

The Auditor-General  
Audit Report No.26 2010–11  
Performance Audit

# **Management of the Tender Process for a Replacement BasicsCard**

**Department of Human Services**

Australian National Audit Office

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of Australia 2011

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Canberra ACT  
9 February 2011

Dear Mr President  
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Human Services in accordance with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Management of the Tender Process for a Replacement BasicsCard*.

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

A handwritten signature in black ink, appearing to read 'Ian McPhee', is positioned above the printed name and title.

Ian McPhee  
Auditor-General

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

## AUDITING FOR AUSTRALIA

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

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# Abbreviations

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ANAO	Australian National Audit Office
DEEWR	Department of Education, Employment and Workplace Relations
DHS	Department of Human Services
EFTPOS	Electronic funds transfer at point of sale
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
Finance	Department of Finance and Deregulation
FMA	Financial Management and Accountability
PIN	Personal identification number
RFT	Request for Tender





# Summary



# Summary

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## Introduction

1. Income management was part of a package of measures introduced by the former Government in response to the public release of the 2007 report *Little Children are Sacred*, authored by the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. Income management was announced as part of the Government's 2007 Northern Territory Emergency Response. The key measures in the response were designed to protect children and make communities safer for people living in Indigenous communities and town camps in the Northern Territory.
2. Income management operates by directing a fixed percentage (between 50 and 70 per cent) of most income support and family assistance payments, and 100 per cent of an individual's advance and lump sum payments, to the purchase of essential goods and services. Details of the income management scheme are contained in the *Social Security (Administration) Act 1999* (Cwlth).
3. The BasicsCard was developed to support the delivery of the income management scheme. The reusable, PIN (personal identification number) protected card allows social security recipients, subject to income management, to purchase essential goods and services, such as food, clothing and medicine. The BasicsCard cannot be used to purchase alcohol, tobacco, pornographic material, gambling services and products, and homebrew kits. In December 2010, there were approximately 17 000 active BasicsCards being used by individual social security recipients in Queensland, Western Australia and the Northern Territory.
4. Before the BasicsCard was introduced, social security recipients' funds were income managed in a number of ways: by issuing store cards from selected merchants (for example, Woolworths and Coles); by direct deduction of funds from an account set up at a specified merchant; or by Centrelink making a credit card or cheque payment. In early 2009, the arrangements were considered to lack flexibility, be time consuming and restrict choice for social security recipients. Merchants found the processes expensive and administratively time consuming. The arrangements were also cumbersome for Centrelink to administer.

5. The BasicsCard is accepted at approved stores and businesses and operates via the electronic funds transfer at point of sale system (commonly known as the EFTPOS system, which is used for processing transactions through terminals at points of sale). The BasicsCard cannot be used to obtain cash at an automatic teller machine, or from an EFTPOS terminal in a store, and cannot be used to transfer funds between bank accounts.

6. Income management, and use of the BasicsCard, does not reduce a social security recipient's payment entitlements. The remaining part of recipients' payments is delivered as usual, and there are no restrictions on how that money is spent.

7. The *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010* (Cwlth) received Royal Assent on 29 June 2010. From 1 July 2010, a new more broadly based model of income management (that replaces income management under the Northern Territory Emergency Response) was rolled-out across the Northern Territory, to an estimated 20 000 people, at a cost of \$350 million over four years. It was intended that the majority of customers would be transitioned to the new model of income management by 31 December 2010, with all customers transitioned by 30 June 2011.

8. The new model is targeted at specific categories of people receiving social security payments, for example, disengaged youth and long-term welfare recipients, who the Government considers to be among the most disengaged and disadvantaged individuals in the welfare system. By adopting this approach, the Government is seeking to ensure that income management is applied independent of race and is non-discriminatory.<sup>1</sup> As part of the roll-out, Centrelink contacted customers to discuss whether they would be required to be subject to income management under the new model. If customers were not required to be subject to income management, they could elect to continue to have their welfare payments income managed, under the voluntary income management arrangements.

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<sup>1</sup> Department of Families, Housing, Community Services and Indigenous Affairs, *Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response* [Internet]. FaHCSIA, 2009, available from <[http://www.fahcsia.gov.au/sa/indigenous/pubs/nter\\_reports/policy\\_statement\\_nter/Documents/landmark\\_reform\\_welfare\\_system.pdf](http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/policy_statement_nter/Documents/landmark_reform_welfare_system.pdf)> [accessed 29 November 2010].

9. The Government has undertaken to review the reforms to income management and to use the first evaluation progress report, expected in 2011–12, to inform the potential future roll-out of the new model in other parts of Australia.

10. The BasicsCard has become a recognisable and central element in the delivery of the Australian Government's income management scheme. Since its introduction in September 2008, until December 2010, the BasicsCard has been used to spend some \$193 million on essential goods and services, such as food, clothing and medicine.

11. Table S 1 summarises the history of income management and the BasicsCard.

**Table S 1**

**Introduction of income management and the BasicsCard**

Date	Activity
June 2007	<i>Little Children are Sacred</i> report released Northern Territory Emergency Response announced by the former Government
August 2007	Income management legislation passed
September 2007	Income management implementation started in the Northern Territory
September 2008	First BasicsCard issued at Katherine in the Northern Territory
March 2009	Minister for Human Services announced tender for a more permanent point of sale solution to support the delivery of income management
May 2009	Department of Human Services issued a Request for Tender (RFT) for an income management card and related services to replace the BasicsCard
December 2009	Minister for Human Services announced the successful tenderer to deliver a new replacement BasicsCard contract
July 2010	New model of income management introduced in the Northern Territory, supported by the replacement BasicsCard

Source: Department of Human Services, *Income Management Card and Related Services* (RFT09DHS146), Industry Briefings 10 & 11 June 2009 and ANAO analysis.

**Agency roles and responsibilities**

12. There are three Australian Government agencies involved in the delivery of income management and the administration of the BasicsCard:

- The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) is responsible for providing advice to the Government on income management policy that determines the use of the BasicsCard.

- The Department of Human Services (DHS) is responsible for providing a central policy and coordination role for the delivery of services across the Human Services portfolio, which included the procurement of the first BasicsCard in 2008 and replacement BasicsCard (the focus of this audit) in 2009.<sup>2</sup>
- Centrelink is responsible for service delivery of the BasicsCard for both customers and merchants.

## **Income Management Card Replacement Project**

13. In 2008–09, DHS managed the direct sourcing of a provider to deliver an income management card solution to support income management in Queensland, Western Australia and the Northern Territory. The contract, which was signed in July 2008 and initially set to expire on 30 June 2009, was a temporary measure until an open tender could be conducted for a more permanent point of sale solution.

14. The first BasicsCard contract was extended to June 2010 to enable DHS to carry out an open procurement for a replacement BasicsCard. The replacement BasicsCard was to provide for the uninterrupted delivery of existing services and ensure a flexible card solution was procured that could meet any future government requirements for income management. This decision reflected DHS' view that it was unlikely to be able to procure additional services (beyond June 2010) from the first BasicsCard contractor, using another direct source procurement, without contravening the *Commonwealth Procurement Guidelines*.<sup>3</sup> Furthermore, the department would require up to 15 months to conduct an open tender process for a replacement BasicsCard and transition to any new arrangements.

15. In late 2008, DHS received funding of \$7.8 million over two years (2008–09 and 2009–10) to undertake a more permanent BasicsCard procurement using an open tender.<sup>4</sup> The funding was for phases one and two

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<sup>2</sup> The Department of Human Services includes the Child Support Agency and CRS Australia. Details are available from DHS' website <<http://www.dhs.gov.au/>> [accessed 11 October 2010].

<sup>3</sup> Department of Finance and Deregulation, *Commonwealth Procurement Guidelines*, Financial Management Guidance No.1, Finance, Canberra, 2008.

<sup>4</sup> The funding was included in the *Portfolio Additional Estimates Statements 2008-09, Human Services Portfolio*, 'Payment Delivery–Enhanced Arrangements', p. 14.

of a larger four-phase Income Management Card Replacement Project carried out by DHS and shown in Table S 2.

**Table S 2**

**Income Management Card Replacement Project**

Phase	Name	Details	ANAO audit scope
1	Planning and Requirements (November 2008–May 2009)	Establishes the project and project management office, undertakes requirements determination and prepares documentation to support an open approach to market (RFT). Phase 1 includes the publication of a RFT following approval.	In scope
2	Evaluation and Negotiation (June 2009–November 2009)	Phase 2 covers the RFT in the market and [the period for responses] closing, the evaluation of tender responses, the selection of a preferred provider and the negotiation of a contract agreement with the preferred provider.	In scope
3	Build and Test (December 2009–March 2010)	Phase 3 builds and tests the contracted solution.	Not in scope
4	Implement and Transition (April 2010–June 2010)	Phase 4 implements the built solution and transitions from the first BasicsCard operations to the new scheme.	Not in scope

Source: DHS, Income Management Card Replacement Project, Phase 2 – Evaluation and Negotiation, End Stage Report, February 2010.

Note: Phases 3 and 4 of the Income Management Card Replacement Project are outside of the scope of this audit. For details of the audit objective, criteria and scope see paragraph 19.

16. In March 2009, the then Minister for Human Services announced that a tender would occur for a replacement BasicsCard, and a Request for Tender (RFT) was published in May 2009. DHS received five tender submissions by the closing date in July 2009. Two submissions were compliant with the conditions for participation in the RFT and were subsequently considered by the Tender Evaluation Committee.

17. After assessing the two submissions, the Tender Evaluation Committee determined each tenderer was capable of providing an income management card solution in accordance with the RFT, however, the major point of differentiation was the total price. The prime contractor's (Indue Ltd, referred

to as the 'prime contractor' in this report) tender submission was significantly lower than that of the second submission.<sup>5</sup> The Tender Evaluation Committee unanimously recommended the preferred tender proceed to the contract negotiation stage.

18. Following contract signature in late November 2009, the successful new prime contractor was publicly announced in December 2009. The first six months of the initial contract term required a transition phase from the original card to the replacement card, which involved the two contractors, existing BasicsCard customers and Centrelink.

## Audit objective, criteria and scope

19. The objective of the audit was to assess the effectiveness of DHS' management of the tender process for a replacement BasicsCard to support the delivery of the income management scheme.

20. In conducting the audit, the Australian National Audit Office (ANAO) assessed the following five key areas of the replacement BasicsCard procurement process, which are described in the Department of Finance and Deregulation's (Finance) *Guidance on the Mandatory Procurement Procedures*<sup>6</sup>:

- planning for the procurement;
- preparing to approach the market;
- approaching the market;
- evaluating tender submissions; and
- concluding the procurement, including contract negotiation.

21. The audit scope included an examination of the first two phases of the Income Management Card Replacement Project.

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<sup>5</sup> In late August 2009, in accordance with the RFT conditions, DHS issued a notification to the two tenderers of a variation to the RFT covering revised technical requirements for balance enquiry facilities and transactions. The notification also included an associated request for additional pricing information. There were no restrictions on the scope of the price revisions that tenderers could make, therefore, the tenderers' repricing submissions superseded the original pricing response for the RFT. After the repricing exercise, DHS also made normalisation adjustments during the pricing evaluation to enable a like-for-like comparison of the tenderers' proposed prices.

<sup>6</sup> The purpose of the *Guidance on the Mandatory Procurement Procedures* is to: 'assist Australian Government departments and agencies in implementing the requirements of the *Commonwealth Procurement Guidelines* and specifically the Mandatory Procurement Procedures'. See Finance's website for publications and reports, available from <<http://www.finance.gov.au>>.



## Overall conclusion

22. The BasicsCard was developed to support the delivery of the income management scheme. Income management was one of a package of measures, introduced by the former Government as part of the 2007 Northern Territory Emergency Response to the release of the 2007 report *Little Children are Sacred*, authored by the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. Income management was designed to protect the welfare of children and vulnerable people in certain communities by directing a fixed percentage (between 50 and 70 per cent) of most income support and family assistance payments, and 100 per cent of an individual's advance and lump sum payments, to the purchase of essential goods and services.

23. From 1 July 2010, a new model of income management was introduced in the Northern Territory, to an estimated 20 000 people, at a cost of \$350 million over four years. The new model is targeted at specific categories of people receiving social security payments, for example, disengaged youth and long-term welfare recipients, who the Government considers to be among the most disengaged and disadvantaged individuals in the welfare system.

24. The BasicsCard helps facilitate income management through providing social security recipients with a reusable, PIN protected card that allows people to purchase essential goods and services, such as food, clothing and medicine. As at 30 December 2010, approximately 17 000 active BasicsCards were being used by individual welfare recipients, with some \$193 million having been spent since the introduction of the card in September 2008.

25. Following the decision to introduce income management and, subsequently, a card payment option to support the scheme's implementation, DHS managed the initial direct sourcing procurement of a card solution to support the introduction of income management. The initial contract was a temporary measure until an open tender could be conducted for a more permanent point of sale solution. The two stage contract approach was designed to also allow for a more flexible card solution to be procured that could meet any future government requirements for income management, while also ensuring the uninterrupted delivery of existing services.

26. Overall, during the period from November 2008–November 2009, DHS effectively managed the tender process for a replacement BasicsCard to support the delivery of the income management scheme. DHS' management of the replacement BasicsCard procurement allowed the tender to be conducted within the required timeframe and budget.

27. The procurement culminated in November 2009, when a three-year service delivery contract for the operation of the BasicsCard was signed with Indue Ltd (the prime contractor). The contract is valued at approximately \$11 million and runs for the period July 2010–June 2013. The contract also includes an option to extend the initial three-year operational term for up to a further two years.

28. DHS demonstrated sound procurement and management practice and acted in a manner consistent with Finance’s operational guidance to agencies contained in the *Guidance on the Mandatory Procurement Procedures*.<sup>7</sup> In planning and managing the procurement, including approaching the market, evaluating tender submissions and conducting contract negotiations, DHS also complied with the requirements of the *Commonwealth Procurement Guidelines*.<sup>8</sup>

29. DHS’ approach to planning the replacement BasicsCard procurement responded to an important opportunity to address the existing criticisms of the BasicsCard, such as limited options for card users to make account balance inquiries and individual customers having a high number of transactions declined. Additionally, the lessons learned from the operation of the first BasicsCard informed the approach to the market for the card’s functionality including the level of operational performance that would potentially be required to support income management into the future.

## Key findings

### Planning (Chapters 2–3)

30. DHS’ preparation for the replacement BasicsCard procurement included developing a procurement plan, request document and submission evaluation plan that were consistent with the *Guidance on the Mandatory Procurement Procedures*.

31. Overall, DHS undertook sufficient planning in 2008 and 2009 for the replacement BasicsCard procurement, with the exception of the timely

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<sup>7</sup> Department of Finance and Deregulation, *Guidance on the Mandatory Procurement Procedures*, Financial Management Guidance No.13, Finance, Canberra, 2005.

<sup>8</sup> Finance, *Procurement Guidelines*, op. cit.

preparation of a business case.<sup>9</sup> DHS had Government authority to undertake the procurement and chose to delay the preparation of a business case for the replacement BasicsCard procurement until during the evaluation stage of the procurement in September 2009. In the interim, a delay in finalising the procurement's scope affected the project's original schedule, drafted in December 2008, by moving the timetable for contract signature from August 2009 to November 2009.

