The Auditor-General
Audit Report No.23 2010-11
Performance Audit

Home Ownership on Indigenous Land Program

Department of Families, Housing, Community Services and Indigenous Affairs

Indigenous Business Australia

Australian National Audit Office

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Canberra ACT
21 December 2010

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit in the *Department of Families, Housing, Community Services and Indigenous Affairs* and *Indigenous Business Australia* 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, to the Parliament. The report is titled *Home Ownership on Indigenous Land Program.*

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

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Abbreviations

ALRA	*Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)
ANAO	Australian National Audit Office
COAG	Council of Australian Governments
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
GRD	Good Renters Discount
HOIL program	Home Ownership on Indigenous Land program
HOILSEP	Home Ownership on Indigenous Land Structured Education Program
IBA	Indigenous Business Australia
JASC	Joint Agency Steering Committee
JAWG	Joint Agency Working Group
MSS	Matched Savings Scheme

Glossary

HOIL site	A single community or a group of communities within proximity, selected to participate in the HOIL program.
Housing precinct lease	A lease provided under s.19 of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). Housing precinct leases cover specific parcels of land for the provision of social housing.
Indigenous Business Australia	A Commonwealth authority established under the *Aboriginal and Torres Strait Islander Act 2005* (Cth). IBA's aim is to stimulate the economic advancement of Aboriginal and Torres Strait Islander peoples.
Indigenous community titled land	Land granted to, or held by, or on behalf of, Indigenous traditional owners or communities.
Indigenous Land Use Agreement	A legally binding agreement between native title holders and other parties which can be used to agree on access arrangements to land and how native title rights will coexist with the rights of other people.
Indigenous land rights legislation	Legislation which provides for the granting of title over land to Indigenous traditional owners. There are different legislative arrangements in each state and territory covering Indigenous land rights.
National Partnership Agreement on Remote Indigenous Housing	A partnership between the Commonwealth and the states and the Northern Territory for the provision of housing for Indigenous people in remote communities.

Native title	A pre-existing interest in land that is recognised by the *Native Title Act 1993* (Cth). Native title rights and interests differ from Indigenous land rights in that recognition of native title does not result in the handover of the title deed of the land to the traditional owners.
Township lease	A lease provided for under s.19A of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). Township leases are held by the Executive Director of Township Leasing (a statutory officeholder appointed by the Governor-General) and cover the township area of an Indigenous community for a period of between 40 and 99 years.

Summary and Recommendations

Summary

Home ownership and Indigenous disadvantage

1. The Home Ownership on Indigenous Land (HOIL) program, administered jointly by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) and Indigenous Business Australia (IBA), seeks to increase home ownership on Indigenous community titled land. At the time the program was established in 2005, the Australian Government considered that increasing Indigenous home ownership on community titled land would be a starting point for further participation in the economy through wealth creation and business development.

2. According to 2006 Census data, the level of Indigenous home ownership is approximately half that of non-Indigenous home ownership, with 69 per cent of non-Indigenous households being home owners (with or without a mortgage) compared to 34 per cent of Indigenous households. Indigenous home ownership levels in remote and very remote areas are significantly lower than levels of Indigenous home ownership in regional and urban areas. Approximately 36 per cent of Indigenous households in major cities are home owners, compared to 25 per cent of Indigenous households in remote areas and eight per cent of Indigenous households in very remote areas.

3. Efforts to support Indigenous home ownership have been pursued by successive Australian governments since the creation of the Home Ownership Program in 1974. This program, also administered by IBA, supports Indigenous people to access the mainstream housing market. The HOIL program differs from the Home Ownership Program in that the HOIL program is aimed at increasing home ownership on community titled land as opposed to the mainstream housing market. Indigenous community titled land is primarily located in remote and very remote areas of Australia.

4. There are a range of barriers to Indigenous home ownership, and social welfare research indicates that these barriers are more prevalent in remote and very remote areas. These barriers include: high levels of unemployment; intergenerational welfare dependency; low individual and household incomes; high construction costs; limited access to credit and poor credit histories; a lack of family savings or capital; and low awareness about what actions are necessary to secure and maintain a loan. A further barrier to home ownership in remote and very remote areas is the fact that much of the land in these areas

has been provided to Indigenous people through various Indigenous land rights legislation and the *Native Title Act 1993* (Cth), and so is held communally rather than by individuals.

Policy context

5. Improving Indigenous access to housing has been a policy priority of Australian governments since the 1970s. Under various programs, governments have sought to encourage Indigenous home ownership and increase the supply of public housing stock. The Australian Government has supported Indigenous home ownership on freehold land and Crown lease land since it established the Home Ownership Program in 1974. The Home Ownership Program provides low interest loans to Indigenous Australians, and has provided 13 540 loans since its commencement. IBA has been responsible for the management of this program since 2005.

6. Successive Australian governments have funded the provision of public housing on Indigenous community titled land since 1968. In 1979, the Australian Government established the Aboriginal Rental Housing Program as a component of the Commonwealth State Housing Agreement. The Aboriginal Rental Housing Program later operated alongside the Community Housing and Infrastructure Program, which was introduced in 1991–92, and both operated until 2008 when they were replaced by the Australian Remote Indigenous Accommodation program, and ultimately, by the National Partnership Agreement on Remote Indigenous Housing. The Community Housing and Infrastructure Program and Australian Remote Indigenous Accommodation program provided housing which was mostly given over to community-based housing organisations. Under the National Partnership Agreement on Remote Indigenous Housing, 4200 new homes are expected to be constructed and 4876 homes are expected to be repaired or replaced. These homes will be managed by state and territory governments.

7. Underlying this policy focus on Indigenous housing, there has been in recent years a parallel policy focus on reforming land tenure to support Indigenous economic participation. In 2006, the then Minister for Families, Community Services and Indigenous Affairs announced the Australian Government's Blueprint for Action in Indigenous Affairs (the Blueprint). The aim of the Blueprint was to build an economically sustainable future for

Indigenous Australians. This included the progressive introduction of land tenure changes to, as the Minister noted, 'allow for home ownership and the normal economic activity you would expect in other Australian towns'.[1] Land tenure changes were seen as necessary because the underlying land tenure of community titled land did not provide sufficient security for potential lenders. By using long-term transferable leases, individuals would have a form of property with which to secure a loan. The Australian Government amended the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA) and funded the HOIL program in line with the principles of the Blueprint.

8. The amendments made in 2006 to the ALRA were to provide for land tenure security in the form of township leases, the rationale being that such leases would normalise arrangements in communities by providing mainstream style tenure in the form of long-term individually transferable leases. It was also envisaged that township leases would provide the government with greater security of, and control over, government funded housing and infrastructure in Indigenous communities, and would enable people to own their own homes, and develop businesses in what were previously closed communities.

9. More recently, the Council of Australian Governments (COAG) has renewed emphasis on the importance of housing to achieve the targets aimed at Closing the Gap on Indigenous disadvantage. COAG has endorsed seven strategic platforms or 'building blocks' to support reforms aimed at closing the gap, and one of these building blocks is Healthy Homes. A key outcome sought by COAG in the National Indigenous Reform Agreement is that 'Indigenous people have the same housing opportunities as other people'.[2]

10. COAG's National Affordable Housing Agreement has a more specific outcome, which is that 'Indigenous people have the same housing opportunities (in relation to homelessness services, housing rental, housing purchase and access to housing through an efficient and responsive housing market) as other Australians'.[3] In addition, COAG's National Partnership Agreement on Remote Indigenous Housing seeks 'progressive resolution of

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1 The then Minister for Families, Community Services and Indigenous Affairs, the Hon Mal Brough MP, speech to the National Institute of Governance, *Blueprint for Action in Indigenous Affairs*, 5 December 2006.

2 National Indigenous Reform Agreement, p.C-73.

3 National Affordable Housing Agreement, p.4.

land tenure on remote community-titled land in order to secure government and commercial investment, economic development opportunities and home ownership possibilities in economically sustainable communities'.[4] Taken together, these various COAG commitments indicate a policy focus on Indigenous housing that has continued to build since the HOIL program commenced in 2005.

The HOIL program

11. The HOIL program is the only Australian Government program that provides support for Indigenous people to achieve home ownership on Indigenous community titled land. The program operates alongside a number of programs aimed at providing social housing to Indigenous people in urban, regional and remote communities, and there are also mainstream and Indigenous specific programs which provide support for Indigenous people to achieve home ownership on freehold land and Crown lease land.

12. The HOIL program was established to complement and give substance to amendments to land tenure arrangements proposed by the Australian Government to take effect from 2006. Amendments to the ALRA provided for whole-of-township leases over Indigenous communities in the Northern Territory for a maximum of 99 years. These leases are held by the Executive Director of Township Leasing, from whom individuals can obtain a sublease. IBA and FaHCSIA intended that other states, particularly Queensland, Western Australia and New South Wales, would also participate in the program under relevant land tenure legislation existing in those states. These states were encouraged to make amendments to their relevant legislation to more readily provide for home ownership.

13. The HOIL program was first allocated funding in October 2005 to provide subsidised loan and grant packages secured by a mortgage over a long-term lease on community titled land. In 2006–07 the HOIL program was allocated a budget of $107.4 million over four years. Of the $107.4 million budget, $15.6 million was allocated for the administrative costs of FaHCSIA and IBA. FaHCSIA is the lead agency for the HOIL program. The program is made up of three main components: low interest loans and home purchase

[4] National Partnership Agreement on Remote Indigenous Housing, p.5.

incentives, money management education for prospective home owners, and construction of additional houses specifically for purchase.

14. To implement the HOIL program, IBA was funded $78.2 million to deliver:

- 460 home loans at commencing interest rates that, depending on the borrower's income, ranged from interest free to a maximum rate currently equal to the Reserve Bank of Australia's cash rate plus one per cent;
- establishment cost grants of up to $13 000 for the purpose of meeting up-front loan establishment and support costs; and
- loan co-payments of up to $25 000, designed to improve loan affordability for eligible borrowers.

15. Complementing IBA's role, FaHCSIA was funded $29.2 million to provide:

- Good Renters Discount (GRD) grants for 20 per cent of the value of homes purchased up to a maximum of $50 000;
- Matched Savings Scheme (MSS) grants (worth $1000), intended to aid borrowers in saving the $2000 minimum deposit needed to secure a HOIL loan;
- 45 additional houses, to be constructed specifically for sale to Indigenous people; and
- money management education, to enable potential borrowers to be fully aware of the benefits, risks and obligations of home ownership and to build financial skills.

16. Eight sites (usually a single community or a group of communities) were to be selected to participate in the program. Each community and relevant state/territory governments were to enter into an agreement for the program to be established. Following the signing of such agreements, houses were to be constructed and money management education delivered. After completing money management education, saving a deposit and being approved for a home loan, borrowers would be able to purchase a house (under a lease or sublease arrangement) with a low interest loan and various other home ownership incentives.

Audit objective and scope

17. The objective of the audit was to assess the administrative effectiveness of FaHCSIA's and IBA's management of the HOIL program. In particular, the audit examined the administrative design of the program, its implementation and progress in achieving the expected results.

Overall conclusion

18. Increasing the level of home ownership on Indigenous land has proven to be a significant challenge for Indigenous Business Australia (IBA) and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). The two agencies have been faced with a range of barriers affecting their ability to provide loans and home ownership incentives to Indigenous people on community titled land. These barriers have restricted the number of potential clients, with consequential effects on the number of loans, other financial incentives and training packages delivered to Indigenous people. This is reflected in the actual performance of the program.

19. The initial four-year funding period for the Home Ownership on Indigenous Land (HOIL) program concluded on 30 June 2010. Against a target of providing 460 loans across eight communities, IBA has been able to provide only 15 loans. All of the 15 loans provided were for homes on the Tiwi Islands in the Northern Territory, with 14 provided in the community of Nguiu.

20. FaHCSIA met its target of constructing, under the HOIL program, 45 new houses for sale. Of these houses, 25 were located at the HOIL site of Nguiu with the remaining 20 located at the non-HOIL sites of Wudapuli and Nama, which are small outstations located near the Indigenous community of Wadeye in the Northern Territory. The 45 homes have not been sold to Indigenous people, and were transferred to the Northern Territory Government as social housing stock, following Ministerial endorsement. Further, plans to use Community Development Employment Projects participants to provide training and employment opportunities were not implemented in the construction of these houses due to priority being given to constructing the houses in a timely manner.

21. The implementation of activities under the HOIL program has been slow, due largely to delays in planned amendments to land rights legislation to provide suitable leasing options, delays by authorities in establishing land leasing processes following legislative changes, the hesitancy of communities to use new leasing options and the existence of native title over much

Indigenous land. Further constraints on the program's effectiveness include the high cost of building and lack of employment opportunities in remote areas, as well as long-standing tenancy arrangements in Indigenous communities that potentially act as a disincentive to home ownership. While these constraints are largely external to the program, FaHCSIA and IBA have tried to overcome some of these constraints and developed alternative approaches in an effort to make further progress.

22. Start-up and ongoing program activity has incurred a high level of expenditure over the four-year funding period in order to deliver on the program's primary objective of providing home loans. Resources were required to develop policy guidelines, establish loan systems, develop and deliver money management education material, and undertake community consultations, before loans could be provided. This expenditure took place against a background of uncertainty surrounding the actual demand for HOIL loans. While it is necessary that costs will be incurred for the establishment of a program of this nature, the administrative costs of $9.9 million for the HOIL program were very high compared to the low level of loan activity that ultimately resulted. As at 30 June 2010, other expenditure on the HOIL program was approximately $32.8 million, which consisted of approximately $2.7 million for the provision of 15 loans; $25.5 million for construction; $1.1 million in home ownership incentives; and $3.5 million for the provision of money management education.

