

The Auditor-General
Audit Report No.20 2001–2002
Performance Audit

Fraud Control Arrangements in the Department of Agriculture, Fisheries and Forestry—Australia (AFFA)

**Department of Agriculture,
Fisheries and Forestry—Australia**

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ISSN 1036-7632
ISBN 0 642 80600 4

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Canberra ACT
16 November 2001

Dear Madam President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Agriculture, Fisheries and Forestry—Australia 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 *Fraud Control Arrangements in the Department of Agriculture, Fisheries and Forestry—Australia*.

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.

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Contents

Abbreviations/Glossary	7
Summary and Recommendations	
Audit Summary	11
Introduction	11
Audit objective, scope and criteria	12
Methodology	13
Overall audit conclusion	13
Key Findings	14
Planning for Effective Fraud Control (Chapter 2)	14
Promoting an Ethical Workplace Culture (Chapter 3)	14
Performance Information and Reporting (Chapter 4)	15
Operational Arrangements for Fraud Control (Chapter 5)	15
Recommendations	17
Audit Findings and Conclusions	
1. Introduction	21
Background	21
Department of Agriculture, Fisheries and Forestry—Australia	22
Audit objective, scope and criteria	23
Methodology	24
Departmental arrangements for fraud control	24
Other agency responsibilities for fraud control in the Commonwealth	26
The report	27
2. Planning for Effective Fraud Control	29
Introduction	29
Fraud control policy	29
Fraud risk assessment	30
Fraud Control Plan	33
Links to corporate plan and other business/operational plans	34
ANAO conclusion	34
3. Promoting an Ethical Workplace Culture	36
Introduction	36
Establishing and communicating standards of conduct	36
Fraud and ethics awareness raising and training	38
Promoting external service provider awareness	42
ANAO conclusion	43

4. Performance Information and Reporting	44
Introduction	44
Performance information	44
Monitoring and reporting	47
ANAO conclusion	49
5. Operational Arrangements for Fraud Control	50
Introduction	50
Fraud allegations: reporting and recording	51
Fraud investigation manuals	56
Fraud investigations	57
Fraud investigator training	59
Prosecution and compensation	60
ANAO conclusion	63
Appendices	
Appendix 1: Previous ANAO Performance Audits on Agency Fraud Control Arrangements	67
Index	68
Series Titles	69
Better Practice Guides	71

Abbreviations/Glossary

ABARE	Australian Bureau of Agricultural and Resource Economics
AFFA	Department of Agriculture, Fisheries and Forestry—Australia
AFFALink	An intranet facility that provides access by AFFA staff to a range of policy and other information relevant to the day-to-day operations of the department. Included is a daily E Bulletin that provides topical information on a variety of activities ranging from social activities through to briefings by the department's executive.
AFP	Australian Federal Police
ANAO	Australian National Audit Office
APS	Australian Public Service
AQIS	Australian Quarantine Inspection Service
AQIS C&I	AQIS Compliance and Investigations Unit
BESIU	Business Ethics, Security and Investigations Unit
BESIU FIIT	BESIU Fraud and Internal Investigations Team
BRS	Bureau of Rural Sciences
CEI	Chief Executive Instruction
CEO	Chief Executive Officer
CLEB	Commonwealth Law Enforcement Board
Comcover	The insurance arm of the Department of Finance and Administration. Responsibilities include provision of insurance for Commonwealth departments and assistance to departments in the development of risk management procedures.
DPP	Commonwealth Director of Public Prosecutions
Finance	Department of Finance and Administration
FMA Act	<i>Financial Management and Accountability Act 1997</i>
HR	Human Resources
PSA	<i>Public Service Act</i>

PSMPC	Public Service and Merit Protection Commission
QAR	Quality Assurance Review
QMS	Quality Management System

Summary and Recommendations

Audit Summary

Introduction

1. The Australian Public Service (APS) has a broad client base and significant levels of expenditure, making the prevention and management of fraud an important issue for sound public administration. The Federal Government has demonstrated its ongoing commitment to the protection of its revenue, expenditure and property from fraudulent activity through the release of a Fraud Control Policy of the Commonwealth¹ (the Policy). The Policy was first released in 1987 and was updated in 1994. Consultation Draft No. 2 of a revised policy was circulated for comment in April 2001. Fraud is broadly defined in the policy as '*dishonestly obtaining a benefit by deception or other means*'.²

2. The importance of agencies establishing effective fraud control arrangements has been recognised in legislative provisions in the *Financial Management and Accountability Act 1997* (FMA Act). Under Section 45 of the FMA Act, Chief Executive Officers (CEOs) are responsible for the implementation of a fraud control plan and for reporting to the Portfolio Minister on fraud control within their agencies.