32. At the same time DHS was settling the scope of the replacement BasicsCard procurement, the Government was deliberating on the future of income management. An earlier focus on developing a business case, including defining the outcome, however, could have assisted with defining the procurement's scope sooner and with less impact on the procurement's overall schedule.

## Management (Chapters 4–6)

33. As a relatively small agency, with a high profile and time-limited procurement to conduct, DHS was reliant upon the assistance of a number of external advisers to undertake the replacement BasicsCard procurement. Engaging external advisers is a common practice used by agencies to supplement existing resources with expertise and/or independence in particular areas. The extent of the advice required can be determined by considering the procurement's scale, value and risk (of contract failure to service delivery and harm to agency reputation).

34. DHS engaged separate business, financial sector, legal and probity advisers, at a total cost of approximately \$6 million, to support the management of the replacement BasicsCard procurement.<sup>10</sup> While the cost of advisers represented a significant proportion of the total cost of managing the procurement (approximately \$7.1 million), DHS' reasons for using external

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<sup>9</sup> The *Guidance on the Mandatory Procurement Procedures* outlines various issues an agency should consider when planning a covered procurement and how an agency's planning activities should culminate in the development of a business case. The purpose of a business case is to explain why a procurement should be undertaken and how it will deliver value for money. The minimum content for a business case includes setting out resourcing requirements, a list of stakeholders and a cost-benefit analysis.

<sup>10</sup> DHS also contracted Deloitte from November–December 2008 to deliver a post-implementation review of the first BasicsCard and advice on point of sale solutions. The total cost of the advisers is based upon the cost of the four main advisers during the procurement and Deloitte's early work. See Chapter 6.

advisers included legal complexity, time pressures and internal resource constraints and limitations.

35. DHS released a request document (RFT) to the market in May 2009 for an open tender process. DHS' approach to the market for the replacement BasicsCard procurement was consistent with the *Guidance on the Mandatory Procurement Procedures*. DHS followed sound practice for agency procurement—notifying suppliers and issuing four RFT addenda via AusTender.

36. DHS effectively administered the submission evaluation process for five responses received to the RFT for a replacement BasicsCard. DHS' initial three stage evaluation process was consistent with the *Guidance on the Mandatory Procurement Procedures*. The submission evaluation process was largely completed on schedule, with no major probity issues identified.

37. The fourth and final stage of the procurement centred on the contract negotiation. DHS completed this stage on schedule, including fulfilling the relevant Financial Management and Accountability Regulations requirements. A productive working relationship established between FaHCSIA, DHS and Centrelink during the procurement process contributed to the finalisation of a new replacement BasicsCard contract.

## **Future procurements**

38. There were some procedural aspects of DHS' planning and management of the process that could be improved for future procurements undertaken by the department. These areas include:

- tailoring the governance arrangements to the nature of the procurement such that resource intensive governance and reporting structures can be better managed to avoid overlaps and scheduling conflicts; and
- ensuring tender evaluation reports contain information about any RFT addenda and responses to tenderers' clarification questions that were published on AusTender before the close of the tender. Including this information for the replacement BasicsCard procurement would have improved DHS' record of the RFT process and better informed the Project Sponsor whose endorsement was requested for the stage one evaluation report.

## Summary of agency response

39. The Department of Human Services welcomes the ANAO performance audit of the management of the tender process for a replacement BasicsCard and notes that the ANAO has not made any recommendations for action by the Department. The Department is encouraged that the ANAO has acknowledged that the Department managed the tender process for the replacement BasicsCard effectively and in accordance with sound practice. The Department is also pleased that the ANAO recognised that the productive working relationship between the Department, Centrelink and the Department of Families, Housing, Community Services and Indigenous Affairs contributed to the successful finalisation of the new BasicsCard contract.

40. The Department of Human Services notes that the project was required to achieve contract signature with the successful provider by no later than November 2009 in order to ensure that there was a smooth transition from the first BasicsCard product to the replacement BasicsCard on 30 June 2010. This imposed timing pressures on the project, as any delay in the availability of the replacement BasicsCard would have made the delivery of the Government's income management policy after 30 June 2010 very difficult.

41. The Department of Human Services agrees with the suggestions made by the ANAO in the report about how future procurement processes could be improved and will give weight to these suggestions when planning future complex procurements.



## **Audit Findings**





# 1. Introduction

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*This chapter provides background information about the BasicsCard, and explains the audit approach and structure of the report.*

## Income management and the BasicsCard

**1.1** Income management was part of a package of measures introduced by the former Government in response to the public release of the 2007 report *Little Children are Sacred*, authored by the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. Income management was announced as part of the Government's 2007 Northern Territory Emergency Response. The key measures in the response were designed to protect children and make communities safer for people living in Indigenous communities and town camps in the Northern Territory.

**1.2** Income management was one of five sub-measures—under the key measure of welfare reform and employment—intended to protect the welfare of children and vulnerable people. Income management operates by directing a fixed percentage (between 50 and 70 per cent) of most income support and family assistance payments, and 100 per cent of an individual's advance and lump sum payments, to the purchase of essential goods and services. Details of the income management scheme are contained in the *Social Security (Administration) Act 1999* (Cwlth).

**1.3** The BasicsCard was developed to support the delivery of the income management scheme. The reusable, PIN (personal identification number) protected card allows social security recipients, subject to income management, to purchase essential goods and services, such as food, clothing and medicine. The BasicsCard cannot be used to purchase alcohol, tobacco, pornographic material, gambling services and products, and homebrew kits. In December 2010, there were approximately 17 000 active BasicsCards being used by individual social security recipients in Queensland, Western Australia and the Northern Territory.

**1.4** Before the BasicsCard was introduced, social security recipients' funds were income managed in a number of ways: by issuing store cards from selected merchants (for example, Woolworths and Coles); by direct deduction of funds from an account set up at a specified merchant; or by Centrelink making a credit card or cheque payment. In early 2009, the arrangements were considered to lack flexibility and restrict choice for social security recipients.

Merchants found the processes expensive and administratively time consuming. The arrangements were also cumbersome for Centrelink to administer.

1.5 An example of the current BasicsCard is shown in Figure 1.1.

**Figure 1.1**

**The current BasicsCard**



Source: Department of Human Services.

1.6 The BasicsCard is accepted at approved stores and businesses and operates via the electronic funds transfer at point of sale system (commonly known as the EFTPOS system, which is used for processing transactions through terminals at points of sale). The BasicsCard cannot be used to obtain cash at an automatic teller machine, or from an EFTPOS terminal in a store, and cannot be used to transfer funds between bank accounts.

**1.7** Income management, and use of the BasicsCard, does not reduce a social security recipient's payment entitlements. The remaining part of recipients' payments is delivered as usual, and there are no restrictions on how that money is spent.

**1.8** The *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010* (Cwlth) received Royal Assent on 29 June 2010. From 1 July 2010, a new more broadly based model of income management (that replaces income management under the Northern Territory Emergency Response) was rolled-out across the Northern Territory, to an estimated 20 000 people, at a cost of \$350 million over four years. It was intended that the majority of customers would be transitioned to the new model of income management by 31 December 2010, with all customers transitioned by 30 June 2011.

**1.9** The new model is targeted at specific categories of people receiving social security payments, for example, disengaged youth and long-term welfare recipients, who the Government considers to be among the most disengaged and disadvantaged individuals in the welfare system. By adopting this approach, the Government is seeking to ensure that income management is applied independent of race and is non-discriminatory.<sup>11</sup> As part of the roll-out, Centrelink contacted customers to discuss whether they would be required to be subject to income management under the new model. If customers were not required to be subject to income management, they could elect to continue to have their welfare payments income managed, under the voluntary income management arrangements.

**1.10** The Government has undertaken to review the reforms to income management and to use the first evaluation progress report, expected in 2011–12, to inform the potential future roll-out of the new model in other parts of Australia.

**1.11** The BasicsCard has become a recognisable and central element in the delivery of the Australian Government's income management scheme. Since its introduction in September 2008, until December 2010, the BasicsCard has

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<sup>11</sup> Department of Families, Housing, Community Services and Indigenous Affairs, *Policy Statement: Landmark Reform to the Welfare System, Reinstatement of the Racial Discrimination Act, and Strengthening of the Northern Territory Emergency Response* [Internet]. FaHCSIA, 2009, available from <[http://www.fahcsia.gov.au/sa/indigenous/pubs/nter\\_reports/policy\\_statement\\_nter/Documents/landmark\\_reform\\_welfare\\_system.pdf](http://www.fahcsia.gov.au/sa/indigenous/pubs/nter_reports/policy_statement_nter/Documents/landmark_reform_welfare_system.pdf)> [accessed 29 November 2010].

been used to spend some \$193 million on essential goods and services, such as food, clothing and medicine.

## Background

**1.12** Table 1.1 summarises the history of income management and the BasicsCard.

**Table 1.1**

### Brief history: income management and the BasicsCard 2007–10

Date	Activity
June 2007	<i>Little Children are Sacred</i> report released Northern Territory Emergency Response announced by the former Government
August 2007	Income management legislation passed
September 2007	Income management implementation started in the Northern Territory
September 2008	First BasicsCard issued at Katherine in the Northern Territory
March 2009	Minister for Human Services announced tender for a more permanent point of sale solution to support the delivery of income management
May 2009	Department of Human Services issued a Request for Tender for an income management card and related services to replace the BasicsCard
December 2009	Minister for Human Services announced the successful tenderer to deliver a new replacement BasicsCard contract
July 2010	New model of income management introduced in the Northern Territory, supported by the replacement BasicsCard

Source: Department of Human Services, *Income Management Card and Related Services* (RFT09DHS146), Industry Briefings 10 & 11 June 2009 and ANAO analysis.

### Agency roles and responsibilities

**1.13** There are three Australian Government agencies involved in the delivery of income management and the administration of the BasicsCard:

- The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) is responsible for providing advice to the Government on income management policy that determines the use of the BasicsCard.
- The Department of Human Services (DHS) is responsible for providing a central policy and coordination role for the delivery of services across the Human Services portfolio, which included the procurement of the first

BasicsCard in 2008 and replacement BasicsCard (the focus of this audit) in 2009.<sup>12</sup>

- Centrelink is responsible for service delivery of the BasicsCard for both customers and merchants.

### *BasicsCard usage data*

**1.14** While income management can be applied compulsorily by the Government to social security recipients, the use of the BasicsCard by those welfare recipients is voluntary. Some of the alternatives to using the BasicsCard are store cards issued from selected merchants or by direct deduction of funds from an account set up at a specified merchant. In December 2010, the take-up rate of the BasicsCard among income managed welfare recipients was 97.4 per cent (16 911 of 17 362). The BasicsCard was mostly used in stores that traded principally in food (41 per cent) and clothing (7.5 per cent).<sup>13</sup>

**1.15** There were over 7.4 million BasicsCard transactions attempted from September 2008–December 2010, of which 19.9 per cent were unsuccessful. The majority (71 per cent) of the unsuccessful transactions were due to insufficient funds being available on the BasicsCard.<sup>14</sup>

### *Operation of the BasicsCard: feedback*

**1.16** DHS' 2008–09 *Annual Report* noted that the introduction of the BasicsCard had significantly reduced the administration costs for merchants and Centrelink. Positive feedback had also been received from both merchants and customers about the card's usefulness.

**1.17** There were, however, recognised problems with the operation of the BasicsCard including:

- occasional outages of the EFTPOS system;
- individual customers having a high number of transactions declined;
- frequent replacement of lost BasicsCards;

<sup>12</sup> The Department of Human Services includes the Child Support Agency and CRS Australia. Details are available from DHS' website <<http://www.dhs.gov.au/>> [accessed 11 October 2010].

<sup>13</sup> Department of Families, Housing, Community Services and Indigenous Affairs, *Closing the Gap in the Northern Territory Monitoring Report, January to June 2010* [Internet], Part Two, 4.2 BasicsCards, p. 38. FaHCSIA, 2010, available from <<http://www.fahcsia.gov.au>> [accessed 19 October 2010].

<sup>14</sup> Department of Human Services, 21 January 2011.

- limited options for customers to make account balance inquiries; and
- customers having difficulty in transferring money on to their BasicsCards afterhours and on weekends.

## **Income Management Card Replacement Project**

**1.18** Following the then Government's decision in 2007 to introduce the income management scheme and subsequently a card payment option to support the scheme's implementation, DHS determined in 2008–09 that, at the time, only one company in the Australian card payment market could quickly deliver an off-the-shelf card solution. DHS assessed that the first BasicsCard contract met the conditions for direct sourcing contained in the *Commonwealth Procurement Guidelines*.<sup>15</sup>

**1.19** The contract, which was signed in July 2008 and initially set to expire on 30 June 2009, was a temporary measure until an open tender could be conducted for a more permanent point of sale solution. DHS managed the initial (direct source) procurement and in December 2008 began planning for a second procurement (using an open tender) that was to be completed by the end of 2009.

**1.20** The first BasicsCard contract was extended to June 2010 to enable DHS to carry out an open procurement for a replacement BasicsCard. The replacement BasicsCard was to provide for the uninterrupted delivery of existing services and ensure a flexible card solution was procured that could meet any future government requirements for income management. This decision reflected DHS' view that it was unlikely to be able to procure additional services (beyond June 2010) from the first BasicsCard contractor, using another direct source procurement, without contravening the *Commonwealth Procurement Guidelines*.<sup>16</sup> Furthermore, the department would require up to 15 months to conduct an open tender process for a replacement BasicsCard and transition to any new arrangements.

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<sup>15</sup> In particular, the BasicsCard solution was compared to the *Commonwealth Procurement Guidelines* and assessed as meeting the requirement for: 'where the property or services can only be supplied by a particular business and there is no reasonable alternative or substitute for the following reason: due to an absence of competition for technical reasons'. Finance, *Procurement Guidelines*, op. cit., Conditions for direct sourcing, 8.33, d, iii, p. 31.

<sup>16</sup> Finance, *Procurement Guidelines*, op. cit.

**1.21** In late 2008, DHS received funding of \$7.8 million over two years (2008–09 and 2009–10) to undertake a more permanent BasicsCard procurement using an open tender.<sup>17</sup> The funding was for phases one and two of a larger four-phase Income Management Card Replacement Project carried out by DHS (see paragraph 1.25, for a description of the project, audit objective and scope).

**1.22** In March 2009, the then Minister for Human Services announced that a tender would occur for a replacement BasicsCard, and a Request for Tender (RFT) was published in May 2009. DHS received five tender submissions by the closing date in July 2009. Two submissions were compliant with the conditions for participation in the RFT and were subsequently considered by the Tender Evaluation Committee.

**1.23** After assessing the two submissions, the Tender Evaluation Committee determined each tenderer was capable of providing an income management card solution in accordance with the RFT, however, the major point of differentiation was the total price. The prime contractor's (Indue Ltd, referred to as the 'prime contractor' in this report) tender submission was significantly lower than that of the second submission.<sup>18</sup> The Tender Evaluation Committee unanimously recommended to the Project Sponsor, a Deputy Secretary within DHS, that the preferred tender proceed to the contract negotiation stage.<sup>19</sup>

**1.24** Following approval of the preferred tenderer and contract signature in late November 2009, the successful new prime contractor was announced in December 2009. The first six months of the initial contract term required a transition phase from the original card to the replacement card, which involved the two contractors, existing BasicsCard customers and Centrelink.

