

T h e A u d i t o r - G e n e r a l

Audit Report No.11
Performance Audit

OGIT and FedLink Infrastructure

Office of Government Information Technology,
Department of Finance and Administration

A u s t r a l i a n N a t i o n a l A u d i t O f f i c e

©Commonwealth
of Australia 1998

ISSN 1036-7632

ISBN 0 644 39041 7

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Australian National Audit Office. Requests and inquiries concerning reproduction and rights should be addressed to
The Publications Manager,
Australian National Audit Office,
GPO Box 707, Canberra ACT 2601.

Canberra ACT
21 October 1998

Dear Madam President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit of the Office of Government Information Technology, Department of Finance and Administration in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this audit, and the accompanying brochure, to the Parliament. The report is titled *OGIT and FedLink Infrastructure*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage - <http://www.anao.gov.au>.

Yours sincerely



P. J. Barrett
Auditor-General

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

AUDITING FOR AUSTRALIA

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

Auditor-General reports are available from Government Info Shops. Recent titles are shown at the back of this report. For further information contact:

The Publications Manager
Australian National Audit Office
GPO Box 707 Canberra ACT 2601

telephone (02) 6203 7505
fax (02) 6203 7798

ANAO audit reports and information about the ANAO are available at our internet address:

<http://www.anao.gov.au>

Audit Team

Eric Turner
Dr. Paul Nicoll

Contents

Abbreviations/Glossary	7
Summary	
Audit Summary	11
Background	11
Audit objective and scope	12
Audit criteria	13
Audit conclusion	13
Agency response	14
Audit Findings and Conclusions	
1. Introduction	17
FedLink	17
Reason for the audit	19
Audit objective and scope	19
Audit criteria and methodology	20
2. Processes examined during the audit	22
Overall audit opinion	22
Management structure	23
Agency survey	24
Schedule	25
Agency involvement	27
The request for proposal: Important Notice	28
Conflict of interest	28
The evaluation process	30
Team location	31
Contact with suppliers	31
Australian Government policies	31
Appendices	
Appendix 1	
The Request for Proposals: Important Notice	35
Index	38
Series Titles	40

Abbreviations/Glossary

ACS	Australian Customs Service
ANAO	Australian National Audit Office
ANZ	Australia and New Zealand
ATO	Australian Taxation Office
BAFO	Best and Final Offer
Centrelink	Commonwealth Services Delivery Agency
Codarra	Codarra Advanced Systems. A firm of consultants engaged by OGIT and DoD to assist in the technical evaluation of the responses to the RFP, and also to survey agencies for their communications requirements.
DFAT	Department of Foreign Affairs and Trade
DIST	Department of Industry, Science and Tourism
DoCA	Department of Communications and the Arts
DoD	Department of Defence
DoFA	Department of Finance and Administration (includes the former Department of Administrative Services)
DPIE	Department of Primary Industries and Energy
DSD	Defence Signals Directorate. DSD has prime responsibility for advising the Commonwealth on communications security
DWPSB	Department of Workplace Relations and Small Business
FEMG	FedLink Evaluation Management Group
FET	Financial Evaluation Team
FWG	FedLink Working Group
ICON	Intra-government Communications Network
IDC	Inter-Departmental Committee
Internet	A world-wide electronic linking of computers providing electronic mail (email) services and access to information stored on the linked computers.
Intranet	An Internet service where access is restricted to an organisation's internal staff. In this report the "organisation" is the whole of the Commonwealth Government.
KLA	KLA Australia. A firm of consultants engaged by OGIT to undertake financial analysis of the responses to the RFP
OGIT	Office of Government Information Technology
RFP	Request for Proposal
TSET	Technical and Services Evaluation Team

Summary

Audit Summary

Background

1. The Prime Minister, in his *Investing for Growth* industry statement of 8 December 1997¹, announced the Government's intention to create a government-wide Intranet (later named FedLink) for secure online communications by the end of 1998. The telecommunications network would facilitate the more timely exchange of information between government agencies, the Parliament and ministerial offices. The Intranet was expected to provide a full multimedia capability to agencies to communicate with and provide secure access to external telecommunications networks. It was the intention of the Government to work with industry to find innovative solutions for the network.
2. The interdepartmental committee advising the Prime Minister on this initiative considered that the telecommunications network would be used for all electronic intra-government communications. It would allow secure agency access from the Intranet to the Internet, and it would provide public access via the Internet and Intranet to appropriate agency information and transactions.
3. FedLink was to comprise two elements:
 - a high capacity telecommunications infrastructure (phase 1); and
 - information technology applications which supported Internet and Intranet communication and transactions in a secure environment (phase 2).
4. This audit report relates to the evaluation of responses to a Request For Proposals for Phase 1 only.
5. On 18 December 1997, a media release by the Minister for Finance and Administration named the Office of Government Information Technology (OGIT) as the coordinating agency and the Department of Defence (DoD) as the lead agency for the implementation of FedLink's dedicated infrastructure. The media release confirmed the full implementation date of the Intranet as the end of 1998.

¹ The industry statement can be found on the web page of the Department of Industry, Science and Tourism: <http://www.dist.gov.au/growth/>.

6. OGIT, with DoD, commenced a market testing and tendering process to select a supplier and manager of the network infrastructure. The process comprised an initial Request for Proposals (RFP). Respondents to the RFP were invited to offer either:

- a telecommunications network owned and operated by the private sector with the Commonwealth charged for the use of the capacity and services; or
- the construction of a telecommunications network paid for and owned by the Commonwealth.