Key findings by chapter

Program planning (Chapter 2)

23. The HOIL program is supported by a comprehensive Implementation Plan and an accompanying suite of policy guidelines and procedural instructions. Together with the establishment of a joint agency steering committee and working group, FaHCSIA and IBA placed the program in a sound position to give effect to proposed land tenure reforms in the Northern Territory and other states.

24. In hindsight, the program's performance targets have been overly ambitious. IBA and FaHCSIA were faced with the difficulty of establishing strategies to meet a target of 460 loans where there had been little opportunity to assess actual demand in the selected communities. FaHCSIA and IBA were unaware how many people living at selected HOIL sites were willing and able

to purchase their own home, and legislative reforms had not yet been delivered.

25. The program's Implementation Plan sets out a range of success criteria for the program. However, these have not been followed up with the planned development of a monitoring strategy, evaluation strategy and quality assurance strategy. Given the program's low level of output to date and the oversight of a range of interdepartmental governance arrangements, the absence of these arrangements has not resulted in any significant consequences. Looking forward, the development of such strategies would support objective assessments of the program's performance, barriers to success and better practice, which will benefit future program reforms.

Program implementation (Chapter 3)

26. The HOIL program's implementation was predicated on successful reforms to land tenure arrangements in the Northern Territory and other states; on state and territory governments implementing effective administrative arrangements to give effect to these reforms; and on communities taking advantage of new leasing arrangements. The planned reforms have taken longer than expected to be realised, with corresponding delays in the development of administrative arrangements and reluctance by some communities in the Northern Territory to commit to township leasing arrangements. This has greatly limited the number of communities in which the HOIL program could be applied, and accordingly also limited the number of potential clients for HOIL loans and other financial and training incentives.

27. FaHCSIA and IBA have endeavoured to counter these barriers by securing Ministerial approval to try new implementation approaches, including seeking opportunities in Indigenous communities under a broader range of land tenure arrangements and at sites beyond those selected at the commencement of the program. As it became clear that legislative delays and other implementation issues would result in a significant underspend of the program budget, IBA sought the temporary reallocation of these funds to IBA's Home Ownership Program, obtaining Ministerial approval for this solution to be implemented through the 2010–11 Budget. As a result, IBA intends to relieve pressure on the Home Ownership Program's waiting list, and so continue to contribute to Indigenous home ownership objectives. The 2010–11 Indigenous Budget Statement indicated that the transferred funds will be made available to the HOIL program once demand accelerates.

28. While the HOIL program was limited by external constraints, a departure from some planned activities has affected the delivery of program outcomes. For example, the possible need for Indigenous Land Use Agreements to address native title issues was recognised during the program's initial planning, but was not acted upon until late in the program. Approximately half of the houses constructed by FaHCSIA were built outside designated HOIL sites, and all 45 houses constructed are currently held by the Northern Territory Government for social housing purposes and have yet to be sold to Indigenous people as was intended. Further, Community Development Employment Projects participant labour was not used in the construction of these homes as planned, leaving the program's employment and training objective largely unmet.

Program performance (Chapter 4)

29. The HOIL program was to achieve a number of immediate and long-term targets as set out in its Implementation Plan, and IBA's Portfolio Budget Statements and Portfolio Additional Estimates Statements. Only a limited number of these targets have been achieved and the number of loans issued falls well short of the target of 460.

30. The process of implementing various precursor activities under the program and the attempts made by FaHCSIA and IBA to develop alternative strategies to implement the program has resulted in the need for ongoing commitment of resources to administer the program. The actual progress made by the program has come at an overall cost of approximately $42.7 million (including loan capital) as at 30 June 2010. Most of this cost is related to the construction of homes for sale, money management education and the administrative costs of FaHCSIA and IBA.

31. The program faced a number of barriers during implementation, which IBA and FaHCSIA are seeking to address. IBA and FaHCSIA accurately identified these main barriers as risks to the program's progress early and developed mitigation strategies, some of which were pursued in a timely manner while others were not pursued or were overtaken by changes in policy. Overall, however, the actual performance of the program indicates that the mitigation strategies developed were not able to overcome the identified barriers as key risks were outside of the program's control.

32. HOIL will be an ongoing program from 2010–11. It is important that the program's future efforts are supported by a realistic assessment of the extent to

which it can contribute to the Council of Australian Governments' (COAG) Indigenous home ownership objectives. Given the program's performance to date, and the significance and number of the ongoing barriers to its success, the ANAO has recommended that both agencies review the HOIL program's strategic direction to establish how the program might be better aligned with, and contribute to, the COAG objectives for improving rates of Indigenous home ownership as well as for improving the efficiency of program delivery.

Summary of agency responses

Department of Families, Housing, Community Services and Indigenous Affairs

33. FaHCSIA agrees with the recommendation in the Section 19 report for *Home Ownership on Indigenous Land* and will work with Indigenous Business Australia to clarify the program's strategic direction. When the HOIL program was first announced individual home ownership for Indigenous Australians was a new and untested concept in Indigenous communities. To facilitate home ownership fundamental major reform in regard to land tenure was required. Significant work was needed to promote a new paradigm in Indigenous communities including attitudinal change to home ownership. FaHCSIA does not agree with the attribution of administrative costs as outlined in this report. Activities relating to broader community education, program planning or construction of new homes potentially available for home ownership in an area of such significant reform should not be directly attributed to a cost per loan.[5] The foundations have now been laid to support home ownership, and it is expected that costs will reduce over time as ongoing land tenure changes see home ownership possibilities available to more communities.

34. In May 2010, the Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs released an Issues Paper on Indigenous home ownership. Public submissions are currently being received which canvass approaches aimed at increasing home ownership amongst Indigenous Australians. The submissions will inform a way forward

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[5] ANAO comment: as explained in paragraph 4.14 and summarised in paragraph 22, administrative costs excluding money management education, incentive payments and construction costs, averaged $660 000 per loan. The average HOIL loan written was approximately $178 000.

to increasing Indigenous home ownership in Australia, which is a key priority in the Australian Government's Indigenous Economic Development Strategy.

Indigenous Business Australia

35. IBA believes that the audit presents a balanced view of the performance of the HOIL program and fully explains the context and significant challenges that have been faced in implementation.

36. The audit report acknowledges that the major impediment to implementation was the lower than anticipated pace of land tenure reform, and the subsequent complexity and lengthy time-frame of establishing workable land administration processes – largely a responsibility of state and territory governments. Although directly outside the scope of the HOIL program, as the audit report acknowledges, these fundamental prerequisite environmental factors have been slow to evolve and indeed remain significant challenges today, although progress is being made in some jurisdictions.

37. The audit report acknowledges that IBA had adequate program management and sound processes. The audit report also acknowledges the significant work that IBA has invested in trying to make the program work in several jurisdictions, particularly in the area of community education on home ownership and consultation with communities.

38. Although demand recorded for the HOIL program has been low, the audit report documents the IBA recommended and very well received Commonwealth Government's decision to temporarily utilise the unspent HOIL loan capital on IBA's Home Ownership Program, targeted to Indigenous families who cannot afford a mainstream bank loan in cities and towns. This initiative preserves the capital for the HOIL program until demand increases, while still utilising the funds for the benefit of Indigenous home ownership in the meantime, albeit not on Indigenous land in the short term. These funds will still be available for future use of the HOIL program and so those with an interest in home ownership on Indigenous land in the future will be able to do so.

39. IBA will continue and strengthen its work with FaHCSIA on new strategies to deliver the HOIL program. Sixteen loans[6] have been written in the last two years, and this demonstrates that where conditions are right,

6 ANAO comment: one additional loan has been written since 30 June 2010.

Indigenous people living in communities do want home ownership as a choice. With further work by governments at all levels, IBA believe that demand for the HOIL program will grow as land tenure and administration practices are developed and evolve over the coming years. Further, that the establishment costs of this program, which at the moment are high on a per loan basis, will reap benefit as further loan possibilities materialise.

Recommendations

Recommendation No.1

Paragraph 4.27

To establish how the HOIL program might be better aligned with, and contribute to, the Council of Australian Governments' objectives for improving rates of Indigenous home ownership, the ANAO recommends that IBA and FaHCSIA clarify the HOIL program's strategic direction and develop alternative strategies to overcome barriers to progress and enhance the efficiency of program delivery.

FaHCSIA's response: Agreed

IBA's response: Agreed

Audit Findings

1. Introduction

This chapter provides a general outline of the HOIL program, the context in which it operates and details of the audit.

Overview of the HOIL program

1.1 The Home Ownership on Indigenous Land (HOIL) program seeks to increase home ownership on Indigenous community titled land. It has three main components: low interest loans and incentives, money management education for prospective home owners, and construction of additional houses specifically for purchase. HOIL loans are intended for use by Indigenous people securing home ownership via long-term individual transferable leases on community titled land held under various Indigenous land tenure legislation.

1.2 The long-term policy objective of the HOIL program is to assist and enhance the economic self-sufficiency and self-management of Indigenous people living on Indigenous community titled land. This is based on the expectation that home ownership provides a stable home base, enables wealth creation and intergenerational wealth transfer through the passing of the family home to future generations.

1.3 The HOIL program commenced in October 2005 with a budget of approximately $7.2 million, which was drawn from Indigenous Business Australia (IBA) contributing $1.7 million, the Aboriginals Benefit Account[7] $2.5 million and the Indigenous Land Corporation[8] $3.0 million. The program was established to complement proposed amendments to the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA) which would provide for whole-of-township leases for a maximum of 99 years over Indigenous communities in the Northern Territory. Other states were encouraged to amend their relevant legislation to provide the long-term individual transferrable leases required to access the HOIL program.

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7 The Aboriginals Benefit Account is an account established under the ALRA to receive and distribute royalty equivalent monies generated from mining on Aboriginal land in the Northern Territory.

8 The Indigenous Land Corporation is a statutory authority established under the *Aboriginal and Torres Strait Islander Act 2005* (Cth) to provide economic, environmental, social and cultural benefits for Aboriginal people and Torres Strait Islanders by assisting with the acquisition and management of land.

1.4 Indigenous home ownership was promoted by the Australian Government as a starting point for Indigenous participation in the economy through wealth creation and business development. The HOIL Implementation Plan identified that the main barrier to home ownership on community titled land was that the underlying land tenure did not provide sufficient security for potential lenders. The Government considered that reforming land tenure would provide sufficient security, encouraging home ownership and business development on Indigenous land.

1.5 Township lease amendments to the ALRA were passed in October 2006, with further amendments passed in June 2007, enabling the commencement of the program in the Northern Territory. It was also intended that other states, particularly Queensland, Western Australia and New South Wales, would also participate in the HOIL program. The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) considered that the existing legislative framework in New South Wales would enable long-term leasing, while Western Australia's legislation could be used under limited circumstances and subject to agreement with the Western Australian Government regarding supporting processes. The Queensland Government passed amendments to its land rights legislation, the *Aboriginal Land Act 1991* (Qld) and *Torres Strait Land Act 1991* (Qld), to allow long-term leasing in May 2008.

1.6 In 2006–07 the HOIL program was allocated a budget of $107.4 million over four years. The funding was intended to provide 460 low interest home loans and incentives, build 45 homes specifically earmarked for home ownership and provide money management education to prospective home owners, all in eight selected communities. The remaining 415 loans were to be provided to individuals who purchased existing social housing in Indigenous communities. It was expected that the proceeds from such sales would be reinvested into further social housing, thus increasing housing stock in communities.

1.7 FaHCSIA was allocated $29.2 million (inclusive of administrative costs) to provide a Good Renters Discount (GRD) grant for up to 20 per cent of the value of homes purchased, a money management education program and an associated Matched Savings Scheme (MSS) grant of $1000 per borrower, and to build the 45 homes specifically earmarked for home ownership. IBA was allocated $78.2 million (inclusive of administrative costs) to provide 460 low interest home loans, loan co-payments of up to $25 000 for eligible borrowers, and an establishment cost grant of up to $13 000 per applicant.

1.8 The initial four-year funding period for the HOIL program concluded on 30 June 2010. As at 30 June 2010 IBA had provided 15 of a planned 460 HOIL loans and FaHCSIA had constructed 45 homes. All of the 15 loans provided were for homes on the Tiwi Islands in the Northern Territory, with 14 provided in the community of Nguiu. Of the 45 homes constructed, 25 were located at Nguiu with the remaining 20 located at Wudapuli and Nama, small outstations[9] located near the Indigenous community of Wadeye in the Northern Territory.

1.9 The Australian Government has converted the HOIL program's funding to ongoing from 2010–11. IBA will receive $26.9 million in 2010–11 while FaHCSIA's HOIL funding is included in its 2010–11 Remote Indigenous Housing budget of $110.5 million. IBA had $56 million in unutilised capital remaining from the 2006 Budget measure which, under a proposal from IBA, has been temporarily transferred to IBA's over subscribed Home Ownership Program until demand for HOIL loans increases.

Program components

1.10 The HOIL program comprises three main components: home construction, money management education, and low interest loans and home purchase incentives. Eight sites (usually a single community or a group of communities) were to be selected to participate in the program. Communities and relevant state/territory governments were to enter into an agreement for the program to be established in the selected communities. Following the signing of such agreements, houses were to be constructed and money management education delivered. After completing training, saving a deposit and being approved for a home loan, borrowers could purchase a house (under a lease or sublease arrangement) with a low interest loan and various other home ownership incentives.

1.11 Under the HOIL program, 45 homes were to be constructed specifically for sale to Indigenous people. Money management education was provided to enable individuals to build financial skills in Indigenous communities and to assist community members to be fully informed of the benefits, risks and obligations of home ownership. Loans would then be provided at commencing interest rates that, depending on the borrower's income, ranged from interest

[9] Outstations (also known as homelands) are small Indigenous settlements commonly comprised of family groups.

free to a maximum rate currently equal to the Reserve Bank of Australia's cash rate plus one per cent.