3. This audit of the Department of Agriculture, Fisheries and Forestry—Australia (AFFA) is one of a series of fraud control audits, including a survey of fraud control arrangements in the APS³, undertaken by the Australian National Audit Office (ANAO). A list of these audits is at Appendix 1.

4. AFFA, like many other APS agencies, has a changing role in the delivery of services. For example, the growing use of outsourcing and electronic service delivery is introducing different risks for agencies in the management and protection of Commonwealth funds and resources. In particular, in the case of AFFA, fraud control and detection considerations include the involvement of the private sector in inspection and compliance activities related to the legislation under which the Australian Quarantine Inspection Service (AQIS) operates, including co-regulatory quarantine and export inspection activities.

¹ Fraud Control Policy of the Commonwealth in *Best Practice for Fraud Control*, Canberra, 1994.

² Taken from Consultation Draft No. 1, released in June 1999.

³ Auditor-General's Report No. 47 *Survey of Fraud Control Arrangements in APS Agencies*, ANAO, 20 June 2000.

5. With the emphasis on public sector performance and accountability, an effective governance framework is essential to protect public property, revenue, expenditure, rights and privileges from losses arising as a result of fraudulent activity if agencies are to meet their responsibilities as stewards of the public purse. As previous audit reports on the subject have indicated, there should be a strong focus on prevention involving ongoing vigilance at all levels of an organisation.

Audit objective, scope and criteria

6. The objective of the audit was to assess whether AFFA has implemented appropriate fraud control arrangements in line with the Fraud Control Policy of the Commonwealth and whether these arrangements operate effectively in practice.

7. The ANAO reviewed arrangements for the development of the department's fraud policy, fraud risk assessment and fraud control plan within the core functional areas of the department that are responsible for these activities. The audit also examined the operational procedures and guidelines that were in place to implement the department's fraud policy. This examination included how the performance of fraud control activities, including the monitoring, reporting and investigation of fraud, were assessed, along with fraud awareness raising and suitable training activities. The latter are particularly important in developing an ethical workplace culture as an essential element of a sound governance framework.

8. The ANAO also reviewed the arrangements the department had in place, through the Australian Quarantine Inspection Service (AQIS) business unit, directed at the prevention and investigation of fraud that specifically relates to breaches of the legislation under which AQIS operates. Additionally, AQIS also has responsibility for monitoring the compliance of individuals and industry with co-regulation agreements. These arrangements are primarily directed towards the export and quarantine responsibilities of AQIS. Because such arrangements may be susceptible to fraud, the ANAO included an overview assessment of them in the audit.

9. The audit criteria were based on the Fraud Control Policy of the Commonwealth, criteria applied in earlier fraud control audits, the Australian/New Zealand Standard (AS/NZS) 4360:1999 on risk management, and general better practice that has been identified in the audit work.

Methodology

10. The audit fieldwork was undertaken between April and July 2001. Interviews with key staff and reviews of documents and files were undertaken at the AFFA National Office in Canberra. Compliance issues were also addressed at National Office against guidelines established for the reporting and conduct of fraud and related investigations.

Overall audit conclusion

11. The ANAO concluded that AFFA has developed an appropriate fraud control policy, with supporting fraud risk assessments and operational procedures that are consistent with the requirements of the Fraud Control Policy of the Commonwealth.

12. AFFA communicates widely the standards of conduct expected of its officers and its commitment to promoting an ethical workplace culture in the department. However, with the exception of induction training for some new APS employees, there had been little fraud related awareness raising and training activities since 1997. The department is also taking action to enhance the training of its officers in contract management skills and to ensure that external service providers are more clearly aware of their contractual obligations and ethical responsibilities when providing services under contracts with the Commonwealth.

13. AFFA systematically monitors progress in implementing its fraud control strategies and relevant recommendations of internal audit reports. AFFA's internal audit program addresses the high-risk areas identified in the Fraud Control Policy of the Commonwealth and the AFFA Fraud Control Plan.

14. Separate reports related to fraud and related investigations are made regularly to the Secretary of AFFA and to the audit committee. However, a specific performance assessment framework that included appropriate performance indicators, which the department could then use to assess its performance in controlling fraud on an ongoing basis, had not been developed.