7. The RFP was therefore a test of which of the above options would provide best value for money for the Commonwealth, and whether there was a strong enough business case to proceed with the construction of a telecommunications infrastructure. After recommending to the Minister for Finance and Administration the most appropriate option for the Commonwealth, OGIT further evaluated the responses for that option with the intention of selecting a small number of suppliers to proceed to the next stage of the project. OGIT then expected to invite the shortlisted suppliers to respond to a revised OGIT scenario which would be developed from a survey of agency requirements. This stage was termed a Best and Final Offer (BAFO).

8. Following its analysis of the responses to the RFP and analysis of the responses to an agency survey conducted by OGIT, the latter advised the Minister for Finance and Administration that the first phase of the project, the infrastructure phase, should not proceed. OGIT also advised the Minister that the second phase of the project, the applications phase, was able to operate on infrastructure already in place, and in use by agencies, or through the purchase of additional capacity (either owned or leased).

Audit objective and scope

9. OGIT sought the services of the Australian National Audit Office (ANAO) to provide an opinion on the probity of the methodology and procedures applied in the evaluation process for Phase 1. Therefore, the objectives of the audit were to assist OGIT in the timely identification of any deficiencies in the evaluation of responses from suppliers and options for addressing the deficiencies. The ANAO would:

- test for OGIT's adherence to the Department of Finance and Administration's (DoFA) Commonwealth Procurement Guidelines: Core Policies and Principles², and to legislative and other specified requirements; and

² Department of Finance and Administration, Canberra March 1998, Commonwealth Procurement Guidelines: Core Policies and Principles: <http://www.dofa.gov.au/ctc/cpgs.htm>.

- provide a report to the Parliament, the Government and other interested parties on the probity of the evaluation process.
10. The scope of the audit was contained to considering the processes employed by OGIT in its evaluation of responses to the Request for Proposals (RFP). These were for the provision of a communications infrastructure and the management of that facility.
11. The audit did not include any consideration of the later OGIT selection of applications for use on FedLink.

Audit criteria

12. The ANAO's audit criteria related to adherence to DoFA's Commonwealth Procurement Guidelines: Core Policies and Principles, and relevant legislation. A full list is at paragraph 1.17.

Audit conclusion

13. The Phase 1 evaluation process conducted by OGIT was terminated at the end of the RFP stage. The termination of the RFP evaluation process also precipitated the conclusion of the audit in accordance with arrangements made for its conduct, referred to earlier. Accordingly, the ANAO opinion relates only to the RFP evaluation process. It is important to note that OGIT and other agencies' work on the applications which would operate on FedLink continued after that date.
14. The ANAO considers that, during the evaluation process, Government Procurement Guidelines and legislative and other Government specified requirements were properly addressed; appropriate documentation was maintained; and OGIT and DoD conducted the evaluation process ethically and fairly.
15. Although not a focus of the audit, the ANAO noted that OGIT did not meet the stated timetable for completion of the evaluation of responses to the RFP, and the selection of the infrastructure supplier. In managing the risks of the project, OGIT undertook to conduct the RFP process in parallel with an agency survey which identified agency requirements. The results of these two processes were to be combined to produce a Best and Final Offer (BAFO) to which those suppliers which were successful in the RFP process could respond. There were delays to both processes, but in particular with the agency survey and its analysis. These delays were largely due to agencies on the FedLink Working Group (FWG) declining to volunteer to assist in the survey and private organisations on a Commonwealth Common Use Contract declining to bid for the tender. Following analysis of the agency survey and RFP responses, OGIT concluded that there was not a strong business case to proceed with the

infrastructure phase and that the second phase of FedLink, the applications phase, could proceed on existing telecommunications networks, or on additional leased or purchased networks.

Agency response

16. OGIT agreed with the audit conclusions. OGIT also wished to acknowledge the substantial support and contribution of the Department of Defence as the Lead Agency for Phase 1 (Network Infrastructure) for FedLink, the ANAO for their conduct of the probity audit of the evaluation, and for the support provided by the FedLink Working Group members.

Audit Findings and Conclusions

1. Introduction

This chapter outlines the background to the Government's decision on the FedLink network infrastructure project. The audit objectives, scope and methodology are also described.

FedLink

1.1 The Prime Minister, in his *Investing for Growth* industry statement of 8 December 1997³, announced the Government's intention to create a government-wide Intranet (later named FedLink) for secure online communications by the end of 1998. The telecommunications network would facilitate the more timely exchange of information between government agencies, the Parliament and ministerial offices. The Intranet was expected to provide a full multimedia capability to agencies to communicate with and provide secure access to external telecommunications networks. It was the Government's intention to work with industry to find innovative solutions for the network.

1.2 The interdepartmental committee advising the Prime Minister on this initiative considered that this telecommunications network would be used for all electronic intra-government communications. It would allow secure agency access from the Intranet to the Internet, and it would provide public access via the Internet and Intranet to appropriate agency information and transactions.

1.3 FedLink was to comprise two elements:

- a high capacity telecommunications infrastructure (phase 1); and
- information technology applications which supported Internet and Intranet communication and transactions in a secure environment (phase 2).

1.4 Phase 2 needed to be completed by the end of 1998, but was not dependent on the completion of Phase 1. The design goal for the applications was that it would be based on Internet standards and therefore be available over a public or private network.

³ The industry statement can be found on the web page of the Department of Industry, Science and Tourism December 1998, *Investing for Growth*: <http://www.dist.gov.au/growth/>.

1.5 This audit report relates to the evaluation of responses to a Request For Proposals for Phase 1 only. Phase 1 investigated the options of:

- the Commonwealth building and owning a network infrastructure;
- the Commonwealth leasing a network from a carrier; or
- maintaining the status quo.