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<sup>17</sup> The funding was included in DHS' *Portfolio Additional Estimates Statements 2008-09, Human Services Portfolio, 'Payment Delivery-Enhanced Arrangements'*, p. 14.

<sup>18</sup> In late August 2009, in accordance with the RFT conditions, DHS issued a notification to the two tenderers of a variation to the RFT covering revised technical requirements for balance enquiry facilities and transactions. The notification also included an associated request for additional pricing information. There were no restrictions on the scope of the price revisions that tenderers could make, therefore, the tenderers' repricing submissions superseded the original pricing response for the RFT. After the repricing exercise, DHS also made normalisation adjustments during the pricing evaluation to enable a like-for-like comparison of the tenderers' proposed prices.

<sup>19</sup> The governance arrangements for the replacement BasicsCard procurement included DHS' delegate (Secretary, DHS), a Project Sponsor and Tender Evaluation Committee. The Project Sponsor was the senior officer in DHS with responsibility for overall control and delivery of the four-stage Income Management Card Replacement Project, including the replacement BasicsCard procurement. The Tender Evaluation Committee was established to govern the tender evaluation process.

## Audit approach

### Audit objective and scope

**1.25** The objective of the audit was to assess the effectiveness of DHS' management of the tender process for a replacement BasicsCard to support the delivery of the income management scheme.

**1.26** The *Commonwealth Procurement Guidelines*, issued under the Financial Management and Accountability Regulations, establish the core procurement policy framework for all FMA agencies.<sup>20</sup> Contained in Division 2 of the *Commonwealth Procurement Guidelines* are Mandatory Procurement Procedures for covered procurements. The Mandatory Procurement Procedures are a set of specific rules and procedures that agencies must comply with when conducting any 'covered procurement'. For FMA agencies such as DHS, this means a procurement valued above \$80 000 for property or services and above \$9 million dollars for construction services.

**1.27** The audit's criteria were adapted from the Department of Finance and Deregulation's (Finance) *Guidance on the Mandatory Procurement Procedures*, January 2005.<sup>21</sup> The purpose of the *Guidance on the Mandatory Procurement Procedures* is to: 'assist Australian Government departments and agencies in implementing the requirements of the *Commonwealth Procurement Guidelines* and specifically the Mandatory Procurement Procedures'.<sup>22</sup>

**1.28** Specifically, for the replacement BasicsCard procurement, the Australian National Audit Office (ANAO) assessed the following five key areas in a procurement process, which are described in the *Guidance on the Mandatory Procurement Procedures*<sup>23</sup>:

- planning for the procurement;
- preparing to approach the market;
- approaching the market;
- evaluating tender submissions; and

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<sup>20</sup> Finance, *Procurement Guidelines*, op. cit.

<sup>21</sup> Department of Finance and Deregulation, *Guidance on the Mandatory Procurement Procedures* Financial Management Guidance No.13, Finance, Canberra, 2005.

<sup>22</sup> See Finance's website for publications and reports, available from <<http://www.finance.gov.au>>.

<sup>23</sup> Finance, *Procurement Procedures*, op. cit., p. 8.



- concluding the procurement, including contract negotiation.

**1.29** The audit scope included an examination of the first two phases only of a larger four phase Income Management Card Replacement Project carried out by DHS (see Table 1.2).

**Table 1.2**

**Income Management Card Replacement Project**

Phase	Name	Details	ANAO audit scope
1	Planning and Requirements	Establishes the project and project management office, undertakes requirements determination and prepares documentation to support an open approach to market (RFT). Phase 1 includes the publication of a RFT following approval.	In scope
2	Evaluation and Negotiation	Phase 2 covers the RFT in the market and [the period for responses] closing, the evaluation of tender responses, the selection of a preferred provider and the negotiation of a contract agreement with the preferred provider.	In scope
3	Build and Test	Phase 3 builds and tests the contracted solution.	Not in scope
4	Implement and Transition	Phase 4 implements the built solution and transitions from the first BasicsCard operations to the new scheme.	Not in scope

Source: DHS, Income Management Card Replacement Project, Phase 2 – Evaluation and Negotiation, End Stage Report, February 2010.

**1.30** In Table 1.2, the first two phases were carried out by DHS between late 2008 to late 2009. Phases three and four were completed by 30 June 2010.

**1.31** The scope of the audit is directed at providing assurance to Parliament about DHS' management of the replacement BasicsCard procurement in 2009.

## **Audit methodology**

**1.32** The audit's conduct involved:

- examining registry files and electronic records held by DHS;
- interviewing staff from DHS;
- interviewing staff from FaHCSIA and Centrelink who represented their respective agencies during the replacement BasicsCard procurement; and

- seeking the views of other relevant stakeholders, including non-government organisations and both tenderers whose submissions were evaluated.

**1.33** Fieldwork for this audit was primarily conducted in July and August 2010. Meetings were conducted either face-to-face or via teleconferencing.

**1.34** The audit was conducted in accordance with the ANAO's auditing standards at a cost of approximately \$166 000.

## **Audit report structure**

**1.35** The audit report's remaining chapter structure is based on the five audit criteria identified in paragraph 1.28. The following structure mirrors the chronological steps undertaken by DHS during the tender:

- Chapter 2—Planning the Procurement;
- Chapter 3—Preparing to Approach the Market;
- Chapter 4—Approaching the Market;
- Chapter 5—Evaluating Submissions; and
- Chapter 6—Concluding the Process.

## 2. Planning the Procurement

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*This chapter examines the planning undertaken by DHS for the replacement BasicsCard procurement compared to the requirements of the Commonwealth Procurement Guidelines and the Guidance on the Mandatory Procurement Procedures.*

### Introduction

**2.1** Procurements undertaken by *Financial Management and Accountability Act 1997* (FMA) agencies, such as DHS, are subject to the *Commonwealth Procurement Guidelines*.<sup>24</sup> As discussed in Chapter 1, Finance has published operational guidance to assist Australian Government departments and agencies in implementing the requirements of the *Commonwealth Procurement Guidelines*, specifically the Mandatory Procurement Procedures in Division 2, by publishing *Guidance on the Mandatory Procurement Procedures*.<sup>25</sup>

**2.2** To assess the effectiveness of DHS' planning for the replacement BasicsCard tender—compared to the operational guidance contained in the *Guidance on the Mandatory Procurement Procedures*—the ANAO examined arrangements put in place by the agency to:

- define the outcome of the tender;
- prepare adequate planning documentation; and
- incorporate any lessons learned from the first BasicsCard contract.

### Defining the outcome

#### Initial approvals

**2.3** The first BasicsCard contract was signed in July 2008 following a direct source procurement. The initial 12-month contract could be extended up

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<sup>24</sup> The *Commonwealth Procurement Guidelines*, issued under the Financial Management and Accountability Regulations, establish the core procurement policy framework for all FMA agencies.

<sup>25</sup> The Mandatory Procurement Procedures are contained in Division 2 of the *Commonwealth Procurement Guidelines*. The Mandatory Procurement Procedures are a set of specific rules and procedures that agencies must comply with when conducting any 'covered procurement'. For FMA agencies like DHS, this means a procurement valued above \$80 000 for property or services and above \$9 million dollars for construction services.

to a further 12 months to enable DHS to put in place a longer term, more permanent BasicsCard solution.

**2.4** In late August 2008, DHS informed the former Minister for Human Services that advice from Finance meant it was unlikely that DHS could procure additional services (beyond June 2010) from the first BasicsCard contractor, using another direct source procurement, without contravening the *Commonwealth Procurement Guidelines*. Furthermore, the department would require up to 15 months to conduct an open tender process for a replacement BasicsCard. The timeframe included allowance for a transition to any new arrangements.

**2.5** In October 2008, in response to a review report, the Government decided to extend the existing compulsory income management arrangements under the Northern Territory Emergency Response to 30 June 2010.<sup>26</sup> The first BasicsCard contract was subsequently also extended to expire on 30 June 2010. At the same time, the Government gave DHS policy and funding authority to start procurement action to support income management arrangements beyond June 2010. However, as discussed in Chapter 6, the Government did not formally decide the future of income management beyond 30 June 2010 until November 2009.

**2.6** As previously mentioned, the Minister for Finance and Deregulation agreed in late 2008 to a total of \$7.8 million over two years (2008–09 and 2009–10) for DHS to undertake a more permanent BasicsCard procurement using an open tender.<sup>27</sup>

## Scope

**2.7** At the same time DHS was beginning to define the outcome for the replacement BasicsCard procurement, in the context of income management delivery, the Government was also considering whether point of sale technology could potentially be used to deliver targeted financial assistance to Australians in other contexts. For example, the management of emergency disaster payments. DHS was also researching international experience with

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<sup>26</sup> The report of the Northern Territory Emergency Response Review Board was released in October 2008. In May 2009, the Government released its formal response to the review.

<sup>27</sup> The funding was included in DHS' *Portfolio Additional Estimates Statements 2008-09, Human Services Portfolio*, 'Payment Delivery–Enhanced Arrangements', p. 14.

various payment systems, including card payment solutions for delivering government benefits.

**2.8** There was some concern and tension among three of the major government stakeholders (DHS, FaHCSIA and Centrelink) in the initial stages of the project while the procurement's scope was being defined. The tension centered on reaching agreement to either focus solely on identifying a replacement BasicsCard solution or defining the procurement's scope more broadly—to seek from the market a generic payment capability that could potentially support the delivery of a wider range of government initiatives in the future. DHS was mindful that the latter approach could have led to increased project costs and time. There was also a risk of expanding the procurement's scope beyond that originally approved by Government.

**2.9** The final scope of the procurement was also subject to any further government decisions about the future of the Northern Territory Emergency Response and broader welfare payments reform strategy.

**2.10** Agreement on the scope, which would be included in the RFT, was reached by the project's three major agency stakeholders, the Department of Education, Employment and Workplace Relations (DEEWR) and the then Minister for Human Services in the last week of March 2009.<sup>28</sup>

**2.11** In the first week of April 2009, the Project Sponsor endorsed a preferred option for the delivery of the BasicsCard that took into consideration the functional requirements necessary for the card, constraints and industry capability in the market. DHS used the preferred option as a basis for developing an approach to the market for a replacement BasicsCard.

**2.12** The scope of the procurement was confined to procuring a replacement BasicsCard to support the extension of income management payment delivery after June 2010. Additionally, the scope included ensuring that the procurement outcome provided sufficient flexibility to support changes to income management policy, for example, expansion to new locations and customers. The delay in finalising the scope affected the project's original schedule drafted in December 2008 by moving the timetable for contract signature from August 2009 to November 2009.

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<sup>28</sup> DEEWR is the policy agency responsible for a range of income support payments, for example, Newstart Allowance, and was represented on the interdepartmental Income Management Card Steering Committee that oversighted the introduction of the first BasicsCard.

## Project support arrangements

**2.13** In December 2008, DHS announced to the interdepartmental Income Management Card Steering Committee that a project to procure a replacement BasicsCard had formally started. The Steering Committee included representatives from DEEWR, DHS, FaHCSIA and Centrelink and was responsible for providing advice on operational and policy matters (both agency-specific and whole-of-government). At this time, the decision to undertake an open tender was not public information.

**2.14** A project management office was also established in DHS and staffing requirements were being addressed. In addition to Australian Public Service staff, DHS appointed a number of externally sourced advisers to support the procurement. Appointed in November–December 2008, the advisers were as follows:

- business adviser (Oakton);
- financial sector adviser (TransAction Resources, subcontractor to Oakton);
- legal adviser (Minter Ellison); and
- probity adviser (DLA Phillips Fox).<sup>29</sup>

**2.15** DHS allocated sufficient resources to enable the project to be completed within the estimated schedule and budget. DHS also allocated adequate resources to support the evaluation of the RFT submissions from tenderers and the operation of the evaluation teams and evaluation committee. The governance arrangements for the replacement BasicsCard procurement, including the Tender Evaluation Committee, are discussed in Chapter 3.

## Planning documents

**2.16** The extent of planning required for any procurement is related to the expected scale and complexity of the procurement. The final value of the replacement BasicsCard contract was approximately \$11 million.

**2.17** The tender was regarded by participants, and DHS, as having been a complex project. There were a number of factors that contributed to this view,

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<sup>29</sup> DHS also contracted Deloitte from November–December 2008 to deliver a post-implementation review of the first BasicsCard and advice on point of sale solutions. See Table 6.1.

including the number of stakeholders, importance of uninterrupted service delivery to social security recipients and the context of the Government's welfare payments reform agenda. Given these factors, the planning approach adopted by DHS was consistent with undertaking a complex procurement.

## Product-based approach

**2.18** DHS used a technique described as 'product-based planning' to assist with planning the replacement BasicsCard procurement.<sup>30</sup> The technique identifies and describes a project's deliverables. In this case, the products for phases one and two were primarily documents. Table 2.1 lists the product breakdown structure for the replacement BasicsCard procurement.

**Table 2.1**

### Replacement BasicsCard procurement: product breakdown structure

Product category	Product description
1. Project Management	Project Management Plan Governance Framework Reporting Framework Information Management Framework Risk and Issues Management Plan Project Schedule Product Catalogue Project Change Management Plan Quality Management Plan
2. Strategy	Products and Services Options Paper Products and Services Strategy Paper Letters between Minister of Human Services and Minister of Finance and Deregulation Input into welfare payments reform strategic Cabinet Submission Input into welfare payments reform implementation Cabinet Submission Phase 3 and 4 Cabinet Submission Phase 3 and 4 Business Case

<sup>30</sup> Department of Human Services, *Point of Sale Payment Delivery Project, Project Management Plan, Phases 1 and 2*, 23 February 2009 (Final), p. 17.

3. Requirements	Requirements Gathering Strategy Business Model Operational Model Requirements Register Business Requirements Document
4. Change Management and Communications	Stakeholder Engagement Plan—Phase 1 Communications Plan—Phase 1 Change Management Strategy—Phase 1 Process and Policy Alignment Plan—Phase 1 Stakeholder Engagement Plan—Phase 2 Communications Plan—Phase 2 Change Management Strategy—Phase 2 Process and Policy Alignment Plan—Phase 2 Training Needs Analysis
5. Procurement	Procurement Strategy and Plan Tender Evaluation Strategy and Plan Request for Tender (RFT) Documents Industry Briefing RFT Evaluation Report Contract Negotiation Plan Executed Contract Negotiation Outcome Report Contract Management Plan
6. Legal	Legal Advice
7. Probity	Probity Plan and Probity Processes

Source: Department of Human Services, *Income Management Card Replacement Project Product Catalogue (Phases 1 and 2)*, 6 May 2009 (Final), pp. 4–5.

**2.19** As set out in Table 2.1, the total number of product categories for the replacement BasicsCard procurement was seven and the total number of products to be produced was 41.<sup>31</sup>

**2.20** The ANAO reviewed a selection of the major planning documents listed in Table 2.1. The documents were sufficiently detailed to support the replacement BasicsCard procurement. Among the key documents reviewed were the Project Management Plan, Governance Framework, Procurement Strategy, Risks and Issues Management Plan and Probity Plan.