1.12 There are four types of home ownership incentives for which borrowers may also be eligible:

- the Good Renters Discount (GRD) is provided to borrowers with proven good rental histories, providing such borrowers with a grant of 20 per cent of the value of the property being purchased up to a maximum of $50 000;
- the Matched Savings Scheme (MSS) grant (worth $1000) is aimed at assisting borrowers to save the $2000 minimum deposit needed to secure a HOIL loan. The MSS grant is only available to people who complete the HOIL money management education program;
- the establishment grant is provided to meet up-front loan establishment and support costs. Under this incentive borrowers are eligible for up to $13 000 for costs such as legal advice, stamp duties on mortgage registration, financial advice and home insurance for the first year; and
- loan co-payments are available for eligible borrowers to improve loan affordability by, in effect, contributing to paying off the loan. The maximum co-payment amount available is $25 000, provided in equal six-monthly instalments over 10 years.

Policy context

1.13 The level of Indigenous home ownership is approximately half of non-Indigenous home ownership. According to 2006 Census data, 69 per cent of non-Indigenous households were home owners (with or without a mortgage) compared to 34 per cent of Indigenous households. Indigenous home ownership levels in remote and very remote areas are significantly lower than levels of Indigenous home ownership in more populated areas. Approximately 36 per cent of Indigenous people living in major cities were home owners, compared to 25 per cent of Indigenous people living in remote areas and eight per cent of Indigenous people living in very remote areas.

1.14 The Australian Government has supported Indigenous home ownership on freehold land and Crown lease land (such as the Australian Capital Territory) since it established the Home Ownership Program in 1974. The Home Ownership Program provides low interest loans to Indigenous people on freehold land and Crown lease land. The Home Ownership Program was established under the Aboriginal Loans Commission and was managed by a number of subsequent agencies until IBA came to manage the program in 2005.[10] Since its commencement, the Home Ownership Program has provided 13 540 loans and currently has 3370 active loans. IBA also provides business development and assistance to Indigenous Australians (primarily through affordable business loans and other support), and operates an equity and investment program to accumulate an asset base for the benefit of Indigenous Australians.

1.15 Successive Australian governments have funded the provision of public housing on Indigenous community titled land since the 1968. In 1979, the Australian Government established the Aboriginal Rental Housing Program as a component of the Commonwealth State Housing Agreement. The Aboriginal Rental Housing Program later operated alongside the Community Housing and Infrastructure Program, which was introduced in 1991-92, and both operated until 2008 when they were replaced by the Australian Remote Indigenous Accommodation program, and ultimately, by the National Partnership Agreement on Remote Indigenous Housing. The Community Housing and Infrastructure Program and Australian Remote Indigenous Accommodation program provided housing, which was mostly given over to community based housing organisations, as communities on community titled land lacked public housing, had little or no private housing and had limited opportunity for home ownership. Once these homes were constructed, the Australian Government had little control over their use and maintenance due to their location on community titled land, which was not subject to lease arrangements.

1.16 Outside of the HOIL program there is a limited history of governments seeking to promote home ownership on Indigenous land. Two initiatives that did seek to promote home ownership on Indigenous land were the Katter lease

[10] The Home Ownership Program was established under the Aboriginal Loans Commission before it was transferred to the Aboriginal Development Commission in 1980, then to the Aboriginal and Torres Strait Islander Commission in 1990, and then to IBA after the Aboriginal and Torres Strait Islander Commission was abolished in 2005.

arrangements implemented in Queensland in the 1980s and the Australian Government's lease to purchase scheme.[11]

1.17 In 2006 the then Minister for Families, Community Services and Indigenous Affairs announced the Australian Government's Blueprint for Action in Indigenous Affairs (the Blueprint). The aim of the Blueprint was to build an economically sustainable future for Indigenous Australians. The Blueprint outlined three priority areas:

- early childhood intervention;
- safer communities; and
- building wealth, employment and an entrepreneurial culture.

1.18 Government action in these areas was linked to geographic location. The then Minister stated that in many remote Indigenous communities there is no real economy and that the collective ownership systems in place had meant that those communities do not operate in the same way as other towns. To remedy this the Blueprint identified the progressive introduction of land tenure changes to, as the Minister stated, 'allow for home ownership and the normal economic activity you would expect in other Australian towns'.[12] The amendments to the ALRA and the funding of the HOIL program were identified as actions that were part of the principles of the Blueprint. The Australian Government led these changes with amendments to the ALRA as it is Commonwealth legislation. While other states had provisions in their relevant Indigenous land legislation, the Australian Government encouraged them to amend their relevant legislation to more readily provide for home ownership.

1.19 There are a range of barriers to Indigenous home ownership, and social welfare research indicates that these barriers are more prevalent in remote and

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11 Under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* (Qld) Indigenous people could obtain perpetual leases, colloquially known as Katter leases, over parcels of Indigenous land. Approximately 400 Katter leases were issued with applications for leases closing in 1991. In May 2007 the Australian Government initiated the lease to purchase scheme to provide home ownership opportunities in the communities of Wudapuli and Nama in the Northern Territory. Four houses were built with the intention that after two years of paying rent the occupants could access discount loans to purchase the property. The Government later decided not to proceed with the scheme and the houses were used as social housing.

12 The then Minister for Families, Community Services and Indigenous Affairs, the Hon Mal Brough MP, speech to the National Institute of Governance, *Blueprint for Action in Indigenous Affairs*, 5 December 2006.

very remote areas. These barriers include: high levels of unemployment; intergenerational welfare dependency; low individual and household incomes; high construction costs; limited access to credit and poor credit histories; a lack of family savings or capital and low awareness about what actions are necessary to secure and maintain a loan. A further barrier to home ownership in remote and very remote areas is the fact that much of the land in these areas has been provided to Indigenous people through various Indigenous land rights legislation and the *Native Title Act 1993* (Cth) (Native Title Act), and so is held communally rather than by individuals. The underlying land title of most Indigenous community titled land is considered by the Australian Government to not provide sufficient security for potential lenders.

1.20 Home ownership is seen by the Australian Government as providing many social and economic benefits. Economic benefits include the creation of wealth that generally comes with capital appreciation and which can then be used to leverage other investments (such as business investment), spending, or for passing on to the next generation (known as intergenerational wealth transfer). Social benefits come from home ownership providing a secure home base, with links to improved health, educational outcomes and safer and more stable neighbourhoods. Research conducted by the Australian Housing and Urban Research Institute as part of the paper *Indigenous home-ownership on communal title lands*[13] found that current and former studies confirm that the primary motivation of Indigenous home owners is intergenerational asset building.

1.21 The previous Australian Government made amendments to the ALRA to provide for land tenure security in the form of township leases, the rationale being that such leases would normalise arrangements in communities by providing mainstream style tenure in the form of long-term individually transferable leases. It was also envisaged that township leases would provide the government with greater security of, and control over, government funded housing and infrastructure in Indigenous communities, and would enable people to own their own homes, and develop businesses in what were previously closed communities.

[13] Memmott, P et al. 2009, *Indigenous home-ownership on communal title lands*, AHURI Final Report No. 139. Melbourne: Australian Housing and Urban Research Institute, Queensland Research Centre.

Role of home ownership in Closing the Gap

1.22 Following the change of government in 2007, the HOIL program was maintained but broader changes were made to the delivery of social housing in Indigenous communities. After the National Apology to Australia's Indigenous Peoples on 13 February 2008, the Australian Government announced its policy of Closing the Gap on Indigenous disadvantage (Closing the Gap). The Council of Australian Governments' (COAG) National Indigenous Reform Agreement provides the overarching implementation framework for Closing the Gap, outlining seven strategic platforms or 'building blocks' to support reforms. The building blocks are early childhood, schooling, health, economic participation, healthy homes, safe communities, and governance and leadership. Assisting home ownership is identified in the National Indigenous Reform Agreement as one of the outputs contributing towards healthy homes, alongside increasing the provision of public housing stock.

1.23 Funding for social housing was provided through COAG via the newly created National Affordable Housing Agreement and the National Partnership Agreement on Remote Indigenous Housing. The National Affordable Housing Agreement provides funding for the provision of social housing in urban and regional areas, including for Indigenous Australians, and the National Partnership Agreement on Remote Indigenous Housing provides funding for social housing in remote and very remote Indigenous communities.

1.24 While both of these key housing agreements primarily focus on social housing, they also identify a contributory role for home ownership. The National Affordable Housing Agreement has an objective that 'Indigenous people have the same housing opportunities (in relation to homelessness services, housing rental, housing purchase and access to housing through an efficient and responsive housing market) as other Australians'.[14] It also establishes a series of performance indicators, one of which is the proportion of Indigenous households owning or purchasing a home. The National Partnership Agreement on Remote Indigenous Housing has an output of the 'progressive resolution of land tenure on remote community-titled land in order to secure government and commercial investment, economic

[14] National Affordable Housing Agreement, p.4.

development opportunities and home ownership possibilities in economically sustainable communities'.[15]

Indigenous land

1.25 The Overcoming Indigenous Disadvantage report[16] compiled by the Productivity Commission states that ownership and control of land can provide a range of benefits to Indigenous people. Land ownership may lead to greater autonomy and economic independence, increased commercial leverage and political influence. It can also deliver commercial benefits like increased income, employment and profits. For this reason, the Overcoming Indigenous Disadvantage report includes measures of Indigenous owned or controlled land as an indicator of economic participation. This measure includes land acquired through state-based land rights legislation, controlled via the Native Title Act or purchased by the Indigenous Land Corporation, but it does not include freehold land purchased by Indigenous individuals.

1.26 Indigenous owned or controlled land comprises 17.3 per cent of Australia's total land mass. Of this land, 99.4 per cent is located in remote and very remote areas. A large proportion of this land is community titled land. Community titled land is defined by FaHCSIA as:

> …land granted to, or held by or on behalf of Indigenous traditional owners or communities. While communally titled land can be leased, the underlying title typically cannot be sold, mortgaged or subdivided to be held by individuals.[17]

1.27 Community titled land has varying forms of tenure such as leasehold, freehold and inalienable freehold. Inalienable freehold is the most common form of tenure, with approximately 61 per cent of community titled land being inalienable freehold. Inalienable freehold is a form of title having all the attributes of freehold except that it may not be sold or given away by its owners. When securing a home loan, borrowers usually use the title to the land as collateral, however, as the title to inalienable land cannot be traded, home loans on Indigenous community titled land are instead secured through long-term individual transferable leases.

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15 National Partnership Agreement on Remote Indigenous Housing, p.5.

16 Steering Committee for the Review of Government Service Provision 2009, *Overcoming Indigenous Disadvantage: Key Indicators 2009*, Productivity Commission, Canberra.

17 Advice from FaHCSIA, 21 May 2010.

1.28 Each state and territory, with the exception of Western Australia and the Australian Capital Territory, has its own Indigenous land rights legislation that provides for the granting of title over land to Indigenous traditional owners. Western Australia has legislation that sets aside land for Indigenous people but it does not grant title over the land to the traditional owners. Instead, the Western Australian Government retains the title.

Native Title

1.29 In addition to land rights legislation, control of land can also be provided to Indigenous people through a positive determination of native title, or through transfer of freehold land under a settlement agreement (including an Indigenous Land Use Agreement) to resolve a native title claim.

1.30 Native title, first recognised in Australia by the High Court in the 1992 Mabo decision, is the recognition by Australian law that groups of Indigenous people have rights to and interests in parcels of land and sea that come from their traditional laws and customs. In the Mabo case the High Court found that the common law of Australia recognised that the Meriam people of the Torres Strait held native title to part of their lands. A year later, the Australian Government passed the Native Title Act, which set up processes through which native title can be recognised, providing protection for native title rights and interests.

1.31 The source of native title rights and interests held by Indigenous groups are their traditional laws and customs, and therefore those rights and interests may differ from community to community. Rights to and interests in land may include the entitlement to:

- live on the lands;
- access the lands for traditional functions, such as camping or to perform ceremonies;
- visit and protect important sites;
- hunt, fish and gather food or traditional resources such as water, wood and ochre; and
- teach law and custom.

1.32 Native title rights and interests differ from Indigenous land rights in that recognition of native title does not result in the handover of the title deed of the land to the traditional owners. Native title is not a grant or right created by governments. Rather, native title is a pre-existing interest that is recognised by Australia's common law and, since 1 January 1994, the Native Title Act. As at 31 December 2009, registered determinations of native title covered 12.1 per cent of the total land mass of Australia. Native title can exist concurrently with other non-exclusive rights of other people in the same area, for example, pastoral and mining leases or home ownership.

1.33 The concurrent existence of native title over land held under other Indigenous land legislation is a common occurrence in Western Australian and Queensland Indigenous communities. Where native title exists over such land, native title holders must agree to any acts taking place (such as issuing leases) which affect native title. Such acts are referred to as future acts. An act will affect native title if it extinguishes native title or creates interests that are inconsistent with the continued existence, enjoyment or exercise of native title. Agreement in these situations is provided through an Indigenous Land Use Agreement.[18]

1.34 Both native title rights and Indigenous land rights generally result in land being held communally, often in inalienable form. This can make effective private use by individuals (for example, home ownership) difficult to achieve.

About the audit

Audit objective and criteria

1.35 The objective of the audit was to assess the administrative effectiveness of FaHCSIA's and IBA's management of the HOIL program. In particular, the audit examined the administrative design of the program, its implementation and progress in achieving the expected results.