1.6 The telecommunications infrastructure would be a Canberra-wide version of an existing system providing high capacity telecommunications services to agencies in the Parliamentary Triangle of Canberra. This existing system is called the Intra-government Communications Network (ICON). ICON already serviced 15 agencies and was owned by those agencies. ICON and FedLink would be linked to form a Canberra local area network which serviced all Commonwealth agencies in Canberra.

1.7 On 18 December 1997 a media release by the Minister for Finance and Administration named the Office of Government Information Technology (OGIT) as the coordinating agency and the Department of Defence (DoD) as the lead agency for the implementation of FedLink's dedicated infrastructure. The media release confirmed the full implementation date of the Intranet to be by the end of 1998.

1.8 OGIT, with DoD, commenced a market testing and tendering process to select a supplier and manager of the network infrastructure. The process comprised an initial Request for Proposals (RFP). Respondents to the RFP were invited to offer either:

- a telecommunications network owned and operated by the private sector with the Commonwealth charged for the use of the capacity and services; or
- the construction of a telecommunications network paid for, and owned by, the Commonwealth.

1.9 The RFP was therefore a test of which of the above options would provide best value for money for the Commonwealth, and whether there was a strong enough business case to proceed with the construction of a telecommunications infrastructure. After recommending to the Minister for Finance and Administration the most appropriate option for the Commonwealth, OGIT further evaluated the responses for that option with the intention of selecting a small number of suppliers to proceed to the next stage of the project. OGIT then expected to invite the shortlisted suppliers to respond to a revised OGIT scenario which would be developed from a survey of agency requirements. This stage was termed a Best and Final Offer (BAFO).

1.10 Following its analysis of the responses to the RFP and analysis of the responses to an agency survey conducted by OGIT, the latter advised the Minister for Finance and Administration that the first phase of the project, the infrastructure phase, should not proceed. OGIT also advised the Minister that the second phase of the project, the applications phase, was able to operate on infrastructure already in place, and in use by agencies, or through the purchase of additional capacity (either owned or leased).

1.11 The Minister's acceptance of OGIT's recommendations concluded the evaluation process which the ANAO was auditing. Therefore, the audit of the process was terminated on 10 July 1998, when the Minister's decision was announced to the committee responsible for the project, the FedLink Working Group (FWG), and to suppliers.

Reason for the audit

1.12 OGIT sought the services of the Australian National Audit Office (ANAO) to provide OGIT with an opinion on the probity of the methodology and procedures applied in the evaluation process while the latter was in progress. The ANAO undertook to provide ongoing oral advice on probity issues as the occasion demanded and to confirm that advice by letter. In undertaking the audit, the ANAO notified OGIT that it intended to report to Parliament on the results.

Audit objective and scope

1.13 The objectives of the audit were to assist OGIT in the timely identification of any deficiencies in the evaluation of responses from suppliers and options for addressing the deficiencies. The ANAO would:

- test for adherence to DoFA's Commonwealth Procurement Guidelines: Core Policies and Principles⁴, and to legislative and other specified requirements; and
- provide a report to the Parliament, the Government and other interested parties on the probity of the evaluation process.

1.14 In February 1998, the ANAO agreed to undertake the audit. During the course of the audit, advice was provided both orally and in writing.

1.15 The audit team was not involved in any executive role in the management of the evaluation process, but was available to provide advice where sought or where the ANAO perceived deficiencies or was aware of

⁴ Department of Finance and Administration, Canberra March 1998, Commonwealth Procurement Guidelines: Core Policies and Principles: <http://www.dofa.gov.au/ctc/cpgs.htm>.

potential conflicts of interest. In addition, it should be emphasised that the audit was directed to the processes employed by OGIT to select suppliers, consistent with Ministerial policy decisions, and not to the technical assessments pertaining to the merits of the selected systems, the perceived cost effectiveness of the new systems, or whether the Department's administrative processes were efficient.

Audit criteria and methodology

1.16 As part of the audit, criteria were devised to enable the ANAO to assess the methodology and procedures developed by OGIT before it commenced the evaluation, and to assist the ANAO to determine whether the evaluation team adhered to those procedures. The ANAO also considered whether the process was conducted ethically and fairly and, in particular, whether there was the potential for bias and/or conflict of interest. In developing the criteria, the ANAO drew on the experience of earlier, similar, audits.

1.17 Audit criteria are used by auditors to form an audit opinion. The ANAO's audit criteria were that:

- the evaluation methodologies and procedures developed by OGIT reflected DoFA's Commonwealth Procurement Guidelines: Core Policies and Principles, and to relevant legislative and other Government specified requirements;
- suppliers were treated ethically, equitably and fairly in the process employed;
- the evaluation methodologies, as published in the RFP, were followed and any departures from the methodologies appropriately notified to suppliers;
- appropriate records were maintained;
- decisions were adequately supported and documented; and
- the evaluation process would provide confidence that it would result in the selection of appropriate suppliers and infrastructure.

1.18 In conducting the audit the ANAO:

- examined related files and records held by OGIT and the evaluation team;
- examined the evaluation methodology and procedures;
- observed the conduct of some meetings between OGIT, the evaluation teams and potential respondents to the RFP;
- considered the transparency and fairness of the process;

- considered the commitment of the process to Australian and New Zealand industry development and affirmative action; and
- examined reports on the evaluation, including the final report of the RFP process.

1.19 During the course of the audit the ANAO, as an observer, attended meetings of the Fedlink Working Group (FWG) and the Fedlink Evaluation Management Group (FEMG), both of which had responsibility for oversight of the process. The roles of these groups are described later. Oral reports on matters which the ANAO considered required attention were given to OGIT and later confirmed in writing to the FEMG.

1.20 The audit was conducted as an audit by arrangement under Section 20 of the *Auditor-General Act 1997*. The audit conformed with ANAO Auditing Standards and cost \$86 902, of which \$38 602 was recovered in fees from OGIT. The \$48 300 additional cost above that recovered from OGIT was the cost of reporting to Parliament.