<sup>31</sup> A DHS Phase 1 – Planning and Requirements End Stage Report, completed in July 2009, recorded that a small number of the products in Table 2.1 were not delivered during phase one. A small number of additional products were identified later and added to the total number.



## Business case

**2.21** The *Guidance on the Mandatory Procurement Procedures* outlines various matters an agency should<sup>32</sup> consider when planning a covered procurement and how an agency's planning activities should culminate in the development of a business case.<sup>33</sup> The purpose of a business case is to explain why a procurement should be undertaken and how it will deliver value for money.

**2.22** In the context of the replacement BasicsCard tender, the Government had already given approval for the conduct of a procurement and provided funding for phases one and two. Accordingly, DHS considered it had a 'sufficient basis for preparing to approach the market'<sup>34</sup> and determined that a business case was not required for phases 1 and 2 of the Income Management Card Replacement Project. The business case prepared for the direct sourcing of the first BasicsCard was available, but would have required updating to support the open tender for the replacement BasicsCard.

### *Development of a business case*

**2.23** Due to the decision to not complete a business case for the initial two phases of the Income Management Card Replacement Project, such a document is not listed in Table 2.1 among the 41 products to be developed to assist with planning for the procurement. DHS did however, subsequently develop a business case for the replacement BasicsCard procurement, which was finalised in September 2009. The development of the business case stemmed from a Gateway Review Report recommendation made in May 2009.<sup>35</sup>

**2.24** As discussed at paragraphs 2.7–2.12, finalising the scope of the replacement BasicsCard procurement was delayed in early 2009 and this

<sup>32</sup> The use of the term 'should' in the *Commonwealth Procurement Guidelines* denotes matters of sound practice and is also used in the *Guidance on the Mandatory Procurement Procedures*. Finance, *Procurement Guidelines*, op. cit., p. 2.

<sup>33</sup> The minimum content for a business case includes setting out resourcing requirements, a list of stakeholders and a cost-benefit analysis. Finance, *Procurement Procedures*, op. cit., p. 18.

<sup>34</sup> Department of Human Services, 11 November 2010.

<sup>35</sup> The Gateway Review process is designed to strengthen the oversight and governance of major projects and assist FMA agencies to deliver agreed projects in accordance with the stated objectives, on time and on budget. Gateway involves short, intensive reviews at critical points in the project's lifecycle by a team of reviewers not associated with the project.

Department of Finance and Deregulation, *Gateway Review Report: Gate 1—Business Case Review and Gate 2—Procurement Strategy*, May 2009, pp. 2–3.

affected the project's original timetable by moving the proposed contract signature from August 2009 to November 2009.

**2.25** The delay was because DHS needed to balance the opportunity to procure a generic payment capability, which could potentially support the delivery of a wider range of government initiatives in the future, against the risk of increasing the project's cost and duration. Further, the scope of the replacement BasicsCard procurement was also subject to any subsequent government decisions about the future of the Northern Territory Emergency Response and broader welfare payments reform strategy.

**2.26** An earlier focus on developing a business case, including defining the outcome, however, could have assisted DHS with defining the procurement's scope sooner and with less impact on the procurement's overall schedule.

## **Lessons learned from the first BasicsCard**

**2.27** Consistent with sound practice, DHS identified operational issues and took into account existing criticisms of the first BasicsCard when planning for the replacement BasicsCard procurement.

**2.28** In 2008, DHS held a series of three post implementation review workshops with representatives from FaHCSIA, DHS and Centrelink for the first BasicsCard as follows:

- Lessons Learned Review—Products and Branding, October 2008;
- Lessons Learned Review—Customers, November 2008; and
- Lessons Learned Review—Merchants, November 2008.

**2.29** In October 2009, the Project Board for the replacement BasicsCard approved a Project Closure Report for the first BasicsCard. The report cited the lessons learned workshops and recommended four improvements for future BasicsCard projects:

- Need for a more formal change control process for the project.
- Planning for merchant engagement to allow for different approaches for different types of merchants, for example, national food retailers, community stores and roadhouses.
- More time allowed for engagement with financial sector regulators and better synchronisation with their approval cycles.

- Early engagement with all stakeholders to enable more input to strategy, policy and process.

**2.30** The Project Closure Report advised that the recommendations for improvement and operational learnings from the workshops informed the development of requirements for the replacement BasicsCard procurement. Therefore, while there was no formal post implementation review for the first BasicsCard, operational issues for the first BasicsCard were well known by DHS (FaHCSIA and Centrelink) by late 2008 and in early 2009 when planning for the replacement BasicsCard procurement began. Interviews during audit fieldwork, with a wide range of project participants, supported the view that DHS incorporated lessons learned from the procurement, contract management and operation of the first BasicsCard into the replacement BasicsCard activity.

## Conclusion

**2.31** The ANAO examined the key aspects of DHS' planning for the BasicsCard procurement. Table 2.2 shows the work undertaken to assess the effectiveness of DHS' planning and compares DHS' approach to the *Guidance on the Mandatory Procurement Procedures* and the ANAO's test program for audit fieldwork.

**Table 2.2**

### Planning: summary of findings

<i>Guidance on the Mandatory Procurement Procedures</i> checklist and ANAO test program	DHS' approach	ANAO comment
Has the outcome been defined?	✓	See paragraphs 2.3–2.6
Have the specifications been defined?	✓	
Has the market been researched?	✓	
Have the risks been identified?	✓	
Has a timeline been developed?	✓	
Has an internal due diligence process been carried out?	✓	
Have delivery options been considered?	✓	
Have alternative opportunities been identified?	✓	
Have industry regulations and licensing requirements been identified?	✓	

Have any special conditions been identified?	✓	
Has a business case been developed?	Partial	Business case developed during the tender evaluation (see paragraph 2.23)
Has an appropriate tender process been determined?	✓	See paragraphs 2.3–2.6
Has the use of a select or direct source tender been justified?	Not Applicable	See paragraphs 2.3–2.6
Were lessons learned transferred from the first BasicsCard?	✓	See paragraphs 2.27–2.30

Source: Finance, *Procurement Procedures*, pp. 19 and 26, and ANAO analysis.

**2.32** Overall, DHS undertook adequate planning in 2008 and 2009 for the replacement BasicsCard procurement, with the exception of the timely preparation of a business case, which was completed in September 2009 during the evaluation of submissions. Consistent with sound practice, DHS identified operational issues and took into account existing criticisms of the first BasicsCard when planning for the replacement BasicsCard procurement.

## 3. Preparing to Approach the Market

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*This chapter examines the preparation undertaken by DHS before approaching the market with a tender for a replacement BasicsCard. The ANAO compared DHS' preparation to the requirements of the Commonwealth Procurement Guidelines and the Guidance on the Mandatory Procurement Procedures.*

### Introduction

**3.1** A successful approach to the market with a request for property or services is underpinned by key tender documents prepared by the agency, including a request document and submission evaluation plan. The request document provides industry with a clear statement of requirements to address and ensures all potential suppliers have the same opportunity to submit a response. The submission evaluation plan enables the agency to implement a sound and defensible assessment process for the tender submissions received.

**3.2** To assess the effectiveness of DHS' preparation to approach the market for a replacement BasicsCard, the ANAO examined the arrangements put in place by DHS to support the request and evaluation processes by:

- developing key tender documents—a procurement plan, request document and submission evaluation plan;
- establishing governance arrangements; and
- establishing a probity regime.

**3.3** Similarly to the planning stage, the agency needs to consider the overall scale, value and risk associated with the procurement. Among the risks to be considered are increased procurement costs due to delays to the procurement schedule and capacity in the market to deliver the specified services.

### Development of key tender documents

#### Procurement plan

**3.4** According to the *Guidance on the Mandatory Procurement Procedures*, the business case explains *why* a procurement is being undertaken while the procurement plan explains *how* a procurement is to be undertaken. The *Guidance on the Mandatory Procurement Procedures* specifies that the procurement plan, depending on its size and complexity, should address the following elements:

- a description of the procurement;
- the conditions for participation;
- the evaluation criteria;
- the type of procurement process to be used;
- an explanation of why an open tender is not being used, if appropriate;
- a probity plan, if appropriate;
- governance arrangements, such as the need for a steering committee;
- the risk assessment;
- indicative time-lines; and
- the submission evaluation plan.<sup>36</sup>

**3.5** DHS developed a Procurement Strategy document for the replacement BasicsCard procurement in April 2009. The strategy was drafted by the procurement's business adviser and incorporated comments from DHS, the legal and probity advisers. The strategy outlined how the procurement was to be undertaken as well as the procurement's: objectives; scope; process; schedule; approach to stakeholder engagement; and governance arrangements. A final version of the strategy was approved by the Project Board, Steering Committee and Project Sponsor in May 2009. (See paragraph 3.28 for a description of the procurement's governance arrangements).

## **Request document**

**3.6** The purpose of the request document is twofold: to describe the nature of the procurement; and to establish the evaluation process to be used for submissions received from suppliers in the market.

**3.7** The *Guidance on the Mandatory Procurement Procedures* specifies that the request document should contain:

- a description of the procurement;
- conditions for participation;
- evaluation criteria;
- minimum content and format requirements;

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<sup>36</sup> Finance, *Procurement Procedures*, op. cit., p. 30.

- process rules; and
- a copy of the draft contract.<sup>37</sup>

### *Development of the request document*

**3.8** The business requirements for the replacement BasicsCard procurement were developed in workshops with FaHCSIA, Centrelink and the project's advisers. DEEWR was also consulted during the development of the request document.

**3.9** In May 2009, DHS consulted with and advised its Minister about: the preliminary findings of market research into information packages for the BasicsCard and communications materials for merchants and customers; and the findings of an independent review of the BasicsCard contractor's systems and processes used to activate and deactivate merchants to accept the BasicsCard in their stores. For both reports, DHS indicated that the findings would be used to inform the current operation of the BasicsCard and considered as part of developing the requirements for the replacement BasicsCard procurement.

### *Announcement and industry briefings*

**3.10** In March 2009, the then Minister for Human Services announced the Government's intention to call for tenders for a replacement BasicsCard. The approach to the market was to be made by the middle of 2009 through an open tender process.<sup>38</sup> DHS received funding of \$7.8 million for the procurement in late 2008.<sup>39</sup> The timing of the procurement announcement, in March 2009, reflected wider consideration at the time by the Government of the future direction of the Northern Territory Emergency Response and income management beyond June 2010.

<sup>37</sup> Finance, *Procurement Procedures*, op. cit., p. 31.

<sup>38</sup> Department of Human Services, Senator Joe Ludwig Media Release, *Minister foreshadows tender process for new BasicsCard, as Govt flags industry consultation for payment delivery reform* [Internet]. DHS, 25 March 2009, available from <<http://www.humanservices.gov.au/dhs/media/archives/ludwig/0903>> [accessed 29 June 2010].

Department of Human Services, Ministerial Speech, *Address to the Cards and Payments Australasia Conference* [Internet]. DHS, 25 March 2009, available from <<http://www.humanservices.gov.au/dhs/media/archives/ludwig/speeches>> [accessed 29 June 2010].

<sup>39</sup> DHS' *Portfolio Additional Estimates Statements 2008-09, Human Services Portfolio*, 'Payment Delivery–Enhanced Arrangements', p. 14.

**3.11** In April 2009, DHS held two pre-release industry information sessions—one in Sydney and the other in Melbourne—to inform the market about the forthcoming replacement BasicsCard procurement. The sessions were also to inform DHS about likely market interest in the procurement and to obtain feedback that could be used in the development of the request document. The briefings were advertised in four major newspapers. In total, approximately 100 people attended the briefings representing 50 companies. DHS also requested, and received after the pre-tender industry briefings, comments from industry on the BasicsCard's operational model.

#### *Future funding*

**3.12** DHS planned to release the request document on 29 May 2009. At the time, the Government had not agreed the funding for the BasicsCard contract in 2010–11 and subsequent years. As a result, DHS considered the impact of:

- Changing the timing of the procurement until there was income management policy and future funding certainty.
- A delay in obtaining Government funding approval and DHS' ability to enter into a contract for a replacement BasicsCard.
- The requirements of the *Commonwealth Procurement Guidelines*.
- The cost to DHS and potential for reputational damage of a decision to terminate or vary the procurement significantly, which could also give rise to significant costs for the tenderers.

**3.13** The Secretary of DHS agreed to proceed with the release of the request document in early May 2009 and the former Minister for Human Services was informed of the decision later in May 2009. DHS anticipated that the Government would make a decision in September 2009 about income management policy and future funding for delivery of the BasicsCard. In the interim, the request document advised potential tenderers that:

#### **Funding for the Project**

As at the Issue Date, the Australian Government has not determined all policy parameters for income management for 2010/2011 going forward.

Tenderers should be aware that the Commonwealth will not be in a position to enter into a Contract for Services and Supplies until these parameters have



been settled and the funding for implementation of this policy has been agreed. The timetable...has been developed with this consideration in mind.<sup>40</sup>

**3.14** DHS' market research indicated that there was sufficient interest in the replacement BasicsCard procurement to generate a competitive process, notwithstanding the advice concerning the policy parameters and funding included in the request document.

### *Approvals for release*

**3.15** As discussed in Chapter 2, a Gateway Review by Finance was finalised in mid-May 2009 that examined DHS' development of the replacement BasicsCard procurement strategy. At the time the report was delivered to DHS, the request document was incomplete and the Gateway review team identified that there was: 'significant schedule pressure with the attendant potential risk to product quality'.<sup>41</sup>

**3.16** Subsequently, the project's business, legal, probity and financial sector advisers substantively endorsed the request document in late May before its release. The small number of issues and concerns identified by the advisers were not of a sufficient order of magnitude to delay the procurement.

**3.17** The request document was endorsed by the Steering Committee and approved by the Project Sponsor in late May before release to the market. (See Chapter 4 for further details of the approach to the market.)

### **Submission evaluation plan**

**3.18** The submission evaluation plan must be consistent with the request document and should be completed and approved by the agency before approaching the market.<sup>42</sup> The *Guidance on the Mandatory Procurement Procedures* recognises changes to the request document might be necessary and cautions that the evaluation plan must remain consistent with any changes to

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<sup>40</sup> Department of Human Services, *Request for Tender for an Income Management Card and Related Services*, RFT09DHS146, 29 May 2009, clause 4.5, p. 13.

<sup>41</sup> This finding contributed to the review's conclusion that the overall status of the project was 'amber' (the issues raised in the review should be addressed before the next Gateway review). Department of Finance and Deregulation, *Gateway Review Report: Gate 1—Business Case Review and Gate 2—Procurement Strategy*, May 2009, p. 2.

<sup>42</sup> For further ANAO guidance about probity in Australian Government procurement see ANAO *Better Practice Guide—Fairness and Transparency in Purchasing Decisions*, August 2007, Canberra.

the request document. Usually, the evaluation plan would not be modified after submissions have been viewed.<sup>43</sup>

**3.19** The ANAO examined the approval processes for the Tender Evaluation Plan. To assess the appropriateness of DHS' submission evaluation plan, the ANAO also examined the replacement BasicsCard Tender Evaluation Plan for consistency with the request document.

#### *Approval processes*

**3.20** DHS consulted with Centrelink and FaHCSIA during the preparation of the Tender Evaluation Plan. DHS followed the same process for approving the Tender Evaluation Plan to that of the request document (see paragraphs 3.16–3.17). The project's business, financial sector, probity and legal advisers reviewed elements of the Tender Evaluation Plan in late May 2009 before the request document was released.

