporated into risk management plan	Limited	<ul style="list-style-type: none"> • DIMIA was unable to provide evidence that identified risks were monitored and managed throughout the project. • Risk assessments were conducted later in the project for the testing phase and for the implementation phase, but implementation risks were considered during the week that MAPP1 went live—which was too late to manage them effectively.

¹⁸¹ In June 2002 (before MAPP1 was implemented) DIMIA Internal Audit completed a 'Review of project management methodology in DIMIA—with an IT component'. A recommendation of the review was that all projects should include a formal risk assessment.

Key element	Criteria	ANAO Assessment	ANAO findings/comments
Budget management	Cost identification timely and comprehensive	Limited	<ul style="list-style-type: none"> DIMIA had estimated costs for the project but the costing was incomplete. There was no overall picture of the total cost of the project (CPS System costs, DIMIA IT costs, DIMIA business costs). The lack of transparency and accountability for resources associated with delivering MAPP1 makes it difficult to assess DIMIA's performance in delivering a cost-effective business solution.
	Approvals in place	X	<ul style="list-style-type: none"> DIMIA was unable to provide evidence that its IT Governance Committee had approved a proposed project budget, providing no basis for control of expenditure.
	Costs tracked	X	<ul style="list-style-type: none"> DIMIA did not maintain records of project expenditure against a project budget and report these to DIMIA senior management.
Quality requirements	Quality system robust and applied	Limited	<ul style="list-style-type: none"> Quality standards (internal or external) relating to project management, requirements gathering and system development were not specified or applied. DIMIA organisational policies do not recognise quality assurance within systems development, including linkages with IT providers other than the primary IT infrastructure provider.
	Quality assurance provided	X	<ul style="list-style-type: none"> DIMIA did not provide management with independent assurance (by Internal Audit or other persons independent of the project team) that quality measures were being implemented (by DIMIA IT or CPS Systems). DIMIA did not monitor the work of CPS Systems during the development phase. Instead, quality was checked via integrated testing.
Quality requirements cont.	Quality planning comprehensive	Limited	<ul style="list-style-type: none"> DIMIA documentation did not address IT requirements relating to the quality of the products to be delivered. DIMIA did not address important criteria such as reliability, usability, accuracy and performance. No indication of the expected life of the system was provided, which would affect both the required quality and cost considerations. DIMIA did not document its quality expectations for the non-technical products to be delivered by the project, for example, user documentation, training materials, communication strategies. These products were never defined or even identified as project products requiring appropriate management and review. The test strategy, a key quality document, was not comprehensive (it covered only user acceptance testing) and was not finalised.
	Quality controls adequate	Limited	<ul style="list-style-type: none"> The focus of quality controls was primarily on technical or specialist products. This included reviews by key team members of key documents and testing of systems developed.

Key element	Criteria	ANAO Assessment	ANAO findings/comments
Documentation	Sufficient	Limited	<ul style="list-style-type: none"> Documentation produced was mainly of a technical or specialist nature (requirements documents, design documents, testing strategies and results) and did not adequately address the management needs of the project. Project documents (including both management and technical or specialist documentation) require a defined purpose, agreed content and structure, and quality criteria to establish they are fit for purpose.
	Controlled	Limited	<ul style="list-style-type: none"> A number of key documents produced by DIMIA relating to the project were still in draft status.¹⁸² In many cases, it is difficult to ascertain how key documents are related. Lack of a clear relationship between project documents reduces understanding of who has to deliver what by when, and accountability.
	Approvals documented	Limited	<ul style="list-style-type: none"> While documents generally noted that they required sign-off, DIMIA was often unable to provide these sign-offs. Documentation has the dual role of guiding the work to be completed on the project and documenting key decisions and management activities. Poor documentation reduces clarity for those managing and working on the project, and limits the ability to inform key stakeholders about project information/progress and provide an audit trail.
Change control	Issues/requests logged centrally	Limited	<ul style="list-style-type: none"> While some changes to the project were logged, there was no comprehensive central issues log covering all issues and change requests, not just those identified through testing. A lack of control over changes can lead to reduced quality and/or time or cost overruns. The lack of a project plan or quality plan makes it difficult for DIMIA to assure itself that this did not happen with MAPP¹.
	Assessed	Limited	<ul style="list-style-type: none"> Issues raised by project members or stakeholders were not systematically logged, analysed and prioritised for action, reducing assurance that decisions were based on a sound analysis of the cost, quality and schedule implications of any change.
	Change authorities defined	X	<ul style="list-style-type: none"> DIMIA did not define change authorities for the project, leading to a lack of clarity on how changes were approved and who approved them.