2. Processes Examined During the Audit

This chapter provides a brief description of the processes examined by the ANAO during the course of the audit and provides an audit opinion for each process.

Overall audit opinion

2.1 The Phase 1 evaluation process conducted by OGIT was terminated at the end of the RFP stage. The termination of the RFP evaluation process also precipitated the conclusion of the audit in accordance with arrangements made for its conduct, referred to earlier. Accordingly, the ANAO opinion relates only to the RFP evaluation process. It is important to note that OGIT and other agencies' work on the applications which would operate on FedLink continued after that date.

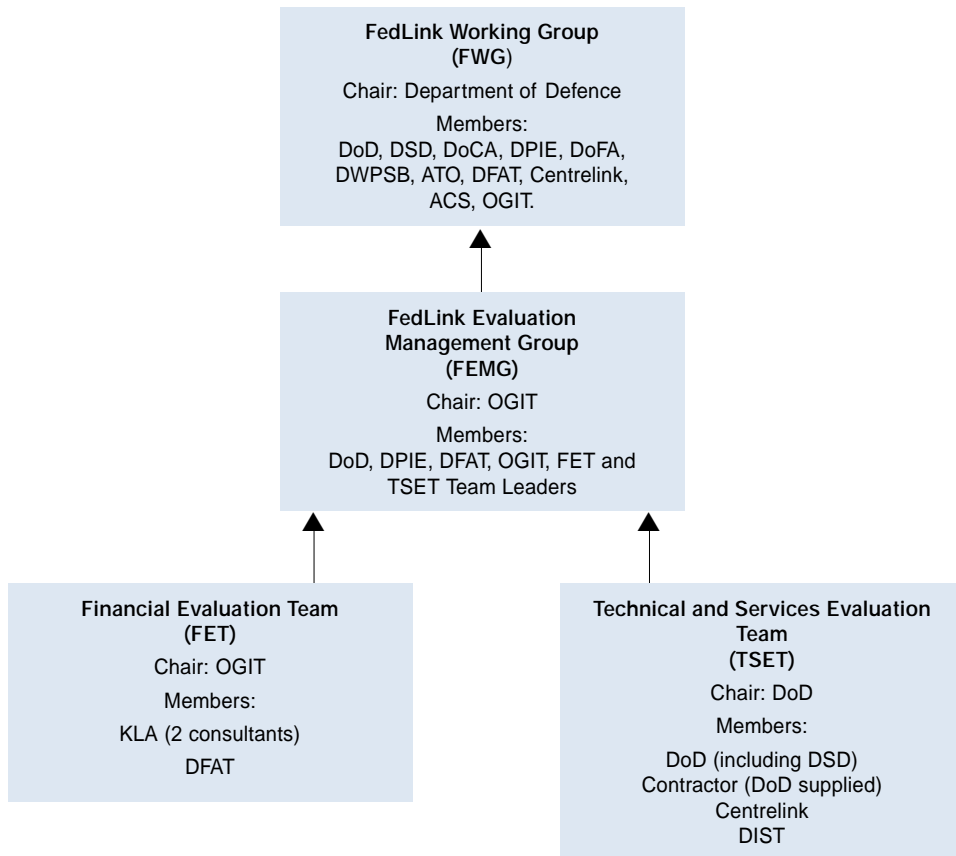
2.2 The ANAO considers that, during the evaluation process, Government Procurement Guidelines and legislative and other Government specified requirements were properly addressed; appropriate documentation was maintained; and OGIT and DoD conducted the evaluation process ethically and fairly.

2.3 Although not a focus of the audit, the ANAO noted that OGIT did not meet the stated timetable for completion of evaluation of responses to the RFP, and the selection of the infrastructure supplier. In managing the risks of the project, OGIT undertook to conduct the RFP process in parallel with an agency survey which identified agency requirements. The results of these two processes were to be combined to produce a Best and Final Offer (BAFO) to which those suppliers which were successful in the RFP process could respond. There were delays to both processes, but in particular with the agency survey and its analysis. These delays were largely due to agencies on the FWG declining to volunteer to assist in the survey and private organisations on a Commonwealth Common Use Contract declining to bid for the tender. Following analysis of the agency survey and RFP responses, OGIT concluded that there was not a strong business case to proceed with the infrastructure phase and that the second phase of FedLink, the applications phase, could proceed on existing telecommunications networks, or on additional leased or purchased networks.

Management structure

2.4 The structure of the committees and teams directly responsible for the management of the process of selecting a supplier for the network infrastructure and management of that facility is shown in Figure 1.

Figure 1
Management structure



2.5 The most senior committee with direct responsibility for the FedLink project was the FedLink Working Group (FWG) which initially had 19 members and was chaired by DoD. The FWG's responsibilities were to:

- confirm the strategy for the evaluation of responses to the RFP;
- confirm the selection of the infrastructure option and the report to Cabinet on the selection;
- confirm the shortlist of potential suppliers to proceed to the BAFO stage; and
- confirm the final report and selection of supplier for recommendation to the Minister.

2.6 The committee with direct responsibility for the RFP evaluation process was the FedLink Evaluation Management Group (FEMG). The FEMG had 6 members from OGIT and other agencies, and its responsibilities were to:

- endorse the evaluation methodology;
- confirm all contact with suppliers relating to the evaluation material and RFP responses;
- allocate weightings to the categories listed in the RFP;
- endorse the market testing reports and result;
- endorse the shortlist recommendations from the evaluation teams;
- endorse the evaluation teams' reports;
- make recommendations and report to the FWG; and
- provide a written debrief to suppliers based on details provided by the evaluation teams.