**3.21** The plan was endorsed by all of the advisers, subject to minor qualifications, with the exception of one of the probity adviser's qualifications. The probity adviser considered that, if the Project Sponsor approved the Tender Evaluation Plan in the planned timeframe, errors identified in the plan would need to be corrected at a later date prior to the close of the tender in the market. The Project Sponsor was advised that the department would further review the plan after 29 May 2009 (the planned release date of the request document) and any requirement to vary the plan would be subject to a further formal approval process by the Project Sponsor.

**3.22** In mid-June, the Project Sponsor approved a revised version of the Tender Evaluation Plan and noted that the changes were minor. The Project Sponsor was advised that FaHCSIA had been consulted on the variations.

**3.23** The probity adviser endorsed the revised version of the Tender Evaluation Plan with only one minor qualification—the efficacy of the evaluation methodologies had not been independently verified by the adviser. Verification of the evaluation methodologies was to be carried out by the business adviser.

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<sup>43</sup> For further detail, see Finance's *Guidance on the Mandatory Procurement Procedures*. Finance, *Procurement Procedures*, op. cit., p. 37.

### *Comparison with the Guidance on the Mandatory Procurement Procedures*

**3.24** DHS prepared key tender documents that included a procurement plan, request document and submission evaluation plan, which was consistent with the approved request document. These documents were also consistent with the steps for preparing an approach to market described in the *Guidance on the Mandatory Procurement Procedures*.

**3.25** The Tender Evaluation Plan described a four stage evaluation methodology leading to a recommendation to the Project Sponsor. The plan could have been improved by the inclusion of an indicative evaluation timetable for consideration by the Project Sponsor.

## **Governance arrangements**

### **Project governance**

**3.26** The governance structures described in the Tender Evaluation Plan and Procurement Strategy are consistent with the Governance Framework for the replacement BasicsCard procurement. As discussed in Chapter 1, a Governance Framework was developed for phases 1 and 2 (planning and requirements; evaluation and negotiation) for a broader income management card replacement project. Phases 3 and 4 (build and test; implement and transition) are outside the scope of this audit.

**3.27** The project's governance structure included the following components:

- Minister for Human Services;
- Secretary, DHS (delegate for contract signature);
- Deputy Secretary, DHS (Project Sponsor);
- Steering Committee;
- Project Board; and
- Project Manager and project team, DHS.

The arrangements also identified the department and Minister for Families, Housing, Community Services and Indigenous Affairs; other government partners (DEEWR, Finance and Centrelink); two other payment related

committees; and four project advisers (business, financial sector, legal, and probity).<sup>44</sup>

## **Procurement governance**

**3.28** The governance arrangements for the replacement BasicsCard procurement were a sub-element within the broader four stage project. The separate procurement governance structure included DHS' delegate, Project Sponsor, Tender Evaluation Committee and three tender evaluation teams—capability, pricing and corporate—one for each criterion in the request document. The tender evaluation was supported by the four specialist advisers.

**3.29** The governance structures established by DHS for the replacement BasicsCard project were appropriate to support communication and accountability between stakeholders. Furthermore, the separate governance structure established for the procurement stage was adequate to support planning for and implementing the open tender procurement approach.

## **Submission evaluation committee**

**3.30** The Tender Evaluation Committee established by DHS to evaluate the submissions received was consistent with the suggested administrative practice identified in the *Guidance on the Mandatory Procurement Procedures* for a submission evaluation committee.<sup>45</sup> By virtue of their membership of the Steering Committee and Project Board, the members of the Tender Evaluation Committee also agreed to the request document and submission evaluation plan in May 2009 (see paragraph 3.33). The committee's membership was detailed in the Tender Evaluation Plan in May 2009, probity briefings were given to committee members in July 2009 by the probity adviser and terms of reference for the committee's operation were also agreed.

## **Key governance bodies**

**3.31** During the two phases of the replacement BasicsCard procurement the successful operation of three governance bodies was crucial to the final

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<sup>44</sup> Department of Human Services, *Point of Sale Payment Delivery Project—Governance Framework (Phases 1 and 2)*, February 2009, p. 10.

<sup>45</sup> Finance, *Procurement Procedures*, op. cit., p. 38.

outcome. Table 3.1 describes the three key bodies involved in the governance of the procurement.

**Table 3.1**

**Key governance bodies for the replacement BasicsCard procurement**

Committee	Role	Membership
Steering Committee	Responsible for the provision of advice on operational and policy matters related to the proposed solution being delivered by the replacement BasicsCard project.  The role included considering whole-of-government issues relevant to the agencies represented on the committee.	DHS (Chair) DHS (3 members) DEEWR (member) FaHCSIA (member) Centrelink (member)
Project Board	Responsible for the day-to-day consideration of issues related to the implementation of the project.	DHS (Chair) DHS (3 members) FaHCSIA (member) Centrelink (member)
Tender Evaluation Committee	Established to govern the evaluation process, evaluate the submissions received and recommend a preferred supplier to the delegate for approval.	DHS (Chair) DHS (2 members) FaHCSIA (member) Centrelink (member)

Source: ANAO analysis.

**3.32** The Steering Committee shown in Table 3.1, originally formed to oversight the first BasicsCard project, was continued for the replacement BasicsCard project. The first meeting of the new governance body was held in March 2009. The first meeting of the Project Board was held in February 2009.

**3.33** In Table 3.1, the following joint memberships existed:

- DHS' Chair of the Tender Evaluation Committee was also a member of the Project Board and Steering Committee; and
- FaHCSIA and Centrelink representatives on the Tender Evaluation Committee were also members of the Project Board and Steering Committee.

**3.34** While continuity of membership between the three separate governance bodies was advantageous, commitment to the three meeting schedules by the agencies and individuals involved was considerable. A Phase 2—Evaluation and Negotiation End Stage Report, finalised by DHS in February 2010, highlighted a number of lessons learned from the governance arrangements adopted for the procurement. The lessons learned included that

a resource intensive governance and reporting structure resulted in overlaps and scheduling conflicts arising between the three governance bodies. The governance arrangements for the replacement BasicsCard procurement needed to be commensurate with DHS' assessment of the risk and complexity of the procurement. A key consideration for future procurements will be to tailor the governance arrangements to the nature of the procurement and the available resources while being mindful of previous lessons learned.

## Project reporting

**3.35** To support the project's governance bodies, DHS instituted a weekly project status report. The report included the following information about the project:

- progress in relation to schedule, budget and deliverables;
- status of any significant risks and issues; and
- activities planned for the following period.<sup>46</sup>

The report formed the basis of regular updates to the Project Board, Steering Committee, Project Sponsor, Secretary DHS and the Minister's Office.

**3.36** The weekly project status reports were presented in a template format that enabled consistent reporting and allowed users to easily form a view about the project's overall status (a positive or negative trend). The reports were also useful for monitoring the project's elapsed time against the schedule and budget position.

## Probity arrangements

**3.37** Probity and process issues are important considerations for agencies undertaking procurement activities. Probity principles, inherent in the *Commonwealth Procurement Guidelines* and *Guidance on the Mandatory Procurement Procedures*, support agencies achieving fairness, transparency and value for money.<sup>47</sup>

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<sup>46</sup> Department of Human Services, *Point of Sale Payment Delivery Project Reporting Plan*, 26 March 2009, p. 8 and Attachment A.

<sup>47</sup> ANAO *Better Practice Guide—Fairness and Transparency in Purchasing Decisions*, August 2007, Canberra, p. 15.

**3.38** The probity risks for a proposed procurement are determined by the scale and complexity of the undertaking. The risks identified influence the resources dedicated to planning and implementing probity arrangements. To assess the appropriateness of the replacement BasicsCard procurement's probity arrangements, the ANAO examined the probity plan and protocols and management of the probity and communications registers. The ANAO also examined the implementation of the probity arrangements.

**3.39** The central elements of DHS' probity arrangements for the replacement BasicsCard procurement were as follows:

- appointment of an independent, external probity adviser;
- development and high level approval of a probity plan and protocols;
- probity processes for DHS and FaHCSIA ministers and their staff;
- extensive conduct of probity briefings;
- maintenance of a probity register and communications registers; and
- development and maintenance of a list of potential tenderers (to facilitate declarations of conflict of interest and manage confidentiality).

### **Probity requirements for participants**

**3.40** In accordance with the Probity Plan, initially DHS departmental staff, contractors and advisers and staff from DEEWR, FaHCSIA and Centrelink were required to fulfil the following requirements before accessing non-public information relevant to the procurement:

- read and comply with the Probity Protocols;
- receive an oral probity briefing from the probity adviser;
- receive a current list of potential tenderers; and
- sign a Conflict of Interest Declaration and a Commonwealth Employee Acknowledgement or Deed of Confidentiality (as applicable).

### **Probity registers and reports**

**3.41** DHS maintained an electronic probity register that recorded status details for the participants described in paragraph 3.40. The final probity register contained a total of 437 individual participants' records, which included representatives from Finance, other agencies and individuals that were defined as participants during the procurement process. Physical records

of the corresponding declarations, acknowledgements or deeds were maintained separately by DHS. Also maintained on physical files were records of all communication between participants and potential tenderers.

**3.42** Additional to this process, DHS provided a monthly written confirmation to the probity adviser to the effect that: all participants in the procurement had met the probity requirements; probity issues had been reported to the Project Manager; and, the probity plan was being discharged appropriately by the responsible DHS officer. DHS reported no material probity issues for the procurement to the probity adviser from February–October 2009 (a new BasicsCard contract was signed in November 2009).

**3.43** In August 2009, the project's probity adviser provided the first in a series of probity sign-offs against five milestones identified in the Probity Plan. The sign-off for milestones one and two covered the period from the start of the replacement BasicsCard procurement (and appointment of the adviser in November 2008) to the release of the request document in late May 2009. The sign-off provided by the probity adviser did not raise any probity concerns.

**3.44** Probity processes for procurement are often subject to internal and external scrutiny and any successful challenge can potentially lead to adverse consequences for governments, agencies or advisers. DHS' approach to planning probity arrangements for the replacement BasicsCard procurement was detailed and minimised the risk for DHS. Implementing the probity arrangements required a significant commitment of DHS staff and financial resources.

## Conclusion

**3.45** The ANAO examined the key aspects of DHS' preparation to approach the market with a replacement BasicsCard tender. Table 3.2 shows the work undertaken to assess the effectiveness of DHS' preparation and compares DHS' approach to the *Guidance on the Mandatory Procurement Procedures* and the ANAO's test program for audit fieldwork.



**Table 3.2****Preparing to approach the market: summary of findings**

<i>Guidance on the Mandatory Procurement Procedures checklist and ANAO test program</i>	DHS' approach	ANAO comment
Has a procurement plan been developed, which specifies the key components of how the procurement is to be undertaken?	✓	
Has a request document been developed covering all essential sections?	✓	
Has legal advice been sought in relation to the draft contract or other elements of the process as necessary?	✓	
Has a submission evaluation plan been developed prior to approaching the market?	✓	
Has a submission evaluation committee been formed?	✓	
Were lessons learned transferred from the first BasicsCard?	✓	See paragraphs 3.9 and 3.11

Source: Finance, *Procurement Procedures*, p. 39 and ANAO analysis.

**3.46** Overall, DHS adequately prepared to undertake the replacement BasicsCard procurement in 2009. DHS' preparation included developing a procurement plan, request document and submission evaluation plan that were consistent with the *Guidance on the Mandatory Procurement Procedures*.

**3.47** To improve future procurement processes DHS could: include an indicative evaluation timetable in the Tender Evaluation Plan, for consideration by the Project Sponsor; and tailor the governance arrangements to the nature of the procurement and available resources so that a better balance between governance and reporting structures can be achieved to help avoid overlaps and scheduling conflicts. In this context, there are documented lessons learned available about the governance arrangements adopted for the replacement BasicsCard procurement.

## 4. Approaching the Market

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*This chapter examines DHS' approach to the market with a tender for a replacement BasicsCard. The ANAO compared DHS' approach to the requirements of the Commonwealth Procurement Guidelines and the Guidance on the Mandatory Procurement Procedures.*

### Introduction

**4.1** An 'approach to the market' refers to when an agency issues a notice on AusTender inviting potential suppliers to participate in a specific procurement.<sup>48</sup> As previously discussed, DHS released a request document to the market in May 2009. In the case of the replacement BasicsCard procurement, DHS released a Request for Tender (RFT) for an open tender process.

**4.2** To assess the effectiveness of DHS' approach to the market with a replacement BasicsCard procurement, the ANAO examined arrangements put in place by the agency to:

- notify the market about the procurement; and
- modify the request document or clarify matters.

### Notifying the market

**4.3** The requirement for agencies to use AusTender ensures a consistent approach to Australian Government procurement that embeds the principles of fairness and access for potential suppliers of property and services to government.

**4.4** DHS published on AusTender a national *Income Management Card and Related Services* RFT (RFT09DHS146) on 29 May 2009. The purpose of the RFT was to select a contractor to provide card services and supplies for: 'recipients of certain welfare payments who are subject to the Australian Government's income management scheme'.<sup>49</sup> The number of income management cards

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<sup>48</sup> AusTender is the: 'central web-based facility for publication of Australian Government procurement information, including business opportunities, annual procurement plans and contracts awarded'. Finance, *Procurement Guidelines*, op. cit., p. 43.

<sup>49</sup> Department of Human Services, *Request for Tender (RFT) No. RFT09DHS146 for an Income Management Card and Related Services*, Part A – General Information, clause 2.1, May 2009, p. 11.

operating under the income management scheme was not expected to exceed 30 000 (approximately 16 000 Centrelink customers were using the BasicsCard in May 2009).

**4.5** The RFT was presented in four main parts and 10 schedules. A statement of requirements and draft agreement (contract) were included in the schedules. Table 4.1 summarises the content of the statement of requirements.

**Table 4.1**

**BasicsCard RFT, Schedule 2, Statement of Requirements**

Type and priority of requirement	
Mandatory requirements	6
Critical requirements	3
Highly desirable requirements	63
Desirable requirements	6
<b>Total requirements</b>	<b>78</b>
Capability criteria weighting— DHS advised tenderers that the Commonwealth would give greater importance to tenderers' responses to the following five clauses in the statement of requirements:	
3.3 Interface requirements	
3.8 Income management card management	
3.9 Customer enquiry facilities	
3.10 Customer fees and charges	
3.13 Project implementation	

Source: DHS, RFT09DHS146, Schedule 2, Statement of Requirements and ANAO analysis.