1.36 The audit involved:

- examination of relevant documents and files related to the HOIL program;
- discussions with officials from FaHCSIA, IBA, the Attorney-General's Department and other relevant authorities such as the Office of

[18] An Indigenous Land Use Agreement is a legally binding agreement between native title holders and other parties which can be used to agree to the doing of a future act (such as issuing a lease), to agree to access arrangements to land, and to outline how native title rights will coexist with the rights of other people.

Township Leasing responsible for leasing community titled land in the Northern Territory;

- discussions with relevant state and territory government agencies involved with the land leasing requirements of the HOIL program; and
- discussions with other organisations involved with home ownership on Indigenous land.

1.37 The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of approximately $330 600.

2. Program Planning

This chapter outlines the administrative design of the HOIL program and examines arrangements that were established for the program's management.

Introduction

2.1 The audit assessed the administrative design of the HOIL program by examining FaHCSIA's and IBA's governance, planning and monitoring arrangements. Governance was examined to assess the level of collaboration between the key agencies involved with the program as well as the delineation of responsibilities for implementation. Planning arrangements were examined to assess the achievability of planned timeframes and deliverables, and the adequacy of risk management planning. Lastly, the audit examined the monitoring arrangements developed during the planning phase to assess program performance.

2.2 The detailed planning for the delivery of the HOIL program is outlined in the Implementation Plan jointly developed by FaHCSIA and IBA. The Implementation Plan addresses the governance of the program, implementation arrangements and monitoring and evaluation arrangements. Policy guidelines and procedural instructions were also developed to aid the implementation of the program.

Governance

2.3 The HOIL program is a joint program delivered by FaHCSIA and IBA with FaHCSIA as the lead agency. Planning undertaken by these two agencies identified that successful implementation would rely on the Attorney-General's Department for advice on native title issues and the former Department of Employment and Workplace Relations for the involvement of Community Development Employment Project participants. Under the HOIL program, FaHCSIA is responsible for the construction of homes for sale, delivery of money management programs and consultation and negotiation with Indigenous communities. FaHCSIA is funded for the delivery of the Good Renters Discount (GRD) and Matched Saving Scheme (MSS) grants; however, the assessment of individuals' eligibility for these grants is undertaken by IBA. As the portfolio department, FaHCSIA is also responsible for providing high level advice to the Minister on the progress of the program and issues arising in its implementation.

2.4 IBA is responsible for providing loans and other home ownership incentives to Indigenous people to enable them to purchase their own home. This includes the provision of home loans and incentives for the purchase of the houses constructed by FaHCSIA. IBA also liaises with Indigenous communities, providing information about home ownership opportunities available through IBA.

2.5 FaHCSIA and IBA established a Joint Agency Steering Committee (JASC) and a Joint Agency Working Group (JAWG) to govern implementation of the program. The JASC and the JAWG were designed to coordinate the activities of various branches within FaHCSIA (including the former Office of Indigenous Policy Coordination), IBA, the Attorney-General's Department (on native title issues) and the former Department of Employment and Workplace Relations (on the use of Community Development Employment Projects participants for construction of homes).

2.6 The JASC was formally responsible for governing the implementation of the program, approving joint plans, monitoring implementation of plans, directing the JAWG and resolving significant issues. The role of the JASC was reflected in its executive committee membership: Branch Managers of FaHCSIA's Indigenous Housing and Infrastructure Branch and Money Management Branch, and the Assistant General Manager of IBA. The JASC also had representatives from the Attorney-General's Department's Native Title Unit, the Office of Indigenous Policy Coordination, the former Department of Employment and Workplace Relations, IBA and FaHCSIA. The Implementation Plan envisaged that the JASC would meet monthly in order to undertake its role. Over the course of the 26 months from the JASC's commencement in April 2006 to June 2008, the committee largely fulfilled this schedule, with 21 meetings being held. Due to the slow pace of program implementation the JASC met on just three occasions in 2008–09 and the Money Management Branch withdrew its membership. The committee met once in 2009–10, where it was agreed that the committee would only be called upon when more strategic decisions needed to be made.

2.7 The JAWG was established to develop plans and strategies, undertake risk management, resolve issues and provide recommendations to the JASC. Membership of the working group consisted of representatives from IBA, FaHCSIA's Money Management Branch and Indigenous Housing and Infrastructure Branch, the Office of Indigenous Policy Coordination and the former Department of Employment and Workplace Relations' Community Development Employment Projects section. The JAWG was to meet fortnightly but this was not achieved in practice. FaHCSIA and IBA advised that due to the program's progress there was little need to meet so frequently and that staff from both agencies maintained contact via email and telephone.

Planning arrangements

2.8 Implementation planning provides a map of how an initiative will be implemented, addressing matters such as timeframes, phases of implementation, roles and responsibilities, and resourcing. Giving early and formal consideration to implementation issues would, in the normal course of events, enhance the likelihood that policy outcomes can be achieved. The key process through which FaHCSIA and IBA gave effect to this consideration was by the joint development of an Implementation Plan in 2006. In addition, IBA has developed policy guidelines and procedural instructions to provide more detailed guidance on the delivery of particular HOIL components, such the selection of communities, eligible borrowers, and the conditions for the provision of loans and incentives.

Implementation Plan

2.9 The Implementation Plan indicates that relatively strong consideration was given to key program aspects, including how the program would be governed, as well as providing clarity about the policy objectives and rationale, program components (including a detailed costing for each component), delivery model, implementation strategy (including timeframes), success criteria and risk management strategy. The Implementation Plan is a detailed document in most respects, but it provides more limited explanation of actual demand for HOIL loans and the timeframes and deliverables it established have proven unrealistic, as discussed below.

HOIL loan targets

2.10 The HOIL program was established to complement, and give substance to, amendments to the ALRA as part of the then Government's policy of encouraging economic development and home ownership opportunities on Indigenous land. The target of 460 home loans was established by the Government in making its decision to establish the HOIL program. This target was integrated into the planning process for the program and was not reviewed during the detailed design phase that occurred to develop the Implementation Plan.

2.11 IBA advised the ANAO that due to the aspirational nature of the program, and its dependency on appropriate land tenure, that land tenure would first need to be resolved before people would be in a position to say whether they would want to buy a house or not. The in-confidence nature of budget development processes also limited the extent to which open and detailed public planning could be undertaken prior to the announcement of the policy. IBA reported that the best that could be done at the time the program was developed was to look at key demographic profiles of likely communities as well as any known level of interest previously expressed in communities about buying a home.

2.12 By the time the Implementation Plan was finalised in November 2006, 116 sites had been assessed against a set of selection criteria which examined stability of community governance and management structures, existing housing stock and infrastructure, population, and stability of community and social structures. These criteria did not include any consideration of an individual's interest in home ownership, or their ability to become home owners. The general absence of a housing market in most Indigenous communities also hampered efforts to develop a more refined understanding of the likely actual demand for home loans.

2.13 The first four approved HOIL sites were Nguiu, Groote Eylandt, Broome Hub (which included the communities of Looma, Bidyadanga, Beagle Bay and Lombadina) and Maningrida or Oenpelli (also known as Gunbalanya). Based on the assessment process undertaken, FaHCSIA and IBA arrived at an allocation of loans for these sites over the four years of the program. The Implementation Plan details that 90 loans were allocated for Nguiu, 90 for Groote Eylandt, 45 for Broome Hub and 75 for Maningrida or Oenpelli.

2.14 In addition to the first four sites selected for participation in the HOIL program (known as Plan A sites), a further list of sites was developed in case delays eventuated in the passing of amendments to the ALRA providing township leases or communities were reluctant to accept home ownership. These were focused on communities in Western Australia and New South Wales, where current legislation would allow long-term leases and it was believed home loans could be rolled out relatively quickly. Known as Plan B sites, these were approved at the same time as the first four sites. Site one was Kununurra Hub (Kununurra, Warmun, Halls Creek and Wyndham), site two was Fitzroy Crossing (including Junjuwa and Bunuba), site three was a yet to be determined New South Wales site, and site four was to be another yet to be determined New South Wales site or Warburton Hub. A further 14 sites were identified as possible locations for the last four HOIL sites. Figure 2.1 illustrates the location of the first round of sites identified for participation in the HOIL program under Plans A and B.

Figure 2.1

Planned HOIL sites

Source: FaHCSIA

2.15 As part of the planning process, IBA and FaHCSIA were faced with the difficulty of establishing strategies to meet a target of 460 loans where there had been little opportunity to assess actual demand in the selected communities. FaHCSIA and IBA were unaware of how many people living at selected HOIL sites were willing and able to purchase their own home, and the intended ownership mechanism (township leases in the Northern Territory and individual long-term transferrable leases elsewhere) were not yet legislated for use in the Northern Territory or Queensland at the time implementation planning had been undertaken.

Planned timeframes and deliverables

2.16 Based on the target of 460 loans, FaHCSIA and IBA developed detailed timeframes for the implementation of key stages for the program. These included timeframes for the achievement of milestones for community consultation, signing of community agreements, signing of memoranda of understanding and bilateral agreements with the Northern Territory, Western Australian and Queensland governments, establishment of the program in each community, the number of loans to be made in each community in each year, the number of homes budgeted for construction each year, and the date of program evaluation.

2.17 The timeframes for significant milestones were short. For example, sites one (Nguiu) and two (Groote Eylandt) were to be identified and endorsed as HOIL sites by the Australian and Northern Territory Governments in December 2006, a community agreement (which in these two cases was a township lease) was to be signed in February 2007, the program was to be established at the sites in March 2007, with loans provided prior to 30 June 2007.

2.18 The proposed timeframe was not consistent with other analysis that FaHCSIA and IBA had undertaken in developing the overall Implementation Plan, which noted that the township leases could take up to 12 months to negotiate in each community. Township leases took approximately 8 months and 25 months to negotiate in Nguiu and Groote Eylandt respectively. It would not be unreasonable to expect that a longer timeframe for negotiating a township lease would be likely for the first communities adopting such a mechanism.

Risk management

2.19 Risk management enables agencies to be confident that implementation has been designed to achieve government objectives effectively. Good risk management practices reduce the likelihood or consequence of unpleasant surprises that may jeopardise the achievement of objectives. The HOIL Implementation Plan contained a risk management plan as well as alternate plans for the implementation of the program should identified legislative risks be realised.

2.20 The risk management plan identified and prioritised ten key risks to the HOIL program. The ten risks related to possible delays or failure in land tenure legislation, state/territory government agreements, community agreement, township lease agreements, and product development. Other risks identified were disruptions to the implementation of the program in communities, significant variations in demand, failure of policy settings, changes in community functionality, and borrower defaults.

2.21 The Implementation Plan also outlined alternate plans for the implementation of the program based on assumptions about the highest priority risk, failure or delay in the availability of appropriate land tenure in the states/territory. Plan A assumed that the ALRA would be amended to enable township leases by January 2007 and thus Plan A sites were focused on the Northern Territory. Plan B assumed that township lease legislation would be delayed or that township lease negotiations would be protracted. In these circumstances, Plan B focused its early implementation on Western Australian and New South Wales sites. There was also a Plan C which involved identifying smaller stand-alone sites where lending could commence quickly, although IBA and FaHCSIA did not identify any sites under Plan C at the time of its development.

2.22 During the actual implementation of the program, which followed Plan A, land tenure amendments in the Northern Territory and Queensland were delayed and there were also issues in securing township leases. Under these circumstances, IBA and FaHCSIA intended to employ Plan B, which focused on Western Australian communities. However, native title implications in Western Australia emerged as a barrier to the implementation of the program in that state. Many of the other risks identified in the risk management plan did eventuate and affected the progress of the program. While there were planned strategies to mitigate the effects of such risks eventuating, the fact that much of the HOIL program's success relied on actions outside the program's control, meant that such strategies would have limited results.

Program guidelines and procedural instructions

2.23 The HOIL program is supported with program guidelines and a number of procedural instructions. IBA's program guidelines cover program strategy, HOIL products, community selection criteria, and individual eligibility for loans and incentives. The first guidelines came into effect in June 2006. The guidelines have been reviewed on four occasions since then with revised guidelines issued in December 2007, January 2009, July 2009 and May 2010.

2.24 The procedural instructions are the same as used in IBA's Home Ownership Program and provide detailed guidance on the approved processes and procedures for assessing and managing loans, including instructions regarding:

- communications with clients and relevant third parties;
- information and documentation required from clients;
- processing and assessing applications;
- use of computer and paper-based systems for tracking and recording progress; and
- management of loan repayments.

2.25 IBA's application of the policy guidelines and procedural instructions is discussed further in Chapter 3.

Monitoring and evaluation arrangements

2.26 Good practice indicates the value of establishing at an early stage the approaches to be taken to monitoring the progress and evaluating the achievements of a program. Early consideration was given by FaHCSIA and IBA to program monitoring and evaluation arrangements during the development of the Implementation Plan. The plan outlined that the monitoring and evaluation of the HOIL program would consist of:

- a monitoring strategy based on the program success criteria;
- a formative evaluation strategy based on the benefits and lessons learnt from research and monitoring; and
- a quality assurance strategy.

2.27 Despite the early identification of these approaches, the arrangements were not subsequently implemented. Although the Implementation Plan does outline the program's success criteria (these are discussed further in Chapter 4), no monitoring strategy, evaluation strategy or quality assurance strategy was developed. An evaluation strategy was to be developed in December 2006, with a progress review completed in August 2008 and the final evaluation completed in November 2009. However, IBA advised that a progress review was not undertaken in 2008 due to the slow progress of the program. At that time only one loan had been provided. IBA planned to undertake an evaluation of the program in 2010–11, however these plans were put on hold when they were advised that the ANAO would be auditing the program.