2.7 Two evaluation teams were established:

- a Technical and Services Evaluation Team (TSET) with responsibilities for analysing the non-financial components of the RFP responses; and
- a Financial Evaluation Team (FET) with responsibility to analyse financial components of the RFP and to provide high level analysis of value for money factors.

2.8 The ANAO considers that the management structure was appropriate for the evaluation process. The ANAO also considers that appropriate agencies were represented on the FWG and the FEMG.

However, DoD provided most of the TSET team members and it was well into the evaluation before agencies other than DoD provided members of the TSET. The preponderance of DoD staff on the TSET had the potential to result in an infrastructure that met the demands of DoD but did not meet the requirements of other agencies. The ANAO noted that OGIT made repeated requests at FWG meetings for agencies to supply personnel for the evaluation teams but with limited success.

Agency survey

2.9 OGIT had a tight timetable of just over twelve months from the Prime Minister's announcement of FedLink to its implementation. In seeking to meet the Phase 1 timetable and in order to perform a sufficient

market test of the options to build and own, lease or maintain the status quo, OGIT undertook a process of:

- market testing of solutions through an RFP, using a telecommunications network scenario developed by OGIT;
- surveying agencies' to determine their voice and data telecommunications requirements;
- analysing the results of both the above;
- seeking best and final offers to a requirement based on agency requirements; and
- selecting a supplier and negotiating a contract with that supplier.

2.10 All the above steps had to be completed in sufficient time for the selected supplier to construct the infrastructure before the end of 1998.

2.11 In the event, delays occurred with both the RFP process and the agency survey. Delays in commencing the agency survey meant that the survey and the analysis of the survey (called the Requirements Analysis survey) followed the evaluation of RFP responses. A presentation to agencies introducing and commencing the survey took place on 15 April 1998, the same day that the FWG recommended that the shortlist of potential infrastructure suppliers should be submitted to the Minister for approval. The survey was completed in early May.

2.12 The delays in commencing the agency survey resulted from:

- agencies on the FWG declining to volunteer staff to assist with the survey; and
- private organisations on a Commonwealth Common Use Contract declining to bid for the work.

2.13 OGIT then advertised an open tender for the work and, from the responses to that tender, selected Codarra to undertake the survey.

2.14 The delays in commencing the agency survey delayed the result of the RFP process.

Schedule

2.15 The Prime Minister announced, as part of his *Investing for Growth* industry statement, that the Government was committed to:

Establishing a government wide Intranet for secure online communication by the end of 1998.

2.16 The end of 1998 deadline was announced by the Prime Minister on advice from an Inter-Departmental Committee (IDC). The agency with major responsibility for carriage of the FedLink initiative within the IDC

was OGIT. Therefore, OGIT had prime responsibility for advising the Government on the timetable for installation of FedLink.

2.17 The initial timetable provided to the ANAO, in January 1998, was for the evaluation of proposals for providing the infrastructure and management of the infrastructure to be completed in March 1998. However, when the RFP was released on 6 February, the expected completion date for the evaluation of proposals was indicated as mid May-1998. The FWG meeting of 24 March was provided with an expected completion date of late May 1998. In late March the completion of the evaluation was adjusted to mid/late June 1998. On 20 May 1998 the expected completion date was further extended, with respondents to the RFP being advised that they would not be notified of the results of the first stage until mid-July 1998, effectively extending the completion to the end of August 1998.

2.18 The timetable for Phase 1 was always considered ambitious by the FWG. Notwithstanding this fact, at the time of this report, OGIT advised that the timetable for implementation of FedLink Phase 2, and meeting the Prime Minister's commitment by the end of 1998, remained feasible.

2.19 In July 1998 OGIT concluded that there was not a strong business case identified in the responses to the RFP to justify continuing with Phase 1 of the project — the infrastructure, and that Phase 2 of the project — the applications — could operate on existing networks already used by agencies or through the purchase of additional capacity (either owned or leased).

2.20 On 10 July 1998 OGIT wrote to those involved in the FedLink Phase 1 project, and to those suppliers which had responded to the RFP, thanking them for their involvement and advising of the Commonwealth's decision not to progress with Phase 1 (Network Infrastructure) at that time. The letters advised that OGIT had always intended from the project's inception that the project would only proceed to a Best and Final Offer (BAFO) stage if there were a strong business case. The factors which caused OGIT to question the viability of the business case included:

- a reasonable level of doubt in relation to the level of savings that the proposed arrangements would provide for the Commonwealth;
- the scenario in the RFP was primarily based on a survey of agencies conducted in 1996. A noticeable change in Canberra Commonwealth agency requirements was highlighted by a Requirements Analysis survey of agencies undertaken concurrently with the RFP;
- better value for money using current infrastructure; and
- the effect of IT outsourcing is enabling agencies to obtain better value for money telecommunication solutions.

2.21 OGIT concluded that it was apparent that to have gone ahead and conducted the BAFO stage would have served no other purpose than to validate the analysis undertaken during the RFP process.

Agency involvement

2.22 The FWG was generally attended by more than twenty people from a variety of agencies. In circumstances where agencies are represented by consultants/contractors on Commonwealth Government committees, it must be clear whether the consultants speak with the authority of the agencies. It is also essential that consultants representing agencies on committees such as the FWG declare their association and any conflicts of interest; have appropriate security clearances; and understand as well as protecting the confidential nature of the matters being discussed by committees.

2.23 In the case of the FWG, all members and their substitutes signed a document declaring actual or potential conflicts of interest. However, it was not always clear who were consultants and what was their association. It was the responsibility of each agency to ensure that contractors had an appropriate security clearance. The ANAO perceived a weakness in this and advised that, in future cases, steps should be taken to confirm that all project participants have the necessary security clearance.