¹⁸² For example, Draft MAPP Test Strategy v1.3; MAPP Project Draft Development Strategy, 24 June 2003; Draft ETA Management Committee Terms of Reference (undated).

Key element	Criteria	ANAO Assessment	ANAO findings/comments
Closure and review	Formal closure	X	<ul style="list-style-type: none"> DIMIA was unable to provide evidence of formal project closure or an assessment of project performance and lessons learnt. There was no recognition that the project has been completed and that the operational regime must now take over; and no identification of any unachieved goals and objectives to be addressed in the future.
	Post-project review complete	X	<ul style="list-style-type: none"> Although DIMIA has prepared a set of criteria for a post-project review, it has not undertaken a review. There is a lack of assurance on whether MAPPI has achieved the intended business benefits and whether the system has created any unintended adverse effects on stakeholders or on other systems.

Source: ANAO analysis.

Legend:

✓	Limited	X
Substantially complete / compliant.	Partially complete / compliant.	No attempt made or substantially incomplete.

Appendix 5: Airlines’ satisfaction with MAPP1 implementation

1. The ANAO analysed survey results (from the ANAO airline survey) to determine satisfaction with DIMIA’s consultation on the implementation date and strategy for MAPP1 and the level of support provided by DIMIA during implementation. The airline survey also canvassed airlines’ satisfaction with the ongoing support provided by DIMIA once the system went live.

Consultation with airlines on the implementation date

2. As part of its airline survey, the ANAO sought feedback from airlines on their satisfaction with DIMIA’s consultation on the implementation date. A summary of airline responses is shown in Table A5.1.

Table A5.1

Airlines’ satisfaction with DIMIA consultation on implementation date

Ratings	Very satisfied	Satisfied	Neutral	Dissatisfied	Very dissatisfied
Airline responses	0	5	1	3	0
Comments: <ul style="list-style-type: none">Selecting an implementation date during airlines’ annual peak period was perceived by some airlines as being unrealistic and evidence of DIMIA’s lack of understanding of the airline industry.In the planning stages, greater consultation with carriers would have helped determine a more realistic implementation date that recognised the time required to carry out necessary system changes.¹⁸³Some airline comments also indicate that DIMIA was not prepared for the implementation date, resulting in delays to system implementation. For example:<ul style="list-style-type: none">late availability of the test system was cited as a contributing factor to time overruns; andInternet website access problems during the initial stages of implementation.					

Source: ANAO airline survey.

¹⁸³ The same airline also noted that once DIMIA was made aware of implementation issues facing the airline, it provided an extension to the implementation date.

3. Survey findings show that while most airlines were satisfied with the level of consultation on an implementation date, the rationale for the timing of the implementation could have been better explained.

Implementation strategy

4. Through its survey, the ANAO asked airlines about their satisfaction with consultation on the implementation strategy for MAPP1. A summary of airline responses is shown in Table A5.2.