**4.6** Table 4.2 presents the six mandatory requirements identified in Table 4.1.

**Table 4.2**

**Mandatory requirements**

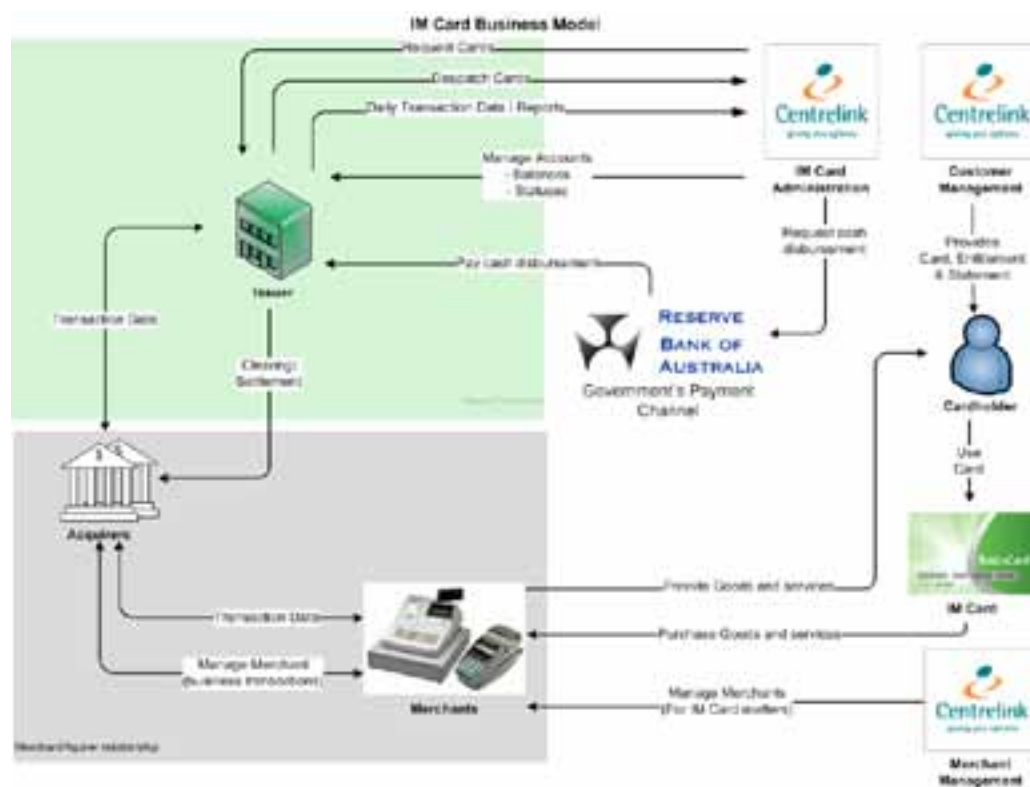
Heading	Requirement
Point of sale network	Each income management card must be able to operate on terminals connected to the Australian card payment system without modification.
Card present	The proposed system and services must decline purchase or refund transactions where the income management card is not present.
Secured with PIN <sup>A</sup>	Transactions performed using an income management card must only be validated by the entry of the PIN assigned to that income management card.
Approved merchants	Online transactions must only be validated for approved merchants.

Heading	Requirement
No access to cash	The proposed system and services must decline transactions which access cash, including transactions made via automated teller machines.
Transfers	The proposed system and services must decline transactions requesting transfer of funds to or from other accounts, other than as authorised by the Commonwealth.

Source: DHS, RFT09DHS146, Schedule 2, Statement of Requirements, p. 9.

Note: (A) Personal identification number, which is a unique four digit code.

**4.7** DHS estimated that the complete RFT documentation was in excess of 500 pages. The volume of information was indicative of the complexity involved in delivering an income management card service to meet the Government's policy and technical requirements. Figure 4.1 shows the business model included in the RFT and illustrates the number and complexity of the model's relationships. The detailed RFT was regarded by DHS as necessary to ensure that the requirements were well understood by potential suppliers and meant that they were well placed to respond to the RFT.

**Figure 4.1****Income management card business model**

Source: DHS, RFT09DHS146, Schedule 9, Additional Confidential Information, Operating Model, p. 4.

Note: 'IM' is income management.

**4.8** After completing a Deed of Confidentiality (Schedule 9 of the RFT), additional confidential information (in effect, a virtual data room) was available to the tenderers. The additional electronic data containing operational, legal and regulatory documentation was encrypted and password protected.

**4.9** The closing date and time for the RFT was 2 July 2009, 2:00 pm, which met the time limit specifications for procurements set out in the *Commonwealth Procurement Guidelines*.<sup>50</sup>

**4.10** The AusTender notice was consistent with the *Guidance on the Mandatory Procurement Procedures* and contained details of:

<sup>50</sup> Finance, *Procurement Guidelines*, op. cit., p. 36.

- the agency's name and contact details;
- a description of the replacement BasicsCard procurement and conditions for participation;
- the closing date and address for submission of responses (via AusTender); and
- the timeframe for delivery of the replacement BasicsCard in 2010.<sup>51</sup>

**4.11** DHS' newspaper advertising in April 2009, as part of the pre-tender industry briefing, had previously informed the market of the agency's intention to release the RFT before the end of the financial year (see Chapter 3 for details). A similar notice also appeared on AusTender in April 2009.

## **Second industry briefing**

**4.12** DHS held a second series of industry briefings, in Sydney and Melbourne, from 10–11 June 2009. The briefings were advertised in four major newspapers in late May and early June 2009. The content of the briefings was similar to that delivered to potential tenderers in April 2009, but included information about the tender that was currently open, advice about how to respond and an opportunity to ask questions. In total, approximately 40 people attended the briefings. The briefings were attended by the project's probity adviser, who raised no concerns about DHS' conduct of the briefings from a probity perspective.

## **Modifying or clarifying the request document**

**4.13** An agency's obligation to ensure potential tenderers have equal access to procurement information includes when an agency modifies the request document.<sup>52</sup> Furthermore, it is desirable that any clarifications provided to potential suppliers that can reasonably be made public, without disclosing financially sensitive or commercial-in-confidence information, should be made available to all potential suppliers.

**4.14** DHS made provision within the RFT for the Commonwealth to vary or supplement the request document and enabled potential suppliers to seek

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<sup>51</sup> Finance, *Procurement Guidelines*, op. cit., p. 35 and Finance, *Procurement Procedures* op. cit., p. 42.

<sup>52</sup> Finance, *Procurement Procedures* op. cit., p. 43.

clarification about the RFT from the designated contact officer. Any such notifications were to be published on AusTender.

## **RFT addenda**

**4.15** In accordance with the provisions in the RFT, DHS published a total of four addenda as follows:

- **Addendum Number 1**—response to RFT clarification questions;
- **Addendum Number 2**—correction to Addendum Number 1, minor variations to the statement of requirements and response to a RFT clarification question and questions from the June 2009 industry briefing;
- **Addendum Number 3**—minor variations to the statement of requirements and response to RFT clarification questions; and
- **Addendum Number 4**—response to RFT clarification questions.

The variations to the statement of requirements did not require any additional time to be added to the RFT closing date.

**4.16** In total, 31 clarification questions and responses were published on AusTender in June 2009 for the replacement BasicsCard procurement. The following clarification question from a potential supplier, and DHS' response, is an example from Addendum Number 1:

### **Question 19**

What are the key challenges faced by the Government in the current program?

### **Response to Question 19**

The Commonwealth is faced with several challenges in relation to the current BasicsCard:

- Ensuring that customers are able to access their income managed funds via their BasicsCard at all times and at all required locations.
- Reducing the incidence of BasicsCard purchase transactions that have been declined due to insufficient funds or invalid PIN attempts.
- Ensuring that customers have easy access to their balance on the BasicsCard.

- Reducing the incidence of BasicsCard fallback transactions.<sup>53</sup>
- Ensuring that the BasicsCard cannot be used for the purchase of excluded goods or services.<sup>54</sup>

**4.17** The clarification questions and responses were reviewed by the project's probity adviser, who raised no concerns with the process from a probity perspective.

## Conclusion

**4.18** The ANAO examined the key aspects of DHS' approach to market with the replacement BasicsCard tender. Table 4.3 shows the work undertaken to assess the effectiveness of DHS' approach to the market and compares DHS' approach to the *Guidance on the Mandatory Procurement Procedures* and the ANAO's test program for audit fieldwork.

**Table 4.3**

### Approaching the market: summary of findings

<i>Guidance on the Mandatory Procurement Procedures</i> checklist and ANAO test program	DHS' approach	ANAO comment
Have potential suppliers been appropriately notified?	✓	
Have all potential suppliers been notified of any modifications to the request document?	✓	
Have clarifying answers been provided to all potential suppliers, as appropriate?	✓	
DHS' probity adviser raised no material probity concerns with the approach to market.	✓	See paragraphs 4.12 and 4.17

Source: Finance, *Procurement Procedures*, p. 44 and ANAO analysis.

<sup>53</sup> DHS defined 'fallback' as follows:

Fallback transactions occur when the financial system, or a component of it (for example, an acquirer [bank] or an individual terminal) is offline or unavailable. The transaction is undertaken without the use of system based approvals and controls that are normally in place.

Department of Human Services, *Point of Sale Payment Delivery Project, Products and Services Options Paper*, March 2009, p. 21.

<sup>54</sup> DHS, RFT09DHS146, Addendum Number 1, June 2009.



**4.19** DHS' May 2009 approach to the market for the replacement BasicsCard procurement was consistent with the *Guidance on the Mandatory Procurement Procedures*. By following sound practice for agency procurement—issuing addenda and notifications to suppliers via AusTender—DHS ensured a fair and transparent process for potential suppliers that also facilitated the submission of compliant tender responses. DHS also provided a second series of face-to-face industry briefings during the approach to the market period.

## 5. Evaluating Submissions

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*This chapter examines DHS' administration of the evaluation process for submissions received in response to the tender for a replacement BasicsCard. The ANAO compared DHS' evaluation process to the requirements of the Commonwealth Procurement Guidelines and the Guidance on the Mandatory Procurement Procedures.*

### Introduction

**5.1** The evaluation of submissions—responses received from potential suppliers in the market to an agency's request document—is central to establishing the core principle of value for money that underpins all Australian Government procurement activity.

**5.2** To assess DHS' administration of the evaluation process for submissions received in response to the tender for a replacement BasicsCard, the ANAO examined arrangements put in place by the agency to:

- receive submissions;
- evaluate submissions; and
- prepare submission evaluation reports.

### Receiving submissions

**5.3** Tenders were to be lodged electronically via AusTender by: '2pm, Canberra local time on Thursday 2 July 2009'.<sup>55</sup> The *Guidance on the Mandatory Procurement Procedures* specifies that the agency must record the receipt of submissions.<sup>56</sup>

**5.4** The Tender Evaluation Stage 1 Report for the replacement BasicsCard procurement sets out the AusTender lodgement date and time for the submissions. According to the report, there were no late tenders.

**5.5** A total of five responses were received to the replacement BasicsCard RFT. See paragraph 5.9 for further details of the content of the submissions and compliance with the mandatory requirements of the RFT.

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<sup>55</sup> DHS, RFT09DHS146, Part B - Conditions of Tender, p. 19.

<sup>56</sup> Finance, *Procurement Procedures*, op. cit., p. 46.

## Evaluating submissions

**5.6** The *Guidance on the Mandatory Procurement Procedures* specifies that agencies are to evaluate submissions in accordance with the content of the request document and submission evaluation plan, in particular, the procedures and criteria.<sup>57</sup> The potential consequences of not following the *Guidance on the Mandatory Procurement Procedures* include:

- compromising the procurement outcome;
- receiving a complaint from and/or being subject to legal action by disadvantaged suppliers; and
- the agency setting aside the evaluation and/or the entire procurement activity.<sup>58</sup>

**5.7** The Tender Evaluation Plan for the replacement BasicsCard procurement sets out a four stage evaluation process as follows:

- stage one—registration and initial screening;
- stage two—detailed evaluation;
- stage three—value for money evaluation; and
- stage four—contract negotiations.

**5.8** Separate submission evaluation reports were prepared at the conclusion of each stage, which are discussed in the next section of this chapter. The exception is the stage four, contract negotiation report, which is discussed in Chapter 6 of this report.

## Submission evaluation reports

### Stage one—registration and initial screening

**5.9** The Project Sponsor endorsed the Tender Evaluation Committee's stage one tender evaluation report in July 2009. A total of five responses were received to the replacement BasicsCard RFT.

**5.10** In July 2009, the estimated maximum number of cards in the RFT was 30 000. DHS informed the ANAO that it considered the market was likely to

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<sup>57</sup> *ibid.*

<sup>58</sup> *ibid.*

have responded more strongly to the RFT if the estimated volume of BasicsCards required had been higher. For example, if the use of income management was expanded to include additional geographic areas or social security recipients. Strong attendance from interested industry representatives at both industry briefings associated with the replacement BasicsCard procurement supports DHS' view that the estimated maximum number of cards required on this occasion limited the potential number of RFT responses.

**5.11** Two responses, in letter form, were assessed as non-compliant with the RFT requirements and excluded from further consideration. The letters provided information about other potential payment card solutions and were not intended to address the format or other requirements set out in the request document in order to qualify as a compliant tender submission.

**5.12** Of the three remaining responses, two were assessed as compliant and were included in the following stage of detailed evaluation of submissions. The compliant responses were from Indue Ltd (referred to in this report as the 'prime contractor') and one other company. A third response contained: 'two apparent unintentional "errors of form"—a witness qualification was not provided for the tenderer's declaration and organisational details were improperly recorded through apparent copying of one table to another.'<sup>59</sup>

**5.13** The Project Sponsor endorsed the Tender Evaluation Committee seeking appropriate clarification from the third tenderer of the errors and, subject to a satisfactory resolution of the matter, including the submission in the detailed evaluation.

**5.14** Probity advice was also sought, however, the matter was unable to be satisfactorily resolved with the tenderer. The Tender Evaluation Committee's decision to exclude the third tender, on the basis it did not meet the minimum content and format requirements of the RFT, was unanimous.

**5.15** The Tender Evaluation Committee made all reasonable efforts to ensure that the maximum number of tender submissions could be evaluated to ensure a competitive process was possible. DHS and the Tender Evaluation Committee acted in a manner consistent with the *Commonwealth Procurement Guidelines* and the *Guidance on the Mandatory Procurement Procedures*. Specifically, DHS:

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<sup>59</sup> Department of Human Services, Minute to Deputy Secretary, *Stage 1 Tender Evaluation Report-Income Management Card Replacement Project*, 14 July 2009.

- followed sound procurement practice by requiring potential suppliers to complete a statutory declaration;
- disqualified a potential supplier that clearly did not meet the minimum RFT content; and
- demonstrated adherence to probity processes for the replacement BasicsCard procurement.

**5.16** The RFT for the replacement BasicsCard procurement clearly stated the submission requirements and is highly unlikely to have contributed to the non-compliance issue that subsequently arose with the third tenderer.

**5.17** While clarification was being sought from the third tenderer, the evaluation of submissions commenced, initially including the third tenderer's submission before it was excluded. This meant that there was minimal impact upon the evaluation timetable. DHS advised all three unsuccessful tenderers of their status in August 2009. None of the unsuccessful tenderers requested a debriefing on their submissions.

**5.18** Overall, the stage one registration and initial screening process and report were consistent with the Tender Evaluation Plan. The stage one report, or the advice to the Project Sponsor, could have been improved by the addition of details about clarification questions and answers, and the issuing of RFT addenda before the receipt of submissions (see Chapter 4). Given the number of changes to the RFT—four addenda were issued—and the number of clarification questions and responses published on Austender—31 in total—this information was sufficiently important to include in a summary report or briefing advice. Including the information would have improved DHS' record of the RFT process and better informed the Project Sponsor whose endorsement was sought for the stage one evaluation report.