2.24 There was also extensive use of consultants/contractors on the evaluation teams. In the case of the FET, consultants were used for the analysis of the financial aspects of the responses, with OGIT and DFAT making up the remainder of the team. In the case of the TSET, despite several requests by OGIT to the FWG members, the team commenced the evaluation staffed by a consultant supplied by DoD and two DoD employees. It was only towards the end of the evaluation that a representative from Centrelink joined the team. The reluctance of agencies to provide staff for the evaluation appeared to be the result of both the limited availability of appropriately qualified staff and the lengthy period that staff would be absent from their normal duties.

2.25 With the exception of the agencies mentioned above, together with DSD advising on security matters, DIST advising on Australian and New Zealand industry matters, and DPIE involvement on the FEMG, assistance from agencies was limited. In the light of this experience OGIT may need to consider alternative ways of ensuring agencies participation in other whole of government initiatives.

The request for proposal: Important Notice

2.26 In June 1997 Justice Finn of the Federal Court of Australia, in a decision in *Hughes Aircraft Systems International v Airservices Australia* found that, among other findings, there were terms implied in the Request For Tender Contract, both as a matter of fact and as a matter of law, that Airservices Australia would conduct its tender evaluation fairly, and deal fairly with a tenderer in the performance of that contract.

2.27 Subsequently, in light of the Hughes case, OGIT included in its FedLink RFP an *Important Notice*. This Notice, reproduced in Appendix 1 of this report, was provided by the Attorney-General's Department. The Notice was not guaranteed to remove the threat of legal proceedings. However, it would make potential litigants think twice before taking action.

2.28 Later advice from the Attorney-General's Department, dealing with a conflict of interest issue, pointed out that the *Important Notice* stated:

Nothing in this RFP shall be construed to create any binding contract (express or implied).

2.29 The ANAO recognises that agencies have an obligation to protect the Commonwealth's interest through well worded tender documents, and that OGIT, in another project, incurred considerable expense in defending a tender process against litigation by an unsuccessful tenderer. Regardless of the wording of tender documents, the ANAO considers that agencies also have an obligation to protect the reputation of the Commonwealth by conducting tender evaluations fairly and openly.

2.30 **The ANAO considers OGIT conducted this evaluation fairly and dealt fairly with respondents.**

Conflict of interest

2.31 It is sound practice for all people involved in a tendering process to indicate to the management of the process any actual or potential conflicts of interest. In the FedLink project, OGIT sought a declaration of any conflict of interest from all people, including consultants, involved in the process at the appropriate time.

Ownership of Telstra instalment receipts

2.32 Advice provided by the ANAO to agencies conducting evaluations of tenders includes advice that people involved in the evaluation process should avoid any actual or potential conflict of interest. A clear conflict of interest is where a person involved in the evaluation has a beneficial interest in one or more of the organisations responding to the tender process.

2.33 As the RFP sought the provision of a communications infrastructure, it was expected that Telstra would respond to the RFP. In November 1997 Telstra had been partially privatised. On a show of hands at an FWG meeting, about 50 per cent of FWG members owned Telstra Instalment Receipts and therefore had a beneficial interest in Telstra.

2.34 The ANAO advised the FWG that it would be preferable that people involved in the process did not have shares in any of the respondents to the RFP. OGIT's conflict of interest procedures sought a declaration from those involved in the evaluation who owned shares, including Telstra shares, and in particular a statement from those whose ownership may have formed a material part of their assets.

2.35 Due to the widespread ownership of Telstra shares, the ANAO considered that the Steering Committee/Working Group may have to accept that members of the Committee, Working Group and evaluation teams would own Telstra shares.

2.36 The FWG accepted the advice of the ANAO and asked all people involved in the evaluation to declare whether they owned Telstra shares (instalment receipts). Several declared ownership of Telstra shares, none declared ownership of more than 10 000 shares.

Contractor

2.37 A further concern on a conflict of interest arose with a contractor on the TSET. The contractor was made available to the TSET by DoD. DoD obtained the contractor from Codarra, an organisation with expertise in communications. The person was not a permanent employee of Codarra but was employed as a sub-contractor. The perception of a conflict of interest arose when Codarra tendered for, and won, a contract to conduct a survey of agencies as part of the development of the BAFO tender. In response to a request to declare any conflicts of interest, Codarra declared a relationship with a firm responding to the original RFP. The sub-contractor supplied to DoD by Codarra had stated no conflict of interest with that firm, or any other bidder.

2.38 OGIT sought advice from the ANAO and legal advice from the Attorney-General's Department. The ANAO and the Attorney-General's Department assessed that:

- the sub-contractor was unaware of the business Codarra was conducting, and therefore unaware of any conflict of interest that Codarra may have had with bidders;
- no information on the FedLink proposals was passed from the sub-contractor to Codarra (based on written statements provided by both the sub-contractor and Codarra); and

- Codarra's relationship with the firm responding to the RFP was unrelated to the FedLink response.

2.39 The advice from both the ANAO and the Attorney-General's Department was that, in the circumstances, a breach of confidentiality was unlikely and that the evaluation process should proceed as normal. However, the ANAO suggested changes to the conflict of interest processes of both OGIT and Codarra. These were that OGIT clarify its conflict of interest declaration form to include organisations as well as individuals, and that Codarra appoint an individual with responsibility for clearing all conflict of interest declarations.

Other conflicts of interest

2.40 Several other situations arose where there was a potential for a conflict of interest. The ANAO provided advice on each of these occasions and agreed with the steps taken by OGIT.