15. AFFA has sound operational procedures for the conduct of fraud investigations and the referral of cases for prosecution. The department had also implemented appropriate practices for the treatment and recovery of losses.

Key Findings

Planning for Effective Fraud Control (Chapter 2)

16. AFFA has an appropriate fraud control policy with fraud risk assessments being carried out every two years in accordance with the Fraud Control Policy of the Commonwealth. The methodology for these risk assessments was generally sound and complied with requirements specified by the Attorney General's Department.

17. AFFA has an appropriate Fraud Control Plan. The Plan recognises the challenges facing the department that result from the changed operating environment created by the extensive outsourcing of administrative functions and contains strategies to address the risks identified in the fraud risk assessment underpinning the Plan.

18. Prior to 2001–2002 there were weaknesses in the links between the Fraud Control Plan, the Corporate Plan and lower level business/operational plans. However, these issues have been addressed in the 2001–2002 corporate planning process and its implementation.

Promoting an Ethical Workplace Culture (Chapter 3)

19. AFFA is committed to enhancing the standard of conduct of its officers and developing an ethical workplace culture. In order to do this, AFFA has:

- made the department's overall fraud policy and fraud control plan available to staff on its Intranet information system;
- implemented appropriate arrangements to manage conflict of interest issues; and
- emphasised the importance of induction training, including about APS values and ethical conduct, for all new staff and in-house contractors.

20. However, while the induction training for new staff is mandatory, all relevant staff do not attend the required courses. As well, fraud awareness raising and suitable training activities for existing staff have not been undertaken since 1997.

21. AFFA delivers some of its services through contracts with third party service providers. However, while there is a general requirement in contracts that relevant legislation be complied with, the contracts do not specifically include the need for the providers to comply with the Fraud Control Policy of the Commonwealth and APS Values and Code of

Conduct, including meeting ethical standards. An AFFA internal audit has also recognised this deficiency and made recommendations to meet this need.

Performance Information and Reporting (Chapter 4)

22. AFFA has an appropriate system for submitting reports on fraud matters to the AFFA executive and the department's audit committee and fulfilling its external reporting obligations. However, it does not have performance indicators, benchmarks or targets to assess its performance in controlling fraud, thereby promoting greater awareness of the effectiveness of its fraud control and preventative measures.

23. The AFFA fraud control policy assigns responsibilities for fraud control and risk management to managers. Measures that would allow the department to monitor or evaluate whether managers are meeting these responsibilities have not been developed.

24. There are sound arrangements for monitoring progress in implementing fraud control strategies and for following up recommendations made in internal audit reports. However, the overall effectiveness of the fraud control function would be enhanced by more actively considering the implications, for departmental procedures, of the findings from fraud investigations. As well, greater use could be made of the E Bulletin on the AFFA Intranet to enhance fraud awareness raising among AFFA staff by promulgating the results of internal audits and fraud related investigations

Operational Arrangements for Fraud Control (Chapter 5)

25. The ANAO found that operational procedures and guidelines which support the department's fraud control framework were in place and were generally satisfactory. AFFA had:

- established appropriate centralised reporting and recording processes to record allegations of internal fraud and breaches of non-Australian Quarantine Inspection Service (AQIS) legislation;
- established appropriate centralised reporting and recording processes to record allegations of compliance breaches related to the legislation under which AQIS operates, including allegations of fraud related to those breaches;
- developed an investigations manual that provided clear guidance on all aspects of the fraud investigation process;

- undertaken fraud investigations in a timely and professional manner in accordance with the AFFA Fraud Investigations Manual and the Fraud Control Policy of the Commonwealth; and
- provided appropriately trained staff to its investigation sections.

26. AFFA has followed established procedures for determining the most appropriate course of action for pursuing fraud and other matters resulting in the loss of Commonwealth funds. In particular, serious offences, including fraud and breaches of contract and legislative provisions, had been dealt with by AFFA through criminal proceedings and not by using internal administrative or disciplinary measures.

27. Allegations of minor misconduct and minor offences that are made to supervisors or managers are handled directly by those supervisors/managers. However, in the absence of a suitable reporting regime, the executive is not informed of the full extent of the occurrence and nature of such matters. The development of reporting and recording procedures that summarise the extent to which these delegations have been exercised, and the nature of the matters that have been dealt with, would be appropriate. This would support the identification of any systemic issues and the provision of appropriate assurance for all stakeholders regarding the adequacy of this aspect of the governance arrangements.