## **Stage two—detailed evaluation**

**5.19** The Project Sponsor endorsed the Tender Evaluation Committee's stage two tender evaluation reports in September 2009. The reports concluded that both tenderers were capable of providing an income management card solution, in accordance with the requirements in the RFT, and recommended that both tenderers proceed to stage three, a value for money evaluation. The Tender Evaluation Committee's recommendation was unanimous and was supported by an unqualified probity sign-off for the reports.

## *Evaluation methodology*

**5.20** The reports considered by the Project Sponsor were a summary and three separate reports—one from each of the three evaluation teams—which mirrored the evaluation methodology. Consistent with the RFT and Tender Evaluation Plan, the three evaluation streams were as follows:

- capability evaluation;
- pricing evaluation; and
- corporate risk evaluation (including financial viability, organisational stability and compliance with draft contract).<sup>60</sup>

## *Pricing evaluation*

**5.21** Pricing risks (to the certainty and clarity of the tenderers' prices) were considered during the evaluation and no extreme or high price risks were identified for either tenderer. Furthermore, consistent with the Tender Evaluation Plan, a sensitivity analysis was undertaken that identified the effect of changes in income management card numbers and card transaction volumes on tenderers' responses.

### *Repricing exercise*

**5.22** In early August 2009, the Tender Evaluation Committee considered advice from the pricing evaluation team that it was unable to completely price the tenderers' responses. The RFT was not sufficiently specific about some of the items to be priced and the tenderers considered that to supply pricing details without further information would have represented a significant risk to them.

**5.23** In late August 2009, in accordance with the RFT conditions, DHS issued a notification to the two tenderers of a variation to the RFT covering revised technical requirements. The revised technical requirements included details for the supply of electronic kiosks that BasicsCard owners could use to make enquiries about the balance of funds available on their BasicsCard. The notification also included an associated request for additional pricing information. There were no restrictions on the scope of the price revisions that tenderers could make, therefore, the tenderers' repricing submissions superseded the original pricing response for the RFT.

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<sup>60</sup> Department of Human Services, *Stage 2 Evaluation Summary Report*, September 2009, p. 3.

**5.24** Responses to the RFT notification were due within 10 business days. Both tenderers responded and the revised pricing was accepted by DHS for evaluation. The probity adviser was satisfied that the arrangements for the repricing process complied with the procurement's probity requirements.

**5.25** During the pricing evaluation by DHS, normalisation adjustments were made by the pricing evaluation team to the tenderers' revised pricing to enable a like-for-like comparison of the tenderers' proposed prices for services.<sup>61</sup> The total price considered by DHS for each tenderer also included transitional and operational costs.

**5.26** Overall, the stage two detailed evaluation process and report were consistent with the Tender Evaluation Plan. The probity adviser's sign-off for the stage two evaluation process was unqualified.

### **Stage three—value for money evaluation**

**5.27** The Project Sponsor approved the Tender Evaluation Committee's stage three tender evaluation report in October 2009. In doing so, the Project Sponsor approved the selection of the prime contractor (Indue Ltd) as the preferred tenderer and the other tenderer being held in reserve, in the event that contract negotiations with the preferred tenderer were unsuccessful.

**5.28** The Tender Evaluation Committee advised the Project Sponsor that:

In determining the overall value for money ranking of tenders, the Tender Evaluation Committee performed a relative benefit analysis of the weighted capability scores, corporate risk ratings, total price and the overall risk presented by each of the tenders.<sup>62</sup>

**5.29** The value for money assessment was based on the stage two evaluation analyses and a final risk assessment, which was conducted as part of the overall value for money assessment in a workshop held in late September 2009. The Tender Evaluation Committee concluded that the major point of differentiation between the two tenderers was the total price. The prime contractor's tender submission was significantly lower than that of the other tenderer.

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<sup>61</sup> As a result of the adjustments, the prime contractor's price increased by seven per cent and the other tenderer's price decreased by two per cent.

<sup>62</sup> Department of Human Services, *Stage 3 Value for Money Report*, October 2009, p. 16.

**5.30** In accordance with the Tender Evaluation Plan, the Project Sponsor also approved a negotiation plan. The Tender Evaluation Committee unanimously recommended that the preferred tenderer proceed to the final stage of the evaluation process—contract negotiation (stage four). See Chapter 6 for a discussion of the negotiation process.

### *Probity*

**5.31** In accordance with the Tender Evaluation Plan, the probity adviser provided a sign-off for the stage three evaluation process, which was unqualified. The sign-off for milestone three covered the period from the last milestone sign-off (August 2009) to the completion of the stage three evaluation report recommending a preferred tenderer (October 2009). The sign-off provided by the probity adviser did not raise any probity concerns.

**5.32** Overall, the stage three value for money evaluation and report were consistent with the Tender Evaluation Plan.

### *Procurement schedule*

**5.33** The replacement BasicsCard procurement was approximately one week behind the planned schedule in October 2009, even with the inclusion in the submission evaluation process of the repricing exercise.<sup>63</sup> The final schedule and budget for the procurement are examined in Chapter 6.

## Conclusion

**5.34** The ANAO examined the key aspects of DHS' administration of the evaluation of submissions received for the replacement BasicsCard RFT. Table 5.1 shows the work undertaken to assess DHS' administration of the submission evaluation process and compares DHS' approach to the *Guidance on the Mandatory Procurement Procedures* and the ANAO's test program for audit fieldwork.

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<sup>63</sup> Department of Human Services, *Income Management Card Replacement Project, Phase 2 – Evaluation and Negotiation End Stage Report*, February 2010, p. 9.



**Table 5.1****Evaluating submissions: summary of findings**

<i>Guidance on the Mandatory Procurement Procedures</i> checklist and ANAO test program	DHS' approach	ANAO comment
Have the submissions been fairly and impartially rated?	✓	
Has appropriate documentation of the process been maintained?	✓	
Have potential suppliers of the final procurement decision been advised and offered a debrief?	-	See Chapter 6 of this report
Was the clarity of the RFT documentation sufficient to enable tenderers to comply with the conditions of the RFT?	✓	See paragraphs 5.15–5.16
Was the clarity of the RFT documentation adequate to support the submission evaluation process?	✓	Overall, see paragraphs 5.22–5.26

Source: Finance, *Procurement Procedures*, p. 48 and ANAO analysis.

**5.35** Overall, DHS effectively administered the submission evaluation process for responses received to the RFT for a replacement BasicsCard. DHS' initial three stage evaluation process was consistent with the *Guidance on the Mandatory Procurement Procedures*. DHS could have improved the content of the stage one evaluation report by the addition of details about clarification questions and answers published on AusTender and the issuing of any RFT addenda before the receipt of submissions. Including the information would have improved DHS' record of the RFT process and better informed the Project Sponsor whose endorsement was sought for the stage one evaluation report. The submission evaluation process was largely completed on schedule, with no major probity issues identified.

## 6. Concluding the Process

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*This chapter examines DHS' administration of the final stage in the procurement of a replacement BasicsCard. The ANAO compared DHS' administration of the final stage to the requirements of the Commonwealth Procurement Guidelines and the Guidance on the Mandatory Procurement Procedures.*

### Introduction

**6.1** As discussed in Chapter 5, the Tender Evaluation Plan for the replacement BasicsCard procurement set out a total of four evaluation stages. The fourth stage, contract negotiations, was central to concluding the procurement and awarding a contract.

**6.2** To assess DHS' administration of the final stage in the replacement BasicsCard procurement, including the outcome from contract negotiations, the ANAO examined arrangements put in place by the agency to:

- administer the negotiation process;
- award a contract for a replacement BasicsCard; and
- manage a range of end of procurement activities.

### Negotiation process

**6.3** The stage three value for money evaluation included the Project Sponsor approving, in October 2009, DHS starting contract negotiations with the preferred tenderer once the Minister for Human Services had been informed of the outcome of the value for money evaluation.

**6.4** Before notifying the prime contractor of the outcome of the RFT submission evaluation process and starting contract negotiations, DHS sent a briefing Minute to the former Minister for Human Services in October 2009 about the outcome of the evaluation to date. The brief was for information only and did not require a decision in response. On 14 October 2009, DHS notified the prime contractor and the other tenderer by telephone of the outcome of the RFT submission evaluation process.

### Future funding

**6.5** In October 2009, when the value for money evaluation was completed and a preferred tenderer had been identified, funding for the contract after 30 June 2010 had not been approved by the Government. The former Minister

for Human Services, Secretary DHS, Project Sponsor and other key stakeholders involved in the procurement were fully aware of the funding situation and potential impact on the replacement BasicsCard procurement.

**6.6** DHS anticipated that the necessary approval would be in place before contract signature. DHS also advised the preferred tenderer that the Government had not given the necessary policy or funding approval to enable the Commonwealth to enter into a contract.

**6.7** The contract for the first BasicsCard was due to expire on 30 June 2010, with no provision to extend the contract further. Additionally, a transition period was required before the end of the contract to migrate around 15 000 existing BasicsCard customers to a replacement BasicsCard. DHS considered that a delay in the procurement timetable would have resulted in disruption to users of the BasicsCard and additional costs to the Government to institute alternative service delivery arrangements for income management.

### *Contingency planning*

**6.8** In the event funding was not secured that accorded with the proposed timetable for contract negotiations and signature, DHS had prepared contingency plans. The contingency plans included the following options:

- correspondence from the Minister for Human Services and Minister for Families, Housing, Community Services and Indigenous Affairs to the Prime Minister and Finance Minister seeking policy and funding approval for a replacement BasicsCard. Thus ensuring business continuity for the BasicsCard after 1 July 2010, if the Government decided to extend the income management scheme beyond 30 June 2010; and
- splitting the proposed replacement BasicsCard agreement into two separate contracts—the first covering the transition period before 30 June 2010 and the second covering the delivery of BasicsCard services for the remaining term of the contract. (The initial contract term is three years (expiring in 2013), but there is an option to extend for up to a further two years (expiry in 2014 or 2015)).

**6.9** On 4 November 2009, DHS received the necessary agreement to funding for the replacement BasicsCard. The approval for \$24 million from 2010–11 to 2014–15 included \$20 million in administered funds and \$4 million

in departmental funds to support the replacement BasicsCard contract (see paragraph 6.34 for details of the public announcement.)<sup>64</sup>

## Negotiations

**6.10** In accordance with the Tender Evaluation Plan, the Project Sponsor approved a Negotiation Plan in October 2009 (see Chapter 5). The plan included a negotiation matrix setting out clauses in the draft services contract and the Commonwealth's preferred and minimum negotiating position.

**6.11** Essentially, the plan required the following major activities to be undertaken by DHS over a four week period in October–November 2009:

- release of negotiation pack(s) to the preferred tenderer containing contractual documents (draft agreement, statement of work and schedules);
- face-to-face negotiations; and
- submitting a stage four evaluation report on contract negotiations to the Project Sponsor for approval.

**6.12** The outcome sought from the negotiation process was that DHS and the preferred tenderer would address the risks identified in the preferred tenderer's submission during the evaluation process. During the evaluation, capability, corporate and pricing risks for the Commonwealth were identified in both tenderers' submissions and considered by the Tender Evaluation Committee. The risks were rated and mitigations proposed. The analysis for the preferred tenderer was provided to the negotiation team and used to inform contract negotiations. Additionally, the two parties were to settle the service requirements and agree on the terms of a contract to provide a replacement BasicsCard.

**6.13** The development process and content of the Negotiation Plan were consistent with the requirements contained in the Tender Evaluation Plan.

**6.14** The negotiation team, led by DHS' Project Counsel, comprised one other DHS member, one representative from FaHCSIA and two representatives from Centrelink. The negotiation team was supported by an

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<sup>64</sup> Department of Human Services, *Portfolio Additional Estimates Statements 2009–10, Human Services Portfolio, Agency Additional Estimates Statements – DHS, 'A New Scheme of Income Management'*, pp. 14–15.

advisory team with a similarly representative composition from the three agencies that also included the project's business and legal advisers.

**6.15** The draft agreement released with the RFT was updated by DHS to include the preferred tenderer's RFT comments and sent to the preferred tenderer in the first negotiation pack. The pack also included the statement of requirements from the RFT, which had become the statement of work attached to the contract. DHS' strategy of including a draft agreement with the RFT meant that a shorter time was required for contract negotiations and concluding the procurement.

**6.16** During the period of contract negotiations in October–November 2009, the negotiation team held nine meetings (face-to-face and teleconference) and DHS released a total of nine versions of the negotiation pack to the preferred tenderer. After key stages in the negotiation were reached, a new pack was sent out by DHS. Four site visits were also conducted at the prime contractor's and subcontractors' premises to verify their suitability.

**6.17** The outcome of the negotiations was a final draft agreement, primarily based upon the draft agreement released with the RFT and containing some modifications. The final negotiated position included a service levels and performance management schedule to the agreement whereby the prime contractor places at risk a maximum of 10 per cent of the fixed monthly service fee.

**6.18** At the end of the contract negotiation evaluation, DHS assessed that the negotiated outcome represented value for money for the Commonwealth and met the requirements of DHS, FaHCSIA and Centrelink. The project's legal adviser provided a positive sign-off for the final draft agreement.

### *Recordkeeping during contract negotiations*

**6.19** DHS' Negotiation Plan specified a number of recordkeeping requirements during contract negotiations. Included among the requirements was that DHS' negotiation team maintain a detailed record of all face-to-face communications with the preferred tenderer and a 'negotiation run sheet', to be updated following each negotiation session.

**6.20** In March 2010, the probity adviser's final report on the procurement concluded that DHS' records for contract negotiations did not satisfy DHS' own requirements. However, the probity adviser was satisfied overall with DHS' conduct of the negotiation phase.

**6.21** The ANAO's audit fieldwork in August 2010 supported the probity adviser's conclusion. If DHS had implemented the recordkeeping requirements contained in the Negotiation Plan and maintained a full, incremental record of resolutions and outcomes during negotiations, as planned, this would have increased the transparency and accountability of the negotiation phase. Among other reasons, adequate records are required in the event an agency subsequently receives a specific complaint about the conduct of a procurement and detailed records are required to enable the agency to respond quickly and accurately to any issues raised.

## Awarding the contract

### Stage four evaluation report—contract negotiations

**6.22** The Project Sponsor endorsed the Tender Evaluation Committee's stage four tender evaluation report in November 2009. The report concluded that the ranking of the preferred tenderer had not changed at the end of contract negotiations and offered the best value for money compared to the other tenderer. The report was supported by an unqualified probity sign-off from the probity adviser. Similarly unqualified sign-offs for the report were provided by the legal and business advisers.

**6.23** The stage four contract negotiations process and report were consistent with the Tender Evaluation Plan, notwithstanding the lapse in recordkeeping practice that occurred during the contract negotiations between DHS and the preferred tenderer.