The evaluation process

2.41 The TSET and FET teams conducting the evaluation of responses to the RFP were allocated separate rooms and separate computer networks. Communication between the teams was also restricted. This ensured that the evaluation of the technical merits of the proposals was separated from the evaluation of the financial aspects, ensuring an unbiased assessment of the technical aspects. Where the FET required advice on the effect of technical aspects of the proposals on the cost model, an independent technical adviser was obtained.

2.42 The TSET team comprised Commonwealth staff together with a consultant selected and paid by DoD. The ANAO considered that the team had appropriate technical expertise in the telecommunications subject matter of the RFP. The ANAO examined the documentation kept by the TSET and considered that the records, mainly held on computer, were satisfactory. The ANAO noted that a paper audit trail of any revisions of scores was held, and the final scores were reviewed for consistency and accuracy.

2.43 The ANAO also examined the evaluation process conducted by the FET. The financial analysis was undertaken by a firm of consultants using a financial model developed by that firm. The FET was chaired by OGIT and DFAT supplied a member. The ANAO advised OGIT that, as stated in the terms of engagement when the ANAO agreed to undertake the audit, it would not comment on the accuracy or reliability of the financial model used by the FET. However, the ANAO considered that OGIT had engaged appropriate expertise to undertake the financial analysis and has no reason to challenge the model used by the consultants.

2.44 The final reports of the two teams were combined for presentation to the FEMG and the FWG, both of which agreed with the recommendations of the teams. The final recommendation of suppliers to be included in a shortlist for the next stage of the project was approved by the FWG for forwarding through OGIT to the Minister.

2.45 The ANAO considers that the evaluation of the responses was undertaken by suitably qualified people and that the documentation maintained by the evaluation teams was satisfactory.

Team location

Accommodation

2.46 The evaluation teams were accommodated by DoD at the DoD offices located at Campbell Park. The accommodation was in secure rooms in a secure building. Documents were stored in secure, locked filing cabinets when the room was unoccupied. The TSET and the FET were located in separate rooms.

2.47 The ANAO considers that the accommodation was satisfactory.

Computer network

2.48 The computer networks used by the two teams were stand alone and fully contained in the secure room for each team. Neither network was connected to other networks outside the room, or with each other. Access to the networks was secured by password.

2.49 The ANAO considers that the security of the computer networks was satisfactory.

Contact with suppliers

2.50 Suppliers and the evaluation teams were both instructed that any communication between the two should be through a single responsible OGIT staff member. All contacts to and through this officer were recorded. The ANAO is unaware of any breach of this instruction.

2.51 The ANAO considers that contact with suppliers was managed satisfactorily.

Australian Government policies

2.52 The ANAO noted that the RFP advised potential respondents of the Australian Government's policies with regard to industry development, affirmative action and Aboriginal and Torres Strait Islanders. During the evaluation process an officer from DIST advised on the industry development aspects of the proposals.

2.53 As the tendering process was not completed, the ANAO is unable to comment on whether the final selection met government policies.

A handwritten signature in black ink, appearing to read 'P.J. Barrett', located to the right of the horizontal line.

Canberra ACT
21 October 1998

P.J. Barrett
Auditor-General

Appendices

Appendix 1

The Request for Proposals: Important Notice

This Important Notice was inserted as the first page of the final Request for Proposal.

1. The information contained in this Request for Proposal (RFP) and the information upon which it is based has not been independently verified or audited.
2. The contents of this RFP are believed to be accurate as of the date of this RFP. The statements, opinions, projections, forecasts or other information contained in this RFP may change. Where any such information relates to future matters, no steps have been taken to verify that that information is based upon reasonable grounds. Actual future events may vary significantly from the forecasts.
3. Neither the delivery of this RFP nor any other agreement made on the basis of this RFP may, under any circumstances, be taken to create an implication that there has been or will be no material change in the affairs of the Office of Government Information Technology ('OGIT') as and from the date of issue of this RFP.
4. The Commonwealth, its officers, employees, advisers and agents:
 - make no express or implied representation or warranty as to the currency, accuracy, reliability or completeness of the information contained in this RFP;
 - make no express or implied representation or warranty that any estimate or forecast will be achieved or that any statement as to future matters will prove correct;
 - expressly disclaim any and all liability arising from information (including without limitation, errors or omissions) contained in this RFP;
 - (except so far as liability under any statute cannot be excluded) accept no responsibility arising in any way from errors in, or omissions from, this RFP or in negligence;
 - do not represent that they apply any expertise on behalf of any Respondent or any interested person;
 - accept no liability for any loss or damage suffered by any person as a result of that person or any other person placing any reliance on the contents of this RFP or other information provided by or on behalf of the Commonwealth; and
 - assume no duty of disclosure or fiduciary duty to any interested person.

5. The Commonwealth, its officers, employees, advisers and agents accept no responsibility for any cost incurred by any person in relation to this RFP. Respondents and other persons must themselves bear all expenses related to this RFP or the process(es) described in it or any variation or withdrawal of that process(es).

6. The Commonwealth has no obligation to proceed with purchase or sale of goods, provision of services or any aspect of the matters or project described in this RFP and may at its absolute discretion, withdraw, change or suspend this RFP process.

7. The provisions of this Important Notice apply in relation to this RFP and also in relation to any other oral or written communications or disclosures to a Respondent or to any other person.

8. The Commonwealth reserves copyright in this RFP.

9. By publishing objectives for this project, factors and criteria for evaluation of Responses to this REP, or for determining a short list, or a process potentially leading to a short list of Respondents to this REP, the Commonwealth does not intend to create any impression or expectation that it will adhere to those objectives, factors or criteria, that process, or any other process. The Commonwealth at all times reserves the right to vary or depart from any of those matters and to act as it sees fit having regard to the overall interest of the Commonwealth.