2.28 While these formal strategies for monitoring, evaluation and quality assurance were not developed, FaHCSIA and IBA staff provided reports on program progress to the Cabinet Implementation Unit within the Department of Prime Minister and Cabinet and regular updates were provided to the Minister for Families, Housing, Community Services and Indigenous Affairs.

Conclusion

2.29 FaHCSIA and IBA's collaboration on program planning resulted in a detailed Implementation Plan that considered most of the key elements necessary for effective program implementation such as governance arrangements, timeframes, milestones, delivery methods, resourcing, risk management and contingency planning. However, this level of planning, while necessary, was not sufficient to facilitate effective program implementation. There would have been benefit, had there been the opportunity, in establishing a method of determining the real level of demand for HOIL loans at the sites selected for participation and in establishing more realistic timeframes for proposed milestones. The nature of land tenure reforms that needed to be pursued before establishing loans on Indigenous land, and the limited opportunities afforded to FaHCSIA and IBA to undertake detailed demand analysis, combined to create a set of conditions that made implementation difficult.

3. Program Implementation

This chapter examines how the HOIL program has been implemented to date. As at 30 June 2010 the HOIL program had been established in only one community, Nguiu in the Northern Territory. The analysis therefore relates primarily to the implementation and management of the program components in Nguiu.

Introduction

3.1 Following the announcement of the HOIL program FaHCSIA and IBA developed an overall process for implementing the program in communities. This process was captured in the program's Implementation Plan. The first stage of implementation involved the selection of candidate communities against a set of selection criteria. This would be followed by consultations with selected communities to seek their agreement to participate in the program and the conditions of participation, as well as state/territory governments on their agreement to participate in the program and the higher level requirements of their participation.

3.2 Once agreement with relevant parties was reached, houses were to be constructed in the communities for purchase and the money management education program was to be implemented in the community. After individuals had saved a deposit and completed the required money management education a home loan could be applied for. Upon approval for a home loan, borrowers could then purchase a house (under a lease or sublease arrangement) and could also receive the various grants available to them under the HOIL program, along with the low interest loan.

Community selection

3.3 In 2006 FaHCSIA undertook a large scale assessment of 116, mostly discrete, Indigenous communities from across Australia, using information from local Indigenous Coordination Centres.[19] Communities were evaluated against five broad criteria: governance, housing, infrastructure, social cohesion and population. Communities were given a rating of between zero and five with higher scores given preference for selection as a HOIL site. The eight

[19] Indigenous Coordination Centres are offices of collocated Australian Government agencies situated in capital cities and regional centres across Australia. The function of these centres is to provide a single point of contact for the provision of Australian Government programs for Indigenous Australians.

highest ranked communities from that assessment were those identified as the first four sites for participation in the HOIL program under Plans A and B. Communities were also to be assessed on a sixth criterion, which was the availability of long-term individually transferable leases, however the assessment documentation did not provide scores for this.

3.4 The Implementation Plan also made allowances for the HOIL program to be established in communities that the Australian Government had targeted for strategic intervention. Strategic Intervention Agreements were initiated by the Australian Government in 2007, and required signatories to commit to specific arrangements or to perform specific tasks, in exchange for federal funding of projects aimed at improving living conditions. Strategic Intervention Agreements typically focused on upgrading houses and normalising tenancy arrangements. Although some of these communities may not have met HOIL selection criteria the Australian Government was of the view that home ownership could assist in addressing the extreme need for housing in these communities.

3.5 FaHCSIA advised that Strategic Intervention Agreements existed for Western Australia, as well as the Queensland communities of Palm Island, Yarrabah and Hope Vale. The Yarrabah Agreement between the Australian Government and the Yarrabah Aboriginal Shire Council and the Building a Better Future for Palm Islanders Agreement between the Australian Government and the Palm Island Aboriginal Shire Council stated that home ownership opportunities should be made available in the community and that families in the community would have access to low cost home loans from IBA.

3.6 The Implementation Plan and HOIL guidelines indicate that the program was available on Indigenous community titled land with the focus being communities located on land covered by each state/territory's major Indigenous land legislation. The June 2006 guidelines outlined more detailed community selection criteria that broadly aligned with the selection criteria used for the earlier assessment of 116 communities. The community selection criteria were revised in December 2007, before the first HOIL loan was written, to a format that outlined six high level selection criteria along with a definition of what IBA considered to be the minimum and optimum standard for selection against the criteria. The six selection criteria focused on long-term individual transferable leases, community governance, housing support services, social cohesion, community infrastructure, and population size and growth. The minimum standard set for long-term individual transferable leases was that land tenure/legislation was in the process of being amended to allow for individual leases, and in the Northern Territory that township leases were being negotiated, however individual s.19 leases would be considered on an exception basis. The optimum standard was that land tenure/legislation already allowed individual leases and in the Northern Territory a township lease was in place.

3.7 Delays in amendments to relevant state legislation combined with the lack of progress in negotiating township leases, so IBA looked to expand the scope of the HOIL program to Indigenous communities with varying land tenure types that were not necessarily the initial focus of the program. In February 2008, IBA sought approval from the Minister for Families, Housing, Community Services and Indigenous Affairs to broaden the minimum community eligibility criteria to:

> …include all land that meets the guiding principle that it is for the use and benefit of Indigenous people, which may include, for example, Indigenous Land Corporation land, Aboriginal-owned freehold land, church owned land, and special purpose leases.[20]

3.8 The Minister approved the change in community eligibility in May 2008 with the proviso that any proposals involve appropriately secure tenure arrangements. The January 2009 guidelines were revised to include a seventh community selection criterion: eligible communities. The minimum standard for the eligible communities' criterion was that eligible communities be 'discrete Indigenous settlements where no commercial market exists because of its geographic location'.[21] The optimum standard was that eligible communities be 'discrete Indigenous settlements where land title is inalienable'.[22]

3.9 As at 30 June 2010 the HOIL program had only provided for loans on ALRA land, however FaHCSIA and IBA are confident that the broadened guidelines provide the HOIL program with the flexibility to take advantage of unforseen opportunities as they arise.

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20 IBA brief, 22 February 2008, p.2.

21 Home Ownership on Indigenous Land Program Policy – January 2009, p10.

22 Home Ownership on Indigenous Land Program Policy – January 2009, p10.

Community consultation

3.10 Community consultation provides a means for better understanding the individual needs and circumstances of communities, thus enabling governments to more effectively deliver programs to Indigenous Australians.[23] The Implementation Plan identified that selected communities would be consulted about the HOIL program and support for its operation would be formalised through a signed agreement. No formal agreement supporting the HOIL program was signed for Nguiu. However, FaHCSIA advised that the need for such agreements was superseded by documentation resulting from negotiating land tenure arrangements such as the township lease. Nguiu (HOIL site one) commenced township lease negotiations in December 2006, following an initial consultation with the community about township leasing by the Northern Territory Government in September 2004. The lease was signed in August 2007, after 49 negotiation meetings with the traditional owners. Negotiations for the Groote Eylandt township lease commenced in November 2006, with the lease being signed in December 2008.

3.11 IBA advised that, in addition to consultations in Nguiu and the communities on Groote Eylandt, it has held consultations in 21 other communities informing them about the HOIL program. All these consultations were conducted in Western Australia, Queensland, New South Wales and the Northern Territory.

State government consultation

3.12 When the HOIL program was established, FaHCSIA and IBA recognised that they would need to reach agreement with governments in other jurisdictions as responsibility for most Indigenous land legislation, community infrastructure and, in some cases social housing on community titled land, rested with state and territory governments. According to the Implementation Plan, the Australian Government intended to establish a bilateral agreement and memorandum of understanding with each of the Western Australian, Queensland and Northern Territory governments. The purpose of the bilateral agreement was to obtain agreement from the states and

23 COAG's National Framework of Principles for Delivering Services to Indigenous Australians, agreed in 2004, and later drawn upon in the Service Delivery Principles for Programs and Services for Indigenous Australians set out in the National Indigenous Reform Agreement, reinforce the importance of community consultation.

territory to participate in the program and outline high level requirements, while the memorandum of understanding was to establish the operational details.

3.13 Bilateral agreements and memoranda of understanding for the HOIL program were not entered into with any states or the Northern Territory by the end of the initial four-year funding period in 2009–10. The Australian Government did negotiate with the Western Australian Government regarding prospective HOIL sites and the provision of essential services, however progress at these sites was limited. The Australian Government also provided input into the draft amendments to the Queensland Government's *Aboriginal Land Act 1991* (Qld) and *Torres Strait Land Act 1991* (Qld).

3.14 FaHCSIA advised that bilateral agreements and memoranda of understanding were not entered into due to:

- delays in jurisdictional legislative responses;
- the federal election in 2007;
- the uncertainty about the future of the Community Housing and Infrastructure Program and the Australian Remote Indigenous Accommodation program; and
- the negotiation by COAG of the National Partnership Agreement on Remote Indigenous Housing in 2008, which replaced the previous bilateral funding arrangements which had existed for social housing.

3.15 As a result of the changes in the way the Australian Government now interacts with other jurisdictions on Indigenous housing through the National Partnership Agreement on Remote Indigenous Housing, FaHCSIA advised that it would no longer pursue specific bilateral agreements with other jurisdictions. This is because one of the National Partnership Agreement on Remote Indigenous Housing's outputs is the 'progressive resolution of land tenure on remote community-titled land in order to secure government and commercial investment, economic development opportunities and home ownership possibilities in economically sustainable communities'.[24] FaHCSIA advised the ANAO that this provided a more appropriate arrangement for progressing negotiations on land tenure with other jurisdictions and that the new governance arrangements under the National Partnership Agreement on

[24] National Partnership Agreement on Remote Indigenous Housing, p.5.

Remote Indigenous Housing gave the Australian Government the capacity to influence both policy development and program delivery in a more direct and flexible way than was possible under previously proposed bilateral agreements.

3.16 It was appropriate for FaHCSIA and IBA to modify the initially planned approach to fit into the subsequently developed intergovernmental arrangements, however the National Partnership Agreement on Remote Indigenous Housing is primarily focused on increasing the supply of public housing with a lesser focus on home ownership. As discussed in the following section, the leasing arrangements utilised for social housing are not designed to support home ownership. Should FaHCSIA continue to utilise the governance arrangements under the National Partnership Agreement on Remote Indigenous Housing for the HOIL program, it is important that the department maintain a sufficient level of focus on the need to negotiate leasing arrangements that support home ownership as well as the provision of social housing.

Lease arrangements

3.17 The provision of a HOIL loan is contingent on borrowers securing a long-term individual transferrable lease over the property, and delivery of the HOIL program in any community is therefore conditional on appropriate land tenure arrangements being in place. Negotiating lease arrangements was explicitly excluded from the scope of the program, thus creating a dependency on other parties, chiefly FaHCSIA.

3.18 In the Northern Territory, the preferred method is a township lease, held by the Executive Director of Township Leasing, from whom individuals can obtain a sublease. The Implementation Plan states that negotiating township leases is outside the scope of the HOIL program, however HOIL program staff will provide input and participation into negotiations where appropriate.

3.19 Township leases are the Australian Government's preferred leasing mechanism for providing secure tenure for social housing, community infrastructure and economic development initiatives such as business development and home ownership. However, many communities in the Northern Territory, where the National Partnership Agreement on Remote

Indigenous Housing has been advanced the most, and where the only HOIL loans have been issued, have been hesitant to enter into township leases.[25] The Australian Government has accordingly used housing precinct leases in order to more quickly deliver on its social housing objectives under the National Partnership Agreement on Remote Indigenous Housing.

3.20 Housing precinct leases are leases over individual house blocks and are usually for a period of 40 years (20 year leases with an option, held by the Northern Territory Government, to renew the lease for another 20 years). The advantage of housing precinct leases are that they can be negotiated in a much quicker timeframe compared to township leases; FaHCSIA advised that housing precinct leases can be negotiated in three to six months, compared with up to two years for township leases.

3.21 The disadvantage of housing precinct leases, in relation to the HOIL program, is that they are not sufficient for home ownership because they are leases to the government for the specific purpose of social housing and are for an initial period of 20 years. Given the emphasis on securing long-term leases as a precondition, a 20 year lease may not be long enough to provide lenders with sufficient security and provides individuals with few of the benefits of home ownership.

3.22 FaHCSIA advised the ANAO that it considers the use of housing precinct leases to be more of a short term option to enable the progression of social housing developments which communities can enter into at the same time as negotiating the more comprehensive longer term leases. While the department considers that the two forms of leasing are not mutually exclusive, negotiating a longer term township lease can be made more difficult once the shorter term housing precinct lease has been agreed to. FaHCSIA has offered incentives for traditional owners to agree to a township lease by including terms in the housing precinct leases, offering to back-pay lease payments if they enter into a township lease within five years of signing their housing precinct lease. Lease payments are not made on housing precinct leases in the Northern Territory but are made for township leases.

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[25] As at 30 June 2010 only two township leases had been signed. The first covers the community of Nguiu and is for a period of 99 years. The second covers the Groote peninsula communities of Angurugu, Milyakburra and Umbakumba and is for a period of 40 years. The Executive Director of Township Leasing has the option of renewing the lease for a further 40 years, in effect making the lease an 80 year lease.

3.23 In the meantime, if an individual in Maningrida, Oenpelli or any Northern Territory community with a housing precinct lease wishes to purchase their own home they can negotiate with the relevant land council to obtain their own s.19 lease. This has been done once, with the process taking approximately eight months.