28. An audit and monitoring regime and appropriate compulsory training packages support the department's administration of co-regulatory compliance agreements with industry and individuals for the conduct of quarantine and export inspections. These arrangements include agreed sanctions that apply to those who fail to conform to the terms of their agreement.

Recommendations

Set out below are the ANAO's recommendations with the Report paragraph reference. The ANAO considers that all recommendations have equal importance.

Recommendation No. 1
Para. 3.13

The ANAO recommends that, in order to support staff awareness and understanding of fraud, AFFA ensures that all new staff receive appropriate fraud, ethics and security induction training and that it undertakes continuing fraud awareness raising and training for existing staff as appropriate.

AFFA response: Agreed.

Recommendation No. 2
Para. 4.9

To improve AFFA's performance assessment framework for fraud control the ANAO recommends that AFFA incorporate performance indicators, benchmarks and targets into performance reports to the AFFA executive and the audit committee and that job descriptions and performance agreements of managers include responsibilities for risk, including fraud, management.

AFFA response: Agreed.

Audit Findings and Conclusions

1. Introduction

This chapter describes the background to the audit and sets out the ANAO's objective and methodology. It also outlines the department's arrangements for fraud control.

Background

1.1 The Australian Public Service (APS) has a broad client base and significant levels of expenditure, making the prevention and management of fraud an important issue for sound public administration. The Federal Government has demonstrated its ongoing commitment to the protection of its revenue, expenditure and property from fraudulent activity through the release of a Fraud Control Policy of the Commonwealth⁴ (the Policy). The Policy was first released in 1987 and was updated in 1994. Consultation Draft No. 2 of a revised policy was circulated for comment in April 2001. Fraud is broadly defined in the policy as '*dishonestly obtaining a benefit by deception or other means*'.⁵

1.2 The importance of agencies establishing effective fraud control arrangements has been recognised in legislative provisions in the *Financial Management and Accountability Act 1997* (FMA Act). Under Section 45 of the FMA Act, Chief Executive Officers (CEOs) are responsible for the implementation of a fraud control plan and for reporting to the Portfolio Minister on fraud control within their agencies.

1.3 This audit of the Department of Agriculture, Fisheries and Forestry—Australia (AFFA) is one of a series of fraud control audits, including a survey of fraud control arrangements in the APS⁶, undertaken by the Australian National Audit Office (ANAO). A list of these audits is at Appendix 1.

⁴ Fraud Control Policy of the Commonwealth in *Best Practice for Fraud Control*, Canberra, 1994.

⁵ Taken from Consultation Draft No. 1, released in June 1999.

⁶ Auditor-General's Report No. 47 *Survey of Fraud Control Arrangements in APS Agencies*, ANAO, 20 June 2000.

1.4 AFFA, like many other APS agencies, has a changing role in the delivery of services. For example, the growing use of outsourcing and electronic service delivery is introducing different risks for agencies in the management and protection of Commonwealth funds and resources. In particular, in the case of AFFA, fraud control and detection considerations include the involvement of the private sector in inspection and compliance activities related to the legislation under which the Australian Quarantine Inspection Service (AQIS) operates, including co-regulatory quarantine and export inspection activities.

1.5 With the emphasis on public sector performance and accountability, an effective governance framework is essential to protect public property, revenue, expenditure, rights and privileges from losses arising as a result of fraudulent activity if agencies are to meet their responsibilities as stewards of the public purse. As previous audit reports on the subject have indicated, there should be a strong focus on prevention including on-going vigilance at all levels of an organisation.

Department of Agriculture, Fisheries and Forestry—Australia

1.6 AFFA has a diverse set of responsibilities, which include achieving key outcomes for agricultural, fisheries, food and forestry industries and the support of improved management of natural resources. The department's outcome is directed to increasing the profitability, competitiveness and sustainability of Australian agricultural, food, fisheries and forestry industries, and enhancing the natural resource base, to achieve greater national wealth and stronger rural and regional communities. The department aims to achieve these outcomes through strategic priorities that include:⁷

- promoting economic development through programs that support rural industries;
- utilising research and development and innovation as key factors in agriculture and food productivity;
- increasing industry ownership of their futures through scaling back government intervention; and
- improving portfolio industries' sustainable use of and access to land and water resources.

⁷ For a detailed description of AFFA's portfolio outcomes refer to the 2000–01 Portfolio Budget Statements: Agriculture, Fisheries and Forestry portfolio.