10. Nothing in this RFP shall be construed to create any binding contract (express or *sic* implied) between the Commonwealth and any Respondent. Any conduct or statement of OGIT whether prior to or subsequent to this RFP is not, and this RFP is not, and shall not be, deemed to be,

- a. an offer to contract, or
 - b. an offer of a binding undertaking of any kind, or
 - c. a binding undertaking of any kind,
- unless specifically expressed in writing as such and is signed by a duly authorised officer of OGIT.

11. The Commonwealth has no obligation to consider, and no obligation in respect of the manner, timing or basis of consideration of, any Response to this RFP for any Respondent and no obligation to enter into any negotiations with any Respondent.

12. For the purposes of this RFP or the RFP process, the Commonwealth has no obligation to seek or consider any information, material or matter which is not included in the Respondent's Response to this REP.

13. All Responses to this RFP will become the property of the Commonwealth.

14. Such intellectual property rights as may exist in the information contained in the Response to this RFP will remain the property of the Respondent, but the Commonwealth, through OGIT, may use the Response document for any purpose related to this RFP and may make this information available to Ministers, Departments and agencies at its discretion.

Index

A

Aboriginal and Torres Strait Islanders 31
affirmative action 21, 31
agency requirements 12-13, 18, 22, 25-26
agency response 14
agency survey 12-13, 19, 22, 24-25
applications 11-14, 17, 19, 22, 26
Attorney-General's Department 28-30
Audit conclusion 13-14
Audit criteria 13, 20
Audit objective and scope 12, 19
Auditing Standards 21
Auditor-General Act 1997 21
Australia and New Zealand (ANZ) 7
Australian Customs Service (ACS) 7, 23
Australian National Audit Office
(ANAO) 7, 12-14, 19-22, 24, 26-32
Australian Taxation Office (ATO) 7, 23

B

Background 11, 17
Best and Final Offer (BAFO) 7, 12-13,
18, 22-23, 25-27, 29
bias 20, 30

C

Centrelink 7, 23, 27
Codarra 7, 25, 29-30
Commonwealth Procurement
Guidelines: Core Policies 12-13,
19-20
Commonwealth Services Delivery
Agency 7
communications security 7
Conflict of interest 28-30

D

decisions 20
Defence Signals Directorate (DSD) 7,
23, 27
deficiencies 12, 19
Department of Defence (DoD) 7, 11-14,
18, 22-24, 27, 29-31

Department of Finance and
Administration (DoFA) 7, 12-13,
19-20, 23
Department of Foreign Affairs and
Trade (DFAT) 7, 23, 27, 30
Department of Industry, Science and
Tourism (DIST) 7, 11, 17, 23, 27, 31
Department of Primary Industries and
Energy (DPIE) 7, 23, 27

E

equitably 20
ethically 13, 20, 22
evaluation of responses 11-13, 18-19,
22-23, 30, 36

F

fairly 13, 20, 22, 28
Federal Court of Australia 28
FedLink 7, 11, 13-14, 17-19, 21-26, 28-30
FedLink Evaluation Management
Group (FEMG) 7, 21, 23-24, 27, 31
FedLink Working Group (FWG) 7,
13-14, 19, 21-27, 29, 31
Financial Evaluation Team (FET) 7,
23-24, 27, 30-31

G

Government 7, 11, 13, 17-20, 22,
25-27, 31-32, 35
Government Procurement Guidelines
13, 22

H

Hughes case 28

I

Important Notice 28, 35-36
industry development 21, 31
infrastructure 11-14, 17-20, 22-26, 29
infrastructure supplier 13, 22, 25
Inter-Departmental Committee (IDC)
7, 25
Internet 7, 11, 17

Intra-government Communications
Network (ICON) 7, 18

Intranet 7, 11, 17-18, 25

Investing for Growth 11, 17, 25

J

Justice Finn 28

K

KLA 7, 23

L

lead agency 11, 14, 18

M

market testing 12, 18, 24-25

media release 11, 18

methodology and procedures 12, 19-20

Minister for Finance and
Administration 11-12, 18-19

O

Office of Government Information
Technology (OGIT) 7, 11-14, 18-31,
35-37

P

Parliament 11, 13, 17-19, 21

Phase 1 11-14, 17-18, 22, 24, 26

Phase 2 17, 26

Prime Minister 11, 17, 24-26

probity 12-14, 19

R

records 20, 30

Request For Proposal (RFP) 7, 11-13,
18-31, 35-37

S

Summary 9, 11

T

Technical and Services Evaluation
Team (TSET) 7, 23-24, 27, 29-31

telecommunications network 11-12,
14, 17-18, 22, 25

Telstra Instalment Receipts 28-29

timetable 13, 22, 24, 26

V

value for money 12, 18, 24, 26

Series Titles

Titles published in the financial year 1998-99

Audit Report No.1 Performance Audit
Corporate Governance Framework
Australian Electoral Commission

Audit Report No.2 Performance Audit
Commercial Support Program
Department of Defence

Audit Report No.3 Follow-up Performance Audit
Assessable Government Industry Assistance
Australian Taxation Office

Audit Report No.4 Performance Audit
Client Service Initiatives
Australian Trade Commission (Austrade)

Audit Report No.5 Performance Audit
*Commonwealth Agencies' Security Preparations
for the Sydney 2000 Olympics*

Audit Report No.6
*Audit Activity Report:
January to June 1998*
Summary of Audit Outcomes

Audit Report No.7 Performance Audit
*Management of the Implementation of the
New Employment Services Market*
Department of Employment, Education, Training, and Youth Affairs

Audit Report No.8 Performance Audit
Safeguarding Our National Collections

Audit Report No.9 Performance Audit
Accountability and Performance Information
Australian Sports Commission