Table A5.2
Airlines’ satisfaction with DIMIA consultation on implementation strategy

Ratings	Very satisfied	Satisfied	Neutral	Dissatisfied	Very dissatisfied
Airline responses	0	5	3	1	0
<p>Comments:</p> <p>As part of the survey, airlines were invited to provide suggestions on how DIMIA could have improved the implementation of MAPP1. A number of airlines made positive comments relating to the implementation strategy. One airline noted that:</p> <p>‘Generally, given the extent of the MAPP (MAPP1) project, implementation was relatively straight forward and without any major problems.’</p> <p>However, a number of issues were raised that indicate room for improvement in implementing future enhancements, including project management and coordination between the key players (DIMIA, CPS, SITA¹⁸⁴ and other stakeholder agencies). Airline comments in this regard included:</p> <p>‘A more formalised project management structure may also have assisted (in the implementation).’</p> <p>‘At no point was there ownership of the end-to-end process by either DIMIA or in particular CPS. CPS in particular were unwilling to take responsibility for their errors.’</p> <p>Another airline noted that changes by CPS Systems to MAPP1 V6.3, regarding the way unscheduled flights are notified, occurred after MAPP1 V6.3 had been released. Specifically, the airline advised the ANAO that:</p> <p>‘Fortunately [airline] had not loaded this part of v6.3, a saving of [approx AUS \$60k] had we had to throw this development away.’</p>					

Source: ANAO airline survey.

5. Survey findings show that most airlines were satisfied with the level of consultation provided by DIMIA on the implementation strategy for MAPP1.

¹⁸⁴ Société Internationale de Télécommunication Aéronautiques (SITA) is the network service provider for APP.

However, some airlines’ comments highlighted that the process could have been better managed by DIMIA and CPS Systems.

User support during implementation

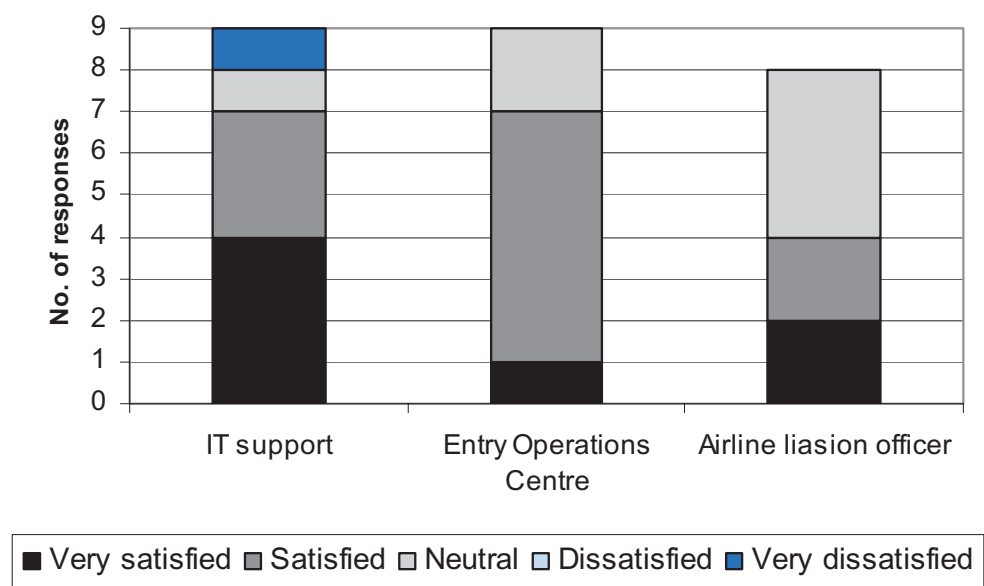
6. DIMIA and CPS Systems jointly provided the following range of support services to airlines during the implementation of MAPP1:

- IT support (provided by CPS Systems to resolve any technical issues arising during implementation);
- the Entry Operations Centre (a call centre staffed by DIMIA personnel that provides advice on APP transactions and authorises government overrides of system directions when appropriate); and
- airline liaison officers (DIMIA personnel stationed at major overseas airports who work with airlines to prevent passengers with improper documents from travelling and to facilitate genuine passengers travelling to Australia).

7. Through its airline survey, the ANAO canvassed airline satisfaction levels relating to the above-mentioned support services provided during implementation. A summary of results is provided in Figure A5.1.

Figure A5.1

Airlines’ satisfaction with support provided during system implementation



Source: ANAO airline survey.

8. Airline comments about their satisfaction with user support provided by DIMIA and CPS Systems during the implementation of MAPP1 are shown in Table A5.3.