### Financial management requirements

**6.24** The stage four evaluation report recommended that the Secretary, DHS, be asked to sign the draft final agreement on behalf of the Commonwealth. Signing of the contract was subject to DHS fulfilling the necessary financial management requirements. The draft final agreement required authorisation by the Finance Minister under the Commonwealth's Financial Management and Accountability Regulations, r. 10, approval of future spending proposals (FMA Regulation 10). Unless the Finance Minister has given written authorisation, FMA Regulation 10 prohibits the approval of a spending proposal that is not fully supported by an available appropriation (either in an Act or proposed in a Bill before the Parliament). The authorisation is most

likely to be required for multi-year spending proposals where the relevant appropriation is an annual appropriation.<sup>65</sup>

**6.25** DHS' FMA Regulation 10 request to the Finance Minister was prepared in October 2009, before contract negotiations were completed in November 2009. Also in October 2009, the Government was considering changes to the income management scheme as part of major reforms to the welfare system that were subsequently announced in November 2009 (see paragraph 6.34). Consequently, DHS' cost estimates for the FMA Regulation 10 request were based on the information available at the time including:

- the likely number of cardholders;
- prices submitted by the tenderers;
- pricing in the first BasicsCard contract;
- pricing analysis performed by the procurement's business adviser; and
- advice from the Steering Committee and the Tender Evaluation Committee.

**6.26** On 23 November 2009, DHS received the required authorisation under FMA Regulation 10. The Finance Minister's authorisation noted that the proposed agreement would be multi-year, with the initial term expiring on 30 June 2013. The monthly service fee proposed under the agreement contained a fixed and variable component, based upon the number of active BasicsCards and card transactions. Effectively, this was an uncapped, demand-driven cost component and represented an unquantifiable contingent liability for the Commonwealth. Although, based on previous experience with the first BasicsCard contract, DHS expected that most of this cost would be contained within the fixed price component.

**6.27** DHS officials were authorised to consider approving a spending proposal for the replacement BasicsCard of up to \$16.52 million, based upon an estimated total of 22 690 active BasicsCard customers from 1 July 2010.

### *Contract signature*

**6.28** The prime contractor signed the draft final agreement on 20 November 2009. DHS' delegate for approval of the spending proposal, for

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<sup>65</sup> Department of Finance and Administration, Finance Circular 2007/01, *FMA Regulation 10*, Finance, Canberra, 2007.

the draft final agreement, was the Secretary. The delegate signed the draft final agreement on 25 November 2009.

**6.29** The delegate approved, under FMA Regulation 9 (approval of spending proposals—principles), a final contract amount of \$11 082 310 (GST inclusive), which was the maximum amount expected to be payable under the contract. The contract includes an option to extend the initial three-year operational term (1 July 2010–30 June 2013) for up to a further two years. In this event, further financial management approvals would be required to exercise the option.

**6.30** Under the contract, the liability of each party arising out of, or in connection with, the agreement was limited to \$15.8 million per event and was unlimited in the aggregate. DHS' actions in setting a cap were consistent with government policy requirements that the liability of Information and Communications Technology suppliers should, in most cases, be capped at appropriate levels.<sup>66</sup> The policy provides support for agencies to adopt sound practice in this area of procurement. DHS also sought the advice of its legal adviser about the development and scope of the liability cap.

**6.31** The final contract price was greater than the preferred tenderer's submission price, primarily due to an increase in the expected number of cardholders. In November, the Government's decision on the future of the income management scheme was imminent and DHS estimated the expected contract value for the FMA Regulation 9 approval based upon 22 500 active cardholders. This was 25 per cent higher than the 18 000 active cardholders assumed during the tender evaluation.<sup>67</sup>

**6.32** A small number of regulatory approvals required to support the operation of the agreement were finalised in March 2010, with no adverse consequences. Applications for rulings or legislative exemptions were made in November–December 2009 to the Australian Taxation Office, the Australian Securities and Investment Commission and the Australian Transaction Reports and Analysis Centre. A similar process had been followed previously for the first BasicsCard contract.

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<sup>66</sup> Department of Finance and Deregulation, Finance Circular 2006/03 *Limited Liability in Information and Communications Technology Contracts*, Finance, Canberra, 2006.

<sup>67</sup> The RFT required tenderers to submit a baseline contract price for 18 000 active BasicsCards. The RFT also required pricing for three additional scenarios—the delivery of 20 000, 25 000 and 30 000 active BasicsCards.



**6.33** At contract signature, in late November 2009, DHS assessed that the replacement BasicsCard procurement was on schedule to enable the prime contractor to implement its card and services solution in the first quarter of 2010. The schedule would allow sufficient time to transition customers from the first BasicsCard to the replacement BasicsCard before the first card's expiry on 30 June 2010.

## Public notification

**6.34** The then Minister for Families, Housing, Community Services and Indigenous Affairs announced on 25 November 2009 that:

As part of major reforms to the welfare system, the Australian Government will introduce a new income management scheme to protect children and families and help disengaged individuals...From 1 July 2010, a new income management scheme will begin to be rolled out...The new scheme will commence across the Northern Territory—in urban, regional and remote areas—as a first step in a national roll out of income management in disadvantaged regions.<sup>68</sup>

**6.35** DHS' announcement strategy for the signing of the replacement BasicsCard contract included waiting until after the then Government's broader income management policy announcement had been made before issuing a media release about the procurement's outcome. On 8 December 2009, the then Minister for Human Services announced that the Government had signed a contract with the prime contractor to deliver a replacement BasicsCard.<sup>69</sup>

## Debrief

**6.36** In mid-December 2009, DHS provided the unsuccessful tenderer with a tender evaluation debriefing for the procurement. DHS attendees at the briefing indicated that they followed a prepared script in providing feedback to the unsuccessful tenderer and a record was retained on a DHS registry file. The unsuccessful tenderer was informed that their submission was

<sup>68</sup> The Hon Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, and Warren Snowdon MP, *Major welfare reforms to protect children and strengthen families* [Internet]. Joint Media Release, 25 November 2009, available from <<http://www.fahcsia.gov.au>> [accessed 5 October 2010].

<sup>69</sup> The Hon Chris Bowen MP, Minister for Human Services, *Contract awarded for replacement BasicsCard* [Internet]. DHS, Media Release, 8 December 2008, available from <<http://www.dhs.gov.au>> [accessed 5 October 2010].

competitive, but substantially more expensive than the eventual prime contractor. DHS also provided the prime contractor with a debriefing in February 2010.

**6.37** In conducting these briefings, DHS' actions were consistent with the operational guidance provided to agencies in the *Guidance on the Mandatory Procurement Procedures*.<sup>70</sup>

**6.38** In March 2010, the probity adviser provided a final sign-off for the final two milestones in the replacement BasicsCard procurement. The final milestones included completion of the contract negotiations and an overall sign-off on the probity of the procurement process, including the tenderer debriefings. As discussed in previous chapters of this report, the probity adviser identified some minor probity deficiencies during the procurement. Among the matters cited by the probity adviser were recordkeeping deficiencies, DHS' handling of conflict of interest on some occasions and an inaccuracy in the probity briefing register. The probity adviser's overall conclusion was, from a probity perspective, that DHS had effectively conducted the replacement BasicsCard procurement.

## **Agency cooperation**

**6.39** DHS demonstrated sound procurement practice by regularly briefing the agency's senior executives during the conduct of the replacement BasicsCard procurement. This approach is likely to result in greater understanding of the governance framework, procurement process and outcome by senior agency management. DHS also kept the Minister for Human Services informed about the procurement's progress and, following the requirements set out in the RFT and Tender Evaluation Plan, did not actively involve the Minister or his office in a decision-making role during the procurement.

**6.40** A Phase 2—Evaluation and Negotiation End Stage Report, finalised by DHS in February 2010, highlighted a number of lessons learned, including that a productive working relationship between DHS, FaHCSIA and Centrelink led to the contract being successfully executed within the required schedule.

**6.41** During audit fieldwork, comments gathered from a wide range of project participants indicated that, overall, the replacement BasicsCard

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<sup>70</sup> Finance, *Procurement Procedures*, op. cit., pp. 47–48.

procurement was an example of successful interagency cooperation between FaHCSIA, DHS and Centrelink. The participants acknowledged that differing agency governance frameworks and cultures sometimes produced tension, however, the agencies' commitment to the project outcome and individual representatives' collegiate approach to the working relationships prevailed. The three agencies' separate roles—FaHCSIA (income management policy), DHS (central policy and coordination role for the delivery of services across the Human Services portfolio) and Centrelink (service delivery)—were able to be combined to procure a replacement BasicsCard solution to support the delivery of income management.

## End of procurement activities

### Publishing and reporting obligations

**6.42** The *Guidance on the Mandatory Procurement Procedures* specifies that, once a contract has been awarded, agencies must publish certain details of the contract on AusTender within six weeks of entering into the agreement.<sup>71</sup> DHS met the requirement on 10 December 2009.

**6.43** Agencies are also required to comply with a number of reporting obligations to the Parliament and public in order to demonstrate their commitment to accountability and transparency in government procurement.<sup>72</sup> DHS included appropriate details of the *Income Management Card and Related Services* contract in the agency's Senate Order on Departmental and Agency Contracts Listing for the period 1 January 2009—31 December 2009. As such, DHS' actions for the replacement BasicsCard procurement met the *Guidance on the Mandatory Procurement Procedures'* requirements for public notification at the conclusion of a procurement process.

### Procurement costs

**6.44** Table 6.1 presents DHS' expenditure for the replacement BasicsCard procurement in 2008–09 and 2009–10. DHS advised that the total expenditure was approximately \$7.1 million, which was \$700 000 (9 per cent) below the Budget funding for the procurement of \$7.8 million (see Chapter 2).<sup>73</sup>

<sup>71</sup> Finance, *Procurement Procedures*, op. cit., pp. 50–51.

<sup>72</sup> *ibid.*, p. 53.

<sup>73</sup> The funding was included in DHS' *Portfolio Additional Estimates Statements 2008-09, Human Services Portfolio*, 'Payment Delivery—Enhanced Arrangements', p. 14.

**Table 6.1****Replacement BasicsCard procurement expenditure for 2008–09 and 2009–10**

Expenditure 2008–09 and 2009–10 \$'000	
Cost description	
DHS' operational cost	728 414 <sup>A</sup>
Business adviser (Oakton) and financial sector adviser (Transaction Resources) <sup>B</sup>	4 357 482
Legal adviser (Minter Ellison)	1 233 113
Probity adviser (DLA Phillips Fox)	315 758
Deloitte <sup>C</sup>	104 621
DHS legal services' secondee (Blake Dawson) <sup>D</sup>	336 800
<b>Total</b>	<b>7 076 188</b>

Source: DHS, 21 January 2011.

Notes: (A) Figure based on an interrogation of SAP records in DHS. Costs incurred before December 2008 are not included.

(B) Oakton engaged Transaction Resources, a specialist financial services adviser, as a subcontractor. Amounts paid to Oakton include fees for services provided by Transaction Resources.

(C) Deloitte was contracted from November–December 2008 to deliver a post-implementation review of the first BasicsCard and advice on point of sale solutions.

(D) Secondee to DHS from the first BasicsCard's legal adviser.

**6.45** To support the management and delivery of the replacement BasicsCard procurement, DHS contracted the services of a number of external advisers at a total cost of approximately \$6 million.<sup>74</sup>

**6.46** Engaging advisers is a common practice in procurements. Often, this can be to supplement existing resources with expertise and/or independence in particular areas. The cost and benefit is often compared to factors including the scale, complexity, financial materiality and risk (of contract failure to service delivery and harm to agency reputation) of the proposed procurement. For the replacement BasicsCard procurement, DHS advised that: 'it would be preferable to use internal resources—however, in the circumstances, considers

<sup>74</sup> The total cost of the advisers is based upon the cost of the four main advisers during the procurement and Deloitte's early work.

it adopted the right course of action in engaging external advisers to meet the deadline for implementing a new solution'.<sup>75</sup>

**6.47** While the cost of advisers represented a significant proportion of the total cost of managing the procurement, DHS engaged external advisers for the replacement BasicsCard procurement for the following reasons<sup>76</sup>:

- As a small department, DHS did not contain a large number of staff with sufficient procurement experience who could be dedicated immediately to the year-long procurement.
- Staff with experience in stored value cards or other similar payment cards were required, which DHS did not possess.
- The project was time-limited and resources were needed to start work immediately.
- The departmental funding for the procurement was also time-limited and DHS could not have offered ongoing positions, which would have affected the agency's ability to attract sufficiently skilled and experienced staff to fill non-ongoing positions.
- DHS considered that the procurement was complex from a legal perspective and DHS was not able to draw upon other legal teams from within the Human Services portfolio, such as Centrelink or Medicare Australia, for assistance on a regular basis.<sup>77</sup>

## Records storage

**6.48** The replacement BasicsCard procurement involved multiple stakeholders within DHS and externally. The responsibility for recordkeeping extends to all Australian Public Service employees, as well as contractors and consultants. The *Guidance on the Mandatory Procurement Procedures* advises that, at the conclusion of a procurement, all documents should be collated and stored appropriately so as to provide a record of the procurement's conduct.<sup>78</sup>

**6.49** Overall, DHS adequately managed the recordkeeping requirements for the replacement BasicsCard procurement. While the records were sufficient to

<sup>75</sup> Department of Human Services, 11 November 2010.

<sup>76</sup> *ibid.*

<sup>77</sup> The Human Services portfolio consists of: the Department of Human Services—including the Child Support Agency and CRS Australia—and the Human Services agencies: Centrelink; Medicare Australia; and Australian Hearing.

<sup>78</sup> Finance, *Procurement Procedures*, op. cit., p. 53.

support an auditable trail of key decisions, approvals and authorisations for the procurement, there were also exceptions. For example, DHS' recordkeeping during contract negotiations could have been improved (see paragraph 6.19).

## Conclusion

**6.50** The ANAO examined the key aspects of DHS' administration of the final stage in the procurement process for a replacement BasicsCard. Table 6.2 shows the work undertaken to assess the effectiveness of DHS' administration and compares DHS' approach to the *Guidance on the Mandatory Procurement Procedures* and the ANAO's test program for audit fieldwork.

**Table 6.2**

### Concluding the process: summary of findings

<i>Guidance on the Mandatory Procurement Procedures</i> checklist and ANAO test program	DHS' approach	ANAO comment
Has the final contract been agreed between the supplier and agency?	✓	Contract awarded on 25 November 2009. See paragraph 6.28
Has the awarding of the contract been published?	✓	
Have complaints been properly handled?	—	No complaints were received
Have potential suppliers of the final procurement decision been advised and offered a debrief?	✓	
Have all reporting requirements been satisfied?	✓	
Have all records been stored properly?	✓	
Were all DHS' delegations in place to authorise expenditure on contracts?	✓	
Were all financial management requirements met (FMA Regulations 8–13)?	✓	

Source: Finance, *Procurement Procedures*, pp. 48 and 54, and ANAO analysis.

**6.51** Overall, DHS effectively administered the final stages of the replacement BasicsCard procurement, including fulfilling the relevant FMA Regulations requirements.

**6.52** The procurement culminated in November 2009, when a new three-year service delivery contract for the operation of the BasicsCard was signed with the prime contractor. The contract is valued at approximately

\$11 million and runs for the period July 2010–June 2013. DHS' total cost for managing the procurement was approximately \$7.1 million, including approximately \$6 million for the services of contracted external advisers.

**6.53** A productive working relationship established between FaHCSIA, DHS and Centrelink during the procurement process contributed to the finalisation of a new replacement BasicsCard contract within the required timetable and under the Budget funding for the procurement.

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Ian McPhee  
Auditor-General

Canberra ACT  
9 February 2011

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