3.24 The types of leasing arrangements also need to be considered from the perspective of a prospective homeowner, not just from the perspective of government. Research undertaken by the Australian Housing and Urban Research Institute indicates that a primary motivation for Indigenous home ownership is the ability to pass the home onto future generations so it would be important to recognise the influence that lease arrangements can have on this individual goal. The lease arrangements available in the Northern Territory under the ALRA are such that when township leases and subleases expire, ownership of the property and any improvements (houses) reverts to the land trust which represents the traditional owners of the land. As subleases currently stand, individuals will no longer own the home once the lease expires, preventing it from being passed onto future generations. The terminating nature of the leases may also have an impact on the value of the homes over time, preventing capital appreciation.

3.25 Most stakeholders the ANAO interviewed were aware of the lease expiry issue and believed that there was sufficient time to address the matter before it arose in practice. Many stakeholders were confident that township and sublease leases would be renewed during the regular course of the current lease or, failing that, home owners would voice such strong concerns that their leases would be secured through some other means. FaHCSIA also was aware of the tenure security issues and indicated that the current leasing model is part of a process of change.

3.26 A further challenge to the leasing arrangements required for the HOIL program to be implemented stems from native title issues. As previously discussed, native title can exist on land covered by other Indigenous land legislation, and commonly does so in Western Australia and Queensland. In such circumstances the issuing of leases also has to be agreed to by native title holders or claimants. Agreement would be accomplished through an Indigenous Land Use Agreement, the negotiation of which is generally beyond the resources of an individual wishing to purchase a home.

3.27 The Implementation Plan recognised that native title could have an impact on the progress of the HOIL program in its risk assessment. The stated strategy for managing this risk was to undertake early identification of the native title implications of targeted communities. The Implementation Plan also recognised that Indigenous Land Use Agreements may be required to address native title issues.

3.28 While native title implications have been identified for a number of targeted communities, little progress has been made in resolving those issues to the point where leases can be issued and loans provided. IBA is contributing to a home ownership project being undertaken in the Queensland community of Mapoon by World Vision Australia, which involves negotiating an Indigenous Land Use Agreement. As part of its provision of social housing under the National Partnership Agreement on Remote Indigenous Housing (which requires that native title issues are settled and land tenure secured in communities to receive social housing), the Queensland Government is committed to developing community-wide Indigenous Land Use Agreements that cover social housing, home ownership and other public infrastructure.[26]

3.29 In October 2009, the Australian Government proposed legislative amendments to the Native Title Act to allow for the provision of social housing and associated infrastructure without the need for an Indigenous Land Use Agreement. The amendments to the Native Title Act were passed on 25 November 2010.

Housing

3.30 Under the HOIL program, borrowers can purchase pre-existing homes, newly constructed homes or elect to manage the construction of their own home. As at 30 June 2010, eight of the 15 HOIL loans were for pre-existing homes, three were for newly constructed Kickstart homes and four were for self-managed home construction.

Pre-existing homes

3.31 Pre-existing homes sold in Nguiu were sourced from existing social housing stock. All homes sold were in need of renovations and all purchasers borrowed additional funds to carry out renovations. FaHCSIA and IBA intended that the proceeds from the sale of pre-existing social housing stock to

[26] On 10 November 2010, the Queensland Government announced that the community of Palm Island had agreed to proceed towards the first community-wide Indigenous Land Use Agreement for development and leasing.

Indigenous home owners would be reinvested by Indigenous community housing organisations into further new housing, thus increasing the housing stock in communities. As the Nguiu social housing stock is covered by a township lease the proceeds from those sales passed to the Aboriginals Benefit Account. Township lease arrangements are structured such that the Executive Director of Township Leasing collects all revenue raised from subleases (such as the sale of pre-existing homes) and the traditional owners are then eligible to receive an annual lease payment as a result of that revenue, less the expenses of the Executive Director of Township Leasing. FaHCSIA advised that, at the time the department had planned for proceeds from the sale of pre-existing homes to be used for further housing supply, it was not clear that directing the use of such proceeds would be beyond the Australian Government's control.

New homes

3.32 New homes fall into three categories: FaHCSIA constructed homes; IBA constructed homes (known as Kickstart homes) and self-managed constructed homes.

FaHCSIA constructed homes

3.33 FaHCSIA was funded to arrange for 45 homes to be constructed through existing bilateral agreements with states and the Northern Territory. In addition to providing houses for sale, the construction was also intended to increase housing stock and improve employment and training opportunities in housing construction for Indigenous people by utilising Community Development Employment Projects participants and moving them into mainstream building and maintenance jobs.

3.34 To construct these houses, FaHCSIA entered into a funding agreement with IBA to build 33 homes and conducted an open tender process to engage a private company to build the remaining 12 homes. IBA was tasked with constructing 10 homes at Wudapuli, 10 homes at Nama and 13 homes at Nguiu. A private company was contracted to construct 12 homes at Nguiu.

3.35 While Nguiu was a designated HOIL site, Wudapuli and Nama are small outstations located approximately 40 kilometres east of Wadeye in the Northern Territory. Neither of these communities had been selected as part of the eight communities under Plans A and B, were not in the short list of communities initially approved by the Minister as HOIL sites, and were not included in the 116 communities assessed in 2006. Wudapuli and Nama were also not subject to a Strategic Intervention Agreement. FaHCSIA advised that, given the untested nature of the HOIL program, it was not practical to identify all possible sites in advance, and that it was necessary to retain flexibility to implement the program wherever the appropriate conditions emerged or where sufficient community interest was expressed.

3.36 The selection of alternate communities in jurisdictions where land tenure is appropriate was identified in the Implementation Plan as an appropriate mitigation strategy against the risk of failure or delay in having appropriate land tenure available in targeted communities. Wudapuli and Nama were considered appropriate alternative communities given the delays in securing land tenure at other selected HOIL sites.

3.37 FaHCSIA entered into a funding agreement with IBA (worth approximately $10.1 million) to build the 20 homes at Wudapuli and Nama. The funding agreement was for the construction of 20 four-bedroom, two-bathroom homes, including costs associated with site establishment and connection to power, water and sewage. IBA subcontracted a company to construct the 20 homes in September 2007 and construction was completed in August 2008, with the project providing over 2000 hours of work for the local community. The Wudapuli and Nama clan groups were receptive to the idea of purchasing their own homes and the traditional owners entered into s.19 leases with IBA for a period of 40 years so that the construction of the homes could take place and later be sold to individuals under a 99 year lease arrangement.

3.38 FaHCSIA later decided not to sell the properties as, to be affordable for residents, prospective purchasers would have required a level of subsidisation beyond what was available under the HOIL program. The properties and the s.19 leases were transferred to the Northern Territory Government, which now manages the homes as social housing.

3.39 At Nguiu, FaHCSIA entered into a funding agreement with IBA (worth approximately $7.1 million) to build 13 homes. The funding agreement was for the construction of 13 four-bedroom, two-bathroom homes, including costs associated with site establishment, earthworks, and connection to power, water and sewage. IBA subcontracted two companies to construct the homes. Construction started in April 2008 with five homes completed in October 2008 and eight completed in June 2009. IBA did not monitor how much Indigenous labour was used in this construction process, however one of the companies does predominantly employ Tiwi people.

3.40 The funding agreement that FaHCSIA developed for the construction of the 33 homes identified that the funding was being provided to IBA under the Innovative Affordable Housing project, which was not part of the HOIL program. However, the funding was in fact provided from HOIL funding appropriated to FaHCSIA. At the time this agreement was entered into, IBA officials were unaware that the funding would be sourced from the HOIL program despite the HOIL program being a joint project between FaHCSIA and IBA.

3.41 In addition to the funding agreement with IBA for the 33 homes discussed above, FaHCSIA entered into a contract (worth approximately $8.0 million) with a private company to build a further 12 homes in Nguiu. The contract was for the construction of four four-bedroom, two-bathroom homes and eight three-bedroom, two-bathroom homes, including costs associated with civil and site servicing works, supply of power, water and sewage, internal furniture, fittings and fixtures, external furniture, fittings and fixtures, landscaping and fencing. Construction commenced in August 2008 and was completed in April 2009. FaHCSIA was unaware of how much Indigenous labour was used by the company, but there was no requirement to use Indigenous labour as part of the contract.

3.42 In addition to providing loans, one of the HOIL program's objectives was to improve Indigenous employment through the use of Community Development Employment Project participants in construction activities, the objective being that participants would utilise experience in construction of HOIL program homes and move into mainstream building and maintenance jobs. While some Indigenous labour was utilised as part of the construction managed by IBA, neither FaHCSIA nor IBA utilised Community Development Employment Project participants or required their use in construction contracts. FaHCSIA advised that the use of Community Development Employment Project participants was not a requirement of construction contracts due to priority being given to constructing the houses in a timely manner.

3.43 Although the houses were funded from HOIL and were intended to increase Indigenous home ownership, none of the 45 homes that FaHCSIA constructed have been sold to home owners. Following Ministerial endorsement, all homes were transferred to the Northern Territory Government for social housing purposes soon after construction was complete. FaHCSIA advise that once the Northern Territory Government has finalised its Remote Housing Management Framework policy all social housing managed by the Northern Territory Government in Indigenous communities will be available for sale, subject to certain conditions. This notwithstanding, it remains the case that the contribution the 45 houses constructed under this program will make to increasing Indigenous home ownership is uncertain.

Kickstart homes

3.44 In August 2009 IBA commenced construction of four affordable homes designed to generate interest in home ownership, effectively 'kick starting' a market for newly constructed homes in Nguiu. IBA had found that approximately half the people in Nguiu who were interested in home ownership wanted a new house rather than purchasing an existing home. IBA held consultations with the community to best understand the needs of Nguiu residents and developed a number of alternative housing designs which could cater to people's lifestyle and finances.

3.45 IBA obtained subleases from the Executive Director of Township Leasing on four serviced blocks and speculatively built four homes based on its feedback from the community. IBA contracted a private company to construct three two-bedroom, one-bathroom homes and one four-bedroom, two-bathroom home. The blocks of land cost $10 000 each and the total cost of building the four homes was approximately $1.7 million.

3.46 As at 30 June 2010, IBA had sold three of the Kickstart homes: two two-bedroom homes and one four-bedroom home. Sale prices were set at the estimated cost of construction plus the price of the block of leased land. Costs associated with site preparation (demolition of existing structures, removal of asbestos and clearing of land), external works (plumbing and drainage from house to mains, landscaping, paths, driveways and clotheslines), and design and management were absorbed by IBA.

Self-managed home construction

3.47 Individuals who receive support from the HOIL program may elect to manage the construction of their own home, however it must be built by a registered licensed builder with funds for construction to be released progressively based on building milestones. As at 30 June 2010, four loans had been made to borrowers managing the construction of their own homes. There has been a mix of on-site constructed homes and prefabricated kit homes used by borrowers. Progress on construction of some homes has been slower than anticipated, with one home loan approved in March 2008 not being complete as at 30 June 2010.

3.48 Self-managed home construction transfers a level of risk onto the individual borrower. During the ANAO's fieldwork, two organisations raised concerns about the building quality of particular self-managed construction homes. The poor building quality was attributed to the lack of building regulation and enforcement in Indigenous communities, leaving Indigenous people susceptible to poor building construction.[27] Some individuals managing their own construction have experienced difficulties managing the contract and IBA has offered clients access to qualified technical assistance to help them with building issues that may arise during the completion of their home. IBA informed the ANAO that, in future, IBA will make the use of a project manager a condition of loans for house construction or major renovation.

Money management education

3.49 Money management education was included as part of the HOIL program as potential borrowers must be able to demonstrate financial competence before they are approved for a HOIL loan. Two types of money management education are provided to assist individuals in developing the financial competence needed to secure a HOIL loan. The first is money management education workshops and the second is the HOIL Structured Education Program (HOILSEP). Both forms of money management education are administered by FaHCSIA's Money Management Branch, which engages independent service providers to deliver programs in communities.

3.50 Money management education workshops are the first form of training introduced into potential HOIL communities. The workshops are voluntary education programs designed to assist individuals and families with no, or low, financial literacy and money management skills to develop these capabilities to a point where they understand enough about their money, budgeting, credit, debt, financial services and consumer awareness to be able to participate in HOILSEP. HOIL program funds[28] have been used to provide

[27] Building standards within the Northern Territory are prescribed by the *Northern Territory of Australia Building Act* and the associated Northern Territory of Australia Building Regulations. These building standards currently apply to only 21 specified building control areas which cover Darwin, Alice Springs and larger townships such as Katherine and Tennant Creek. Construction outside of building control areas are not obliged to comply with Northern Territory building standards or the Building Code of Australia. Most Indigenous communities in the Northern Territory, including Nguiu, Wudapuli and Nama, are outside building control area boundaries.

[28] In 2009, FaHCSIA restructured its money management services by combining funding from a number of financial literacy programs, including those associated with the HOIL program, into the Financial Management Program. Funds for the provision of money management education services associated with the HOIL program are now sourced from the Financial Management Program.

these money management workshops in Nguiu, Groote Eylandt, Broome, Mossman Gorge, Yarrabah, Palm Island and Walgett/Wilcannia. As at 31 December 2009, 3630individuals had attended money management education workshops.

3.51 HOILSEP is a formal education program developed by FaHCSIA and IBA that covers the benefits and risks of home ownership, responsibilities of home owners, costs of purchasing and maintaining a home, the home purchase and loan process, and specific components of the HOIL program. HOILSEP is delivered in six one-hour workshops. However, participants can progress through an 'Express Pathway' if they can demonstrate relevant prior knowledge and experience about aspects of managing their money, home ownership and the HOIL process. Where no gaps are identified between a client's knowledge and experience and the learning requirements of the workshops, a Certificate of Completion can be issued. Gaps between a client's knowledge and experience and the learning requirements of the workshops mean the client will need to complete the appropriate workshop content.