Table A5.3

Airlines' comments on support provided during implementation

Comments by airlines:

IT support

The majority of respondents (seven out of nine airlines) indicated that they were very satisfied or satisfied with the IT support provided during the implementation of MAPP1. However, one airline was very dissatisfied and commented that:

...the process appeared to have been led by CPS who claimed to understand carrier systems but in reality left it to carriers and their GDSs to solve system issues and suggest solutions.

Resolution of implementation problems for MAPP1

The timely resolution of any problems experienced during implementation would have been essential to provide airlines with access to a fully functional system. Although two-thirds of respondents indicated they had problems implementing MAPP1, all of these airlines indicated that these problems were now all or mostly resolved.

Regarding the issue of problem resolution, one airline noted that:

DIMIA and CPS responded quickly, meeting and working with [airline] to formulate an acceptable solution.

However, another airline noted that the resolution of issues was more due to their perseverance than DIMIA's responsiveness, commenting that:

While all issues were eventually resolved this was due to our perseverance not the process. We have seen no indication that new problems will not be as protracted to resolve.

Source: ANAO airline survey.

9. Survey findings show that most airlines were either satisfied or very satisfied with the support provided during the implementation of MAPP1.

Ongoing system management

Consultation with airlines on system operation

10. The ANAO sought to establish whether DIMIA had consulted with airlines after the implementation of MAPP1 to identify:

- any adverse operational impacts resulting from the implementation and, where possible, workable solutions; and
- ways of improving the operation of MAPP1.

11. During the audit, DIMIA initiated a working group to examine APP operational issues. The working group met for the first time on 15 November 2004. Based on the minutes of the first meeting, the ANAO

understands that membership of the working group consists of representatives from CPS Systems, DIMIA, the New Zealand Immigration Service, Air New Zealand and Qantas.

12. The ANAO examined whether DIMIA had defined the purpose of the consultation process and the roles and responsibilities of participants in the working group to help manage stakeholder expectations and support transparency and accountability for the performance of the group. The ANAO found that this had not been done but understands that, broadly, the role of the working group includes considering APP operational issues.

13. Through its airline survey, the ANAO identified a number of issues that could be usefully considered by the working group. These issues relate to the impact of MAPP1 on airline check-in processes and are discussed below.

System impact on check-in processes

14. As part of its airline survey, the ANAO asked airlines to compare the average processing time at check-in for international travellers to Australia before and after implementing MAPP1, and to state whether they thought the average time had increased, decreased or remained the same. Seven out of nine airlines indicated that the check-in time had increased (one airline stated it had decreased, one said it had remained the same).

15. Airlines were also asked to explain why check-in times had increased, decreased or remained the same. Reasons provided for increased check-in times included:

- The manual nature of transactions.
- The response time of the system.
- Where passengers do not get an 'OK to Board' message from MAPP1, airlines lose time when following up with DIMIA's Entry Operations Centre.
- The time taken by staff to understand system responses (indicating a possible issue with regard to system design, training and support). In this regard, survey responses highlighted:
 - 'More entries required and reading and understanding responses from system increases time.'
 - 'The complexity of the government override has confused ground staff.'
- Not all airlines are equipped with optical character recognition to machine-read passports, leading to increased processing time.

- The volume of negative responses received from APP. For example, one airline commented that: 'Quite often negative responses are received [from APP], this generates more enquiries to the Entry Operations Centre'.
 - System processing problems. For example, one airline noted that: 'Where the system is functioning correctly and the passport can be machine-read, or for which the passport data is already stored, the check-in time has undoubtedly decreased. Likewise, where the APP transaction times out, or otherwise fails, the transaction time is substantially increased.'
 - Processing of transit or through-check passengers. For example, one airline commented that: 'without any industry standard for APP, all transactions must be undertaken by the delivering carrier. This greatly slows handling on inter-airline thru checked pax [passengers] who must be processed at the gate.'
 - Data integrity problems. For example, one airline commented that: 'Information is not accurately updated in your [DIMIA's] visa application database, which caused problems at airlines check-in counters'.
16. Conversely, one airline noted that 'Clearing up of the Entry Operations Centre database' had led to fewer calls to the Entry Operations Centre.
17. The ANAO also suggests that, based on feedback provided by airlines in its airline survey, the role of the working group could usefully include consultation with airlines on the impacts of future APP system enhancements.