3.52 If an applicant believes they do not need to attend the HOILSEP, IBA will assess the applicant's level of financial competence and understanding of home ownership concepts. If the applicant is assessed as financially competent they will not need to undertake HOILSEP, however they will not be eligible for the $1000 MSS grant.

3.53 HOILSEP has only been delivered in the community of Nguiu, however it was tested and refined in Yarrabah in May 2009. As at June 2010 46 individuals had completed HOILSEP. The Money Management Branch reported that they are in a position to quickly establish HOILSEP in other communities where there are existing Financial Management Program services once other arrangements are in place to facilitate HOIL loans, particularly leasing arrangements.

Loans and incentives

3.54 Under the HOIL program individuals have access to low interest home loans, loan co-payments (of up to $25 000), the Good Renters Discount (GRD) (worth 20 per cent of the value of the home, up to $50 000), the Matched Savings Scheme (MSS) grant of $1000 and an establishment costs grant of up to $13 000. IBA is responsible for assessing a potential borrower's eligibility for a loan and all the incentives available under the HOIL program. Policies for administering loans and incentives are set out in the HOIL guidelines, procedural instructions and other policy documents.

3.55 The HOIL guidelines outline the standard loan eligibility criteria, loan products available, as well as general loan conditions and information. The guidelines also detail the criteria and conditions for the establishment grant and co-payment. In addition, IBA has a comprehensive range of procedural instructions, based on those utilised for the Home Ownership Program, which provide detailed instructions on the administration of loans. Procedures for the GRD and MSS grant are set out in separate policies.

3.56 The ANAO examined a sample of loan and incentive packages provided to borrowers to assess IBA's compliance with various policies and procedures. The ANAO found that policies and procedures were largely followed except for a few minor instances. These instances related to tasks not being performed within prescribed timeframes or a lack of records to substantiate milestone dates that are required to be recorded.

3.57 In addition, the ANAO identified some areas for potential improvement in the administration of the GRD which would be beneficial should the volume of loans increase in the future. FaHCSIA receives funding for the delivery of the GRD (and MSS grant). However, IBA is responsible for undertaking the assessment and payment of the two incentives as part of the application process. Once IBA confirms an applicant's eligibility for the GRD, IBA invoices FaHCSIA for the required amount and FaHCSIA then pays the applicant, through IBA, to enable settlement of the loan. By contrast, administration of the MSS grant is more streamlined as FaHCSIA has entered into a funding agreement with IBA to provide 80 MSS grants, removing the need to invoice FaHCSIA for each MSS grant. FaHCSIA considered a similar funding agreement for the GRD, but due to the very slow take up of HOIL loans FaHCSIA decided to retain the GRD funds. To date the system has not been burdensome due to the low number of borrowers, however if borrowing increases significantly this inefficiency could become an issue.

Conclusion

3.58 Implementation of the HOIL program occurred in the context of a changing policy environment. The leasing legislation that FaHCSIA was seeking to utilise was new, and the newly elected Australian Government was focusing on the development of a large scale social housing program which became the priority for FaHCSIA. The implementation of HOIL was influenced by these factors with the result being that a range of planned activities did not occur or were overtaken by events, which impacted on program performance.

3.59 Where land tenure arrangements have been settled, such as at Nguiu, implementation of the program has been relatively effective. The guidelines and procedural instructions developed by IBA are comprehensive in their consideration of administrative processes and have generally been adhered to.

4. Program Performance

This chapter examines the HOIL program's performance against its stated measures of success and identifies issues affecting the program's performance.

Performance measures

4.1 The audit examined the performance data available from FaHCSIA and IBA in order to assess the extent to which the program is making progress towards achieving its objectives. The audit also examined FaHCSIA's and IBA's effectiveness in identifying and addressing barriers to the program's implementation.

4.2 The Implementation Plan developed for the program identifies success criteria that are based on the specific policy objectives of the HOIL program. Recognising the need to consider program performance over different stages, and that the policy outcomes sought by the program were of a longer term nature, FaHCSIA and IBA split the success criteria into two categories: initial outcomes and longer term outcomes.

Initial outcomes

4.3 The initial outcome for the HOIL program was for Indigenous people on community titled land to become aware of individual home ownership, its benefits, risks and obligations. This was to be achieved through the activities of the establishment phase of the program. Table 4.1 outlines the activities of the establishment phase of the program, the success criteria and target milestone dates as indicated in the Implementation Plan, along with a comparison against the actual result.

Table 4.1

Performance data: initial outcomes

Activity	Success criteria	Target date	Actual result
Preparation phase	Program products are developed and ready for program establishment	Policy guidelines approved by September 2006	Guidelines approved in June 2006
Consultation with state and territory governments	Agreement reached	Western Australia – Dec 2006 Northern Territory – Feb 2007 Queensland – Mar 2007	No bilateral agreements or memoranda of understanding signed
Consultation with communities	Agreements signed with communities	Sites 1 and 2 – Feb 2007 Sites 3 and 4 – March 2007 Sites 5–8 – March 2008	Site 1 – Aug 2007 Site 2 – Dec 2008
Sites selected	Eight sites selected at three stages, endorsed by Minister, state and territory governments and accepted by communities	March 2008	Sites 1–4 were selected and endorsed by the Minister in Sept 2006. No sites were endorsed by state and territory governments.

Source: ANAO analysis of HOIL Implementation Plan and data from FaHCSIA and IBA.

4.4 As Table 4.1 indicates, the HOIL program only partly achieved its expected outcomes for the initial phase.

Longer term outcomes

4.5 The long-term policy objective of the HOIL program is to assist and enhance the economic self-sufficiency and self management of Indigenous people living on Indigenous community titled land. There are a number of more specific policy objectives which form the basis of the long-term success criteria. Table 4.2 outlines the specific policy objectives and their relevant success criteria (to be achieved by 30 June 2010) as detailed in the Implementation Plan, along with the actual result.

Table 4.2

Performance data: longer term outcomes

Policy objective	Success criteria	Actual result
To provide access for Indigenous people living on Indigenous community titled land to individual home ownership	Eight communities selected and participating in HOIL 490 home loans provided[29]	One community selected and participating in HOIL[30] 15 home loans provided
To build financial literacy and money management skills in Indigenous communities and to assist community members to become informed of the benefits, risks and obligations of home ownership	40 per cent of money management course participants graduate from money management courses 75 per cent of participants graduating from money management courses make progress against money management goals	100 per cent of participants (46 individuals) graduated from the HOILSEP 39 per cent of HOILSEP graduates (18 individuals) obtained HOIL loans[31]
To increase housing supply in participating communities	45 new houses constructed in eight communities participating in HOIL Sale proceeds of 460 existing houses reinvested into further housing in eight communities participating in HOIL	25 new homes constructed in one participating community 20 new homes constructed in two communities not participating in HOIL Sale proceeds from all eight existing homes went into the Aboriginals Benefit Account. Proceeds were not reinvested into further housing
To improve the general condition of housing for Indigenous people on Indigenous community titled land	Up to 415 home loans provided to extensively renovate existing houses to be purchased	Eight home loans provided to renovate existing houses purchased
To improve employment and training opportunities in housing construction for Indigenous people on Indigenous community titled land	Community Development Employment Projects program utilised to establish home building activities and to move participants into mainstream building and maintenance jobs	Community Development Employment Projects program participants were not utilised in HOIL home building activities

Source: ANAO analysis of HOIL Implementation Plan and FaHCSIA and IBA data.

29 The target of 490 loans comprises the target of 30 loans for the 2005 measure and the target of 460 loans for the 2006 measure.

30 In this context 'participating' referred to loans being provided in selected communities.

31 A number of loans were provided to couples who both completed HOILSEP.

4.6 As Table 4.2 demonstrates, progress against the program's longer term targets was limited. In addition to the low number of loans provided, which also resulted in a low number of home renovations, only 25 of the 45 homes constructed were in participating HOIL communities and the Community Development Employment Projects program was not utilised to establish home building activities to move participants into mainstream jobs. The percentage of people graduating in the money management education is positive, with 100 per cent of participants graduating. However, the number of participants was only 46 out of the 460 FaHCSIA was funded to deliver.

Portfolio Budget Statements performance measures

4.7 In addition to the success criteria identified in the Implementation Plan, IBA identified performance indicators for the HOIL program in the Families, Housing, Community Services and Indigenous Affairs Portfolio Budget Statements. The performance indicators were updated in each year's Portfolio Budget Statements to reflect the anticipated progress of the program in the coming year. The 2009 and 2010 Portfolio Budget Statements also provided a revised figure reflecting the program's performance in the current year. Table 4.3 provides a summary of the performance indicators (also referred to as deliverables in later years) used by IBA from the 2005 Portfolio Additional Estimates Statements through to the 2010 Portfolio Budget Statements.

Table 4.3

Portfolio Additional Estimates Statements (PAES) and Portfolio Budget Statements (PBS) performance indicators and results

Document	Applicable period	Performance indicator / deliverable	Actual result
2005 PAES	2005–06	Identify eligible Indigenous communities and individuals who may qualify for home ownership on Indigenous land.	Eligible communities and individuals were identified
2006 PBS	2006–07	Identify eligible Indigenous communities and individuals who may qualify for home ownership on Indigenous land.	Eligible communities and individuals were identified
2007 PBS	2007–08	Six communities actively participating in the program	One community actively participating One loan provided
2008 PBS	2008–09	Six communities actively participating in the program	Communities actively participating – 6 New loans – 8 Aggregate loans – 9
2009 PBS	2008–09 (revised)	Number of new communities actively participating in the program – 6 Number of new loans – 9 Aggregate loans in the portfolio – 10	Communities actively participating – 6 New loans – 8 Aggregate loans – 9
2009 PBS	2009–10	Number of new communities actively participating in the program – 8 Number of new loans – 40 Aggregate loans in the portfolio – 50	Communities actively participating – 6 New loans – 6 Aggregate loans – 15
2010 PBS	2009–10 (revised)	Number of new communities actively participating in the program – 8 Number of new loans – 20 Aggregate loans in the portfolio – 30	Communities actively participating – 6 New loans – 6 Aggregate loans – 15

Source: ANAO analysis of PAES and PBS documents and IBA data.

4.8 As Table 4.3 illustrates, the only targets achieved were for the identification of eligible communities and individuals in 2005–06 and 2006–07, and for the number of communities actively participating in the HOIL program in 2008–09. It should be noted that the term 'actively participating' does not mean that loans have been approved, or individuals have obtained a lease, or that HOILSEP is operating in the community. IBA defined actively participating as follows:

> 'Actively participating' is an expression which takes into account that:
>
> - the community is considered a suitable HOIL site under the community selection criteria
> - there is agreement by the community governance that HOIL should proceed
> - IBA has had discussion with individuals in the community interested in home ownership, and
> - there has been FaHCSIA agreement to implement the Money Management Program.[32]

Financial performance

4.9 In the 2005 Portfolio Additional Estimates Statements the HOIL program was allocated a budget of $7.2 million from existing sources. IBA was to contribute $1.7 million, the Aboriginals Benefit Account $2.5 million and the Indigenous Land Corporation $3.0 million. The actual funding provided from this proposal was less, with IBA contributing $1.8 million and the Aboriginals Benefit Account contributing $1.0 million. The Indigenous Land Corporation did not provide any funding.

4.10 In the 2006 budget measure, the HOIL program was allocated $107.4 million over four years. Of this, FaHCSIA received $29.2 million, of which $21.6 million was for the provision of the GRD and home construction, $7.1 million was for the provision of money management education and MSS grants, and $500 000 was to assist in consultation and negotiation with communities. IBA received $78.2 million, of which $54.6 million was for loans, $13.6 million was for establishment grants and loan co-payments, and $10.0 million was for administrative expenses.

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32 Advice from IBA, 31 May 2010.

4.11 The actual expenditure patterns are consistent with the pace of actual implementation, with only some of the prerequisite expenditure items being fully utilised, such as money management education, and higher than budgeted expenditure occurring in the construction of new homes. Table 4.4 provides a breakdown of the HOIL program budget for 2006–07 to 2009–10 compared to actual expenditure.

Table 4.4

HOIL program expenditure: 2006–07 to 2009–10

Item	Program budget ($ million)	Actual expenditure ($ million)	Overspend / (Underspend) ($ million)
FaHCSIA:			
Construction	15.5	25.1	9.6
GRD	4.2	0.6	(3.6)
Money management education	3.4	3.5	0.1
MSS grant[33]	0.5	0.1	(0.4)
Administration (Departmental costs)[34]	5.6	5.6	-
Sub total	*29.2*	*34.9*	*5.7*
IBA:			
Loan capital[35]	54.6	3.1	(51.5)
Establishment grant	6.0	0.2	(5.8)
Co-payment grant[36]	7.6	0.2	(7.4)
Administration[37]	10.0	4.3	(5.7)
Sub total	*78.2*	*7.8*	*(70.4)*
TOTAL	**107.4**	**42.7**	**(64.7)**

Source: ANAO analysis of FaHCSIA and IBA data.

33 The actual expenditure figure represents the $80 000 funding agreement FaHCSIA entered into with IBA for the provision of 80 MSS grants. As at 30 June 2010 IBA had expended $14 000 on MSS grants.

34 FaHCSIA was unable to identify actual departmental expenditure specifically for the HOIL program as all departmental funding is allocated across the department. FaHCSIA advised that all departmental funding has been fully expended.

35 IBA had approved approximately $2.7 million in loans as at 30 June 2010. The actual expenditure figure represents the loan portfolio plus the cost of the one Kickstart home remaining unsold as at 30 June 2010.

36 Co-payments are paid over 10 years. The actual expenditure figure represents the total amount that current borrowers are eligible to receive over the 10 year period.