Provision of ongoing system support

18. During the audit, DIMIA advised the ANAO that, in addition to information already provided as part of the implementation phase, it was in the process of developing:
- a comprehensive guide to APP for check-in staff that covers all aspects of Australia's immigration requirements (including document checks and face to passport checks);¹⁸⁵ and
 - a user-friendly pamphlet about APP for airline check-in staff that is designed to reinforce key information required when processing passengers.

¹⁸⁵ DIMIA, *A Guide for Airlines, Processing Passengers and Crew Travelling to Australia by Air*, Draft, November 2004.

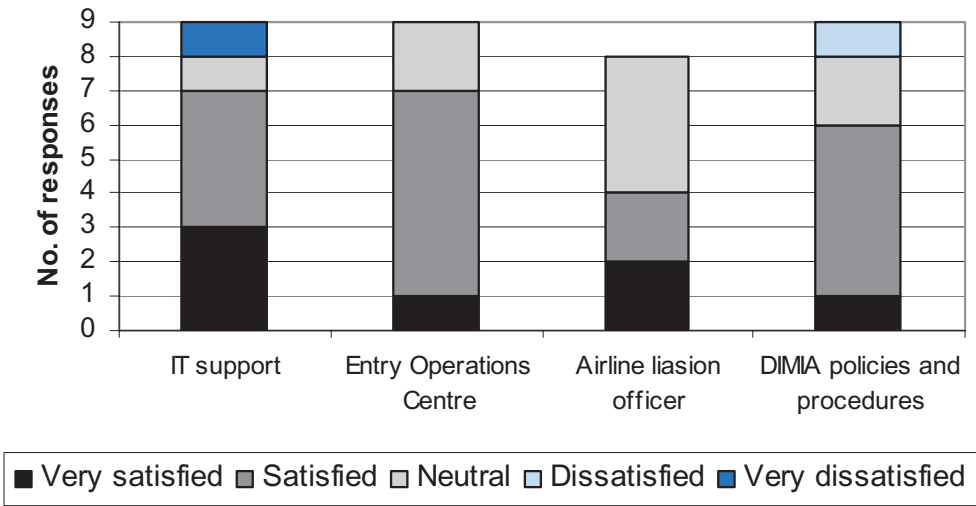
19. Through its airline survey, the ANAO asked airlines a number of questions about their satisfaction with the ongoing support provided for MAPP1, including:

- IT support;
- DIMIA’s Entry Operations Centre;
- DIMIA’s airline liaison officers; and
- DIMIA’s policies and procedures.

20. A summary of airlines’ satisfaction with ongoing support provided for MAPP1 is provided in Figure A5.2.

Figure A5.2

Airlines’ satisfaction with ongoing support provided for MAPP1



Source: ANAO airline survey.

21. Survey findings show that most airlines were either satisfied or very satisfied with the ongoing support provided for MAPP1.

Appendix 6: Department of Immigration and Multicultural Affairs' comments



Australian Government
Department of Immigration and Multicultural Affairs

SECRETARY

OPF2004/4480

20 February 2006

Mr Ian McPhee PSM
Auditor-General
GPO Box 707
Canberra ACT 2601

Dear Mr ^{*Ian*}McPhee

Performance Audit: Advance Passenger Processing (APP)

I refer to Mr John Meert's letter of 20 January 2006 enclosing a proposed performance audit report of the Advance Passenger Processing (APP) system.

Please find enclosed the Department's response to the proposed audit report and our response to each of the proposed recommendations. Also enclosed is an attachment suggesting minor updates and corrections of factual errors.