37 The actual expenditure figure includes the loss on the sale of the three Kickstart homes. It does not include departmental overheads apportioned to each IBA program.

4.12 Within the overall allocation of $107.4 million, an amount of $54.6 million was set aside for loan capital. For this amount to cover the target of 460 loans, FaHCSIA and IBA expected the average loan amount would be approximately $119 000 per loan. The remaining budget allocation of $52.8 million was set aside for supporting activities related to home construction, money management education, home ownership incentive payments,[38] and FaHCSIA's and IBA's administrative costs. When the costs for the supporting activities are distributed across the target of 460 loans an expected expenditure amount of $115 000 per loan is reached.

4.13 Because of the very low number of loans actually provided, the activities associated with the establishment and operation of the program have resulted in a high level of expenditure per loan over the four-year funding period. Resources were required to develop policy guidelines, establish loan systems, develop and deliver money management education material, and undertake community consultations, before loans could be provided.

4.14 As at 30 June 2010, IBA had provided 15 HOIL loans with a total value of approximately $2.7 million. The average HOIL loan written was approximately $178 000, with loans for newly constructed homes averaging approximately $256 000 and loans for pre-existing homes (including renovation costs) averaging approximately $109 000. Expenditure on supporting activities over the four-year funding period was approximately $40 million, of which construction activity cost approximately $25.5 million;[39] home ownership incentive payments accounted for approximately $1.1 million; money management education was provided for approximately $3.5 million; and administration costs were approximately $9.9 million. When these costs are distributed across the 15 loans, and allowance is made for the housing construction costs, the average expenditure on supporting activities was approximately $967 000 per loan. Of this amount, approximately $660 000 per loan was expended on administration costs by FaHCSIA and IBA.

4.15 Some of the costs incurred between 2006–07 and 2009–10 may aid future program activities. For example, individuals may purchase FaHCSIA constructed homes, however these are now held by the Northern Territory

[38] Home ownership incentive payments consist of the GRD, MSS grant, establishment costs grant and loan co-payments.

[39] The construction cost of $25.5 million is comprised of FaHCSIA's construction expenditure plus the cost of the one Kickstart home remaining unsold as at 30 June 2010.

Government, and some people who have completed money management education may go on to become home owners. Notwithstanding these possibilities, further ongoing expenditure will be required to administer the program.

4.16 In the 2010–11 Budget, $56 million in unused HOIL loan capital was temporarily transferred, under a proposal from IBA, to the Home Ownership Program which is also administered by IBA. The $56 million was sourced from the underspent loan capital and the interest earned on it over the four-year period that the loan capital was unused. As noted in the 2010–11 Indigenous Budget Statement the $56 million will be made available to the HOIL program as demand increases.

Identifying and addressing barriers to program implementation

4.17 It is important that barriers to a program's implementation are identified at an early stage and alternative strategies are developed to facilitate continued implementation of progress when problems emerge. In the case of the HOIL program, IBA and FaHCSIA accurately identified in the 2006 Implementation Plan the main barriers that subsequently arose. FaHCSIA and IBA developed mitigation strategies for these risks, some of which were pursued in a timely manner while others were not pursued or were overtaken by changes in policy. Overall, however, the actual performance of the program indicates that the mitigation strategies developed were not able to overcome the identified barriers.

4.18 A significant implementation hurdle was the delay in the passing of enabling land tenure legislation in the Northern Territory and Queensland. The mitigation strategies developed by FaHCSIA and IBA to counter legislative delays was to select alternate communities. However, plans to use alternate communities were affected by similar risks to those which they were seeking to mitigate. For example, Western Australia's relevant land tenure legislation and native title implications meant that the program was not able to be progressed in alternative communities in that state. Native title issues were identified in the risk assessment, and a mitigation strategy was developed. This was to undertake early identification of native title implications with the possible need for Indigenous Land Use Agreements to resolve native title issues also identified elsewhere in the Implementation Plan. IBA did commission research to identify native title implications but action on pursuing Indigenous Land Use Agreements has been limited to IBA contributing to funding a World Vision Australia home ownership project in Mapoon. As at 30 June 2010, no Indigenous Land Use Agreements were in place to support home ownership.

4.19 Another risk identified by FaHCSIA and IBA was the risk of failure or delays in achieving bilateral agreements with state/territory governments, thus affecting agreement on processes. The mitigation strategy for this was to undertake early engagement with appropriate people and to adjust community selection and establishment schedules. As a result of a variety of factors, bilateral agreements were not pursued. The lack of bilateral agreements has most likely contributed to the lack of leasing frameworks and processes which have impeded the issuing of leases in Queensland. FaHCSIA and IBA have been active in working with Queensland Government agencies to develop frameworks, particularly regarding the valuation of properties.

4.20 Significant variations to the planned demand for HOIL loans were identified as a risk with the mitigation strategy for under-subscription being to establish the program in additional communities. Learning from the early experience of the program when the availability of suitable land tenure and native title issues hindered the establishment of activities in identified communities, FaHCSIA and IBA provided advice to the Minister to consider establishing the HOIL program at sites with a broader range of land tenure arrangements. As a result, changes were made to the program guidelines to enable a wider range of communities to be considered. However, as at 30 June 2010, the HOIL program remained fully operational in only one community.

4.21 Although only six loans were provided in 2009–10, IBA estimated in the 2010–11 PBS that they would provide 40 loans in 2010–11 and that the number of HOIL loans would rise significantly each year before stabilising at about 100 loans per annum in 2013–14. IBA expected that most new loans would be for Northern Territory communities where township leases have been finalised and in Queensland. IBA has since advised the ANAO that it is reviewing whether the targets for this year and subsequent years are achievable. The ANAO notes, that at this stage, only two township leases have been finalised in the Northern Territory and no leases have been issued in Queensland, which could be expected to have a limiting influence on the targets.

4.22 Identifying the risks to implementation during the program design phase is an important element of program management. It is also important to review performance and to initiate corrective action on an ongoing basis. The regular revision of the program guidelines to broaden eligibility indicates that IBA and FaHCSIA were undertaking such revision and seeking to take action. Furthermore, in a September 2008 brief to the Minister, IBA identified six barriers to the implementation of the HOIL program: native title impacts, progression of township leasing in the Northern Territory, land tenure reforms in Western Australia, time and cost of establishing individual leases, 'debt trap' concerns, and the escalating cost of housing construction in remote communities. In the 2010–11 Budget Statement, the Minister attributed the slow implementation of the HOIL program to 'difficulties in establishing land tenure reforms and suitable land leasing frameworks and systems on Indigenous owned land'.[40] Taken together, these actions provide some demonstration that both agencies were reviewing and identifying barriers to progress.

4.23 Increasing Indigenous home ownership remains a policy priority of the Government. Recognising the challenges of supporting Indigenous home ownership, the Australian Government has released the *Indigenous Home Ownership Issues Paper*. The aim of the paper is to present a number of issues for home ownership on both freehold and community titled land, and to seek contributions from the public on possible approaches for increasing Indigenous home ownership. The Minister has also recently announced a policy commitment of continuing to seek increasing Indigenous home ownership.[41]

4.24 This commitment will be pursued within a broader Indigenous program delivery context that did not exist at the time the HOIL program was first announced. Recent Indigenous policy directions indicate a growing reliance on intergovernmental agreements through the Council of Australian Governments (COAG) in an effort to Close the Gap. The National Affordable Housing Agreement and National Partnership Agreement on Remote Indigenous Housing both aim to increase the rates of home ownership, the former through seeking better housing purchase opportunities for Indigenous Australians and the latter through tasking states and territories with developing and implementing secure land tenure arrangements.

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[40] Statement by the Honourable Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, *Budget 2010–11 Closing the Gap Between Indigenous and Non-Indigenous Australians*, 11 May 2010.

[41] Natasha Robinson, 'Macklin vows action for Aboriginal home ownership', *The Australian*, 24 September 2010.

4.25 Between April and May 2010 the ANAO met with officials from FaHCSIA, IBA, the Attorney-General's Department, the Office of Township Leasing, Northern Territory and Queensland Government departments, the Tiwi Land Council, Northern Land Council, Cape York Land Council and various non-government organisations. These organisations identified that the main impediments to the HOIL program's progress were delays in land tenure reforms, the hesitation of communities to use township leases, native title implications, social housing projects crowding out home ownership activities, a lack of leasing frameworks and processes, and housing affordability.

4.26 Acknowledging the breadth and complexity of the barriers to successful implementation of the HOIL program, and the underlying cost structures, there would be benefit in reviewing how the HOIL program can most efficiently contribute to the home ownership objectives of the national partnership agreements.

Recommendation No. 1

4.27 To establish how the HOIL program might better align with, and contribute to, the Council of Australian Governments' objectives for improving rates of Indigenous home ownership, the ANAO recommends that IBA and FaHCSIA clarify the HOIL program's strategic direction and develop alternative strategies to overcome barriers to progress and enhance the efficiency of program delivery.

FaHCSIA's response

4.28 *FaHCSIA agreed with this recommendation.*

4.29 FaHCSIA agrees with the recommendation in the Section 19 report for *Home Ownership on Indigenous Land* and will work with Indigenous Business Australia to clarify the program's strategic direction. When the HOIL program was first announced individual home ownership for Indigenous Australians was a new and untested concept in Indigenous communities. To facilitate home ownership fundamental major reform in regard to land tenure was required. Significant work was needed to promote a new paradigm in Indigenous communities including attitudinal change to home ownership.

IBA's response

4.30 *IBA agreed with this recommendation.*

4.31 IBA agrees with the recommendation that IBA and FaHCSIA clarify the HOIL program's strategic direction and develop alternative strategies to overcome barriers to progress and enhance the efficiency of program delivery.

Ian McPhee
Auditor General

Canberra ACT
21 December 2010

Appendices

Appendix 1: Department of Families, Housing, Community Services and Indigenous Affairs' response to the audit

FaHCSIA agrees with the recommendation provided in the Section 19 report for *Home Ownership on Indigenous Land*, that IBA and FaHCSIA clarify the HOIL program's strategic direction and develop alternative strategies to overcome barriers to progress and enhance the efficiency of program management.

When the HOIL program was first announced individual home ownership for Indigenous Australians was a new and untested concept in Indigenous communities. To put in place the prerequisites for home ownership fundamental major reform in regard to land tenure was required. Significant work was needed to promote a new paradigm in Indigenous communities including attitudinal change to home ownership.

FaHCSIA does not agree with the attribution of administrative costs against individual loans as outlined in the report. Administrative costs involved with setting policy parameters and guidelines for the broader program such as site selection and project management planning should not be directly attributed to a loan outcome. Nor should community education activities such as Money Management or the administration of the construction of new home potentially available for home ownership be attributed in this way.

It would be fair to say there are currently few comparable programs with the same level of upfront preparatory work required to support home ownership on Indigenous lands. FaHCSIA notes that while administration costs are currently high as attributed in this report in relation to number of loans, the foundations have now been laid to support home ownership, and it is expected that costs will reduce over time as ongoing land tenure changes see home ownership possibilities available to more communities.

In May 2010, the Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs released an Issues Paper on Indigenous home ownership. FaHCSIA is receiving public submissions which canvass approaches aimed at increasing home ownership amongst Indigenous Australians, particularly on Indigenous land. The closing date for submissions is 17 December 2010.

The submissions will inform a way forward to increasing Indigenous home ownership in Australia, which is a key property in the Australian

Government's Indigenous Economic Development Strategy. As part of this work, FaHCSIA will consider how the program can better contribute to improving rates of Indigenous home ownership as well as strategies to overcome the barriers currently being experienced.

FaHCSIA will also continue to work with the State and Northern Territory Governments to progress the resolution of land tenure issues that may be an impediment to home ownership.

Appendix 2: Indigenous Business Australia's response to the audit

40. IBA agrees with the recommendation that IBA and FaHCSIA clarify the HOIL program's strategic direction and develop alternative strategies to overcome barriers to progress and enhance the efficiency of program delivery.

41. IBA believes that the audit presents a balanced view of the performance of the HOIL program and fully explains the context and significant challenges that have been faced in implementation.

42. The audit report acknowledges that the major impediment to implementation was the lower than anticipated pace of land tenure reform, and the subsequent complexity and lengthy time-frame of establishing workable land administration processes – largely a responsibility of state and territory governments. Although directly outside the scope of the HOIL program, as the audit report acknowledges, these fundamental prerequisite environmental factors have been slow to evolve and indeed remain significant challenges today, although progress is being made in some jurisdictions.

43. The audit report acknowledges that IBA had adequate program management and sound processes. The audit report also acknowledges the significant work that IBA has invested in trying to make the program work in several jurisdictions, particularly in the area of community education on home ownership and consultation with communities.

44. Although demand recorded for the HOIL program has been low, the audit report documents the IBA recommended and very well received Commonwealth Government's decision to temporarily utilise the unspent HOIL loan capital on IBA's Home Ownership Program, targeted to Indigenous families who cannot afford a mainstream bank loan in cities and towns. This initiative preserves the capital for the HOIL program until demand increases, while still utilising the funds for the benefit of Indigenous home ownership in the meantime, albeit not on Indigenous land in the short term. These funds will still be available for future use of the HOIL program and so those with an interest in home ownership on Indigenous land in the future will be able to do so.

45. IBA will continue and strengthen its work with FaHCSIA on new strategies to deliver the HOIL program. Sixteen loans have been written in the last two years, and this demonstrates that where conditions are right,

Indigenous people living in communities do want home ownership as a choice. With further work by governments at all levels, IBA believe that demand for the HOIL program will grow as land tenure and administration practices are developed and evolve over the coming years. Further, that the establishment costs of this program, which at the moment are high on a per loan basis, will reap benefit as further loan possibilities materialise.

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