On possible issues impacting on future tender processes, the Department is effectively in the procurement process and it is not appropriate to publicise its position at this time. However, I would be happy to arrange a briefing for your officers.

I would like to take this opportunity to thank the ANAO for its professionalism in developing the report. I extend my appreciation in particular to Mr Steven Lack, Mr Mark Rogala and Ms Rachael Frost.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Abul Rizvi'.

(Abul Rizvi)
A/g Secretary

people our business

6 Chan Street Belconnen ACT 2617
PO Box 25 BELCONNEN ACT 2616 • Telephone (02) 6264 1111 • Facsimile (02) 6264 4466 • Website: www.immi.gov.au

Department of Immigration and Multicultural and Indigenous Affairs' Response to ANAO Performance Audit of Advance Passenger Processing (APP)

1. The Department welcomes the audit of APP. The findings of the audit will be used to build on the ongoing work to enhance the APP system.
2. The APP system has operated successfully since 1998 and now has about 99 per cent coverage of airline transactions. It operates globally in a real time environment and has proven to be robust application with an availability factor of above 99.7 per cent.
3. APP is a key component of Australia's layered approach to border control. This means that Australia does not rely on any one system but uses a variety of checks and balances to weave the strong fabric of its border control. For example, a visa is a fundamental requirement for access to Australia and persons making applications are checked against an extensive 'watch list'. At international hubs airport liaison officers check passenger documentation. APP provides a further check to ensure the person is properly visaed for entry. Face-to-face checking then takes place at the border which now also includes automated document checking.
4. The development of the APP system was, and remains, leading-edge technology. No other equivalent system has been developed although a number of countries are now using the system designed for Australia. The introduction of such technology required an evolutionary approach to the technology which lacked some of the specificity of other IT development processes.
5. At the same time, there clearly needed to be good governance around such arrangements and a range of measures were set in place in 2004 to ensure tighter contract administration and some of the associated issues which are also identified in the report. A draft Deed of Variation to the contract was passed to CPS in 2005 which should clarify residual contractual issues.
6. This action has been further supported by a wide range of measures announced by the Minister in October 2005 to improve administration within the Department as part of Government's response to the Palmer and Comrie reports. These measures included significant organisational changes, including the introduction of a centre of excellence for contract and procurement processes within the newly established Legal Division.
7. The APP system has benefited all parties. It provides greater border security, it resolves many issues around the 'credentialing' of passengers before they arrive at the border and it has reduced the cost to airlines and shipping companies of arrivals without proper documentation. For example, in 2000–01 fines totalled around \$23m but are estimated to be around \$3m in 2006–07.

8. As recommended by the ANAO, more detailed monitoring of airline compliance is being developed, as is a more specific system performance reporting regime for the service provider. More detailed APP performance measures relating to border security are also currently being developed.

Appendix 7: Australian Customs Service's comments



Australian Government
Australian Customs Service



Customs House
5 Constitution Avenue
Canberra City, ACT, 2601

23 February 2006

Mr John Meert
Group Executive Director
Performance Audit Services
Australian National Audit Office
Centenary House, 19 National Circuit
BARTON ACT 2600

Dear Mr Meert

I refer to your letter of 20 January 2006 to the Chief Executive Officer regarding ANAO's Performance Audit of the Department of Immigration and Multicultural and Indigenous Affairs – Advance Passenger Processing (APP).

Thank you for the opportunity to consider the proposed report

Relevant areas within the Australian Customs Service (Customs) have read and acknowledge the content of the APP audit. The content that refers to Customs procedures and relationship with the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) has been noted. I would also note:

- a solution has been implemented by Customs and DIMIA eliminating the requirement for duplicate reporting by airlines for crew members, and
- for more accurate recording of DIMIA's APP Infringement Reporting System it is proposed that DIMIA will liaise with Customs regarding training on the issue.

It is also noted that the APP audit recommendations and responses are sought from DIMIA only.

If you require any further information please do not hesitate to contact Terry Wall on (02)6279 3466.

Yours sincerely


J H Jeffery
Deputy Chief Executive Officer

protecting our borders

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