1.7 The department includes in its values adherence to Australian Public Service (APS) Values and the APS Code of Conduct, with professionalism, integrity, openness, fairness and respect, both in its internal operations and in dealing with the public, being particular points of focus.⁸

1.8 AFFA has approximately 3000 staff, half of whom are located in Canberra. The majority of the staff outside Canberra are members of the Australian Quarantine and Inspection Service (AQIS). These staff primarily carry out inspection and compliance activities related to the export and quarantine responsibilities of the department.

1.9 The total appropriation for the department in 2000–2001 was approximately \$1.2 billion.

Audit objective, scope and criteria

1.10 The objective of the audit was to assess whether AFFA has implemented appropriate fraud control arrangements in line with the Fraud Control Policy of the Commonwealth and whether these arrangements operate effectively in practice.

1.11 The ANAO reviewed arrangements for the development of the department's fraud policy, fraud risk assessment and fraud control plan within the core functional areas of the department that are responsible for these activities. The audit also examined the operational procedures and guidelines that were in place to implement the department's fraud policy. This examination included how the performance of fraud control activities, including the monitoring, reporting and investigation of fraud, were assessed, along with fraud awareness raising and suitable training activities. The latter are particularly important in developing an ethical workplace culture as an essential element of a sound governance framework.

1.12 The audit criteria were based on the Fraud Control Policy of the Commonwealth, criteria applied in earlier fraud control audits, the Australian/New Zealand Standard (AS/NZS) 4360:1999 on risk management, and general better practice that has been identified in the audit work.

⁸ A detailed overview of AFFA and its values can be found on the AFFA home page, <http://www.affa.gov.au>.

Methodology

1.13 The audit fieldwork was undertaken between April and July 2001. Interviews with key staff and reviews of documents and files were undertaken at the AFFA National Office in Canberra. Compliance issues were also addressed at National Office against guidelines established for the reporting and conduct of fraud and related investigations.

Departmental arrangements for fraud control

1.14 In accordance with the FMA Act, AFFA had prepared and issued Chief Executive Instructions (CEIs) and supporting Management Protocols that provide the policy and procedures for financial and asset management that are to be followed within the department. The instructions outline the roles and responsibilities of various parties in relation to fraud control.

1.15 Primary responsibility for the coordination of fraud related matters had been assigned to a recently formed Corporate Governance Group within AFFA. However, the Australian Quarantine Inspection Service (AQIS) exercises responsibilities for the investigation of fraud that specifically relates to breaches of the legislation under which AQIS operates. AQIS also has responsibility for monitoring the compliance of individuals and industry with co-regulation agreements. These arrangements are primarily directed towards the export and quarantine responsibilities of AQIS. Because such arrangements may be susceptible to fraud, the ANAO included an overview assessment of them in the audit.

Corporate Governance Group responsibilities

1.16 The Corporate Governance Group is responsible for advising the Secretary of AFFA on departmental accountability, risk management policy, internal audit, security, business ethics, and misconduct and fraud issues, including investigations. The group has a role in ensuring that these issues are appropriately linked with corporate planning processes.

1.17 Operational responsibility for the provision and coordination of fraud control services and the monitoring and reporting of internal and non-AQIS legislation related fraud control arrangements is assigned to the Business Ethics, Security and Investigation Unit (BESIU). The responsibilities and functions of the BESIU include:

- coordinating fraud risk assessments in the department;
- developing the department's Fraud Control Plan;

- conducting investigations of allegations of fraud and misconduct;⁹
- providing monthly reports on fraud and related matters directly to the Secretary;
- reporting on fraud matters to the audit committee;
- promoting fraud awareness and training in the department;
- liaising with the Auditor-General's Department, Australian Federal Police (AFP), and the Director of Public Prosecutions (DPP) regarding fraud related matters; and
- providing input on fraud related matters as part of the corporate planning process.

Australian Quarantine Inspection Service responsibilities

1.18 To support its export and quarantine compliance responsibilities, AQIS incorporates a specialist compliance investigations unit, the AQIS Compliance and Investigation Unit (AQIS C&I).

1.19 The AQIS C&I is responsible for the investigation of any fraud that is identified in carrying out its export and quarantine compliance responsibilities. Since 1998, of the breaches of legislation that had been investigated by the AQIS C&I, on average 9.3 per cent included fraud against the Commonwealth.

1.20 The compliance fraud risks faced by AQIS include those related to the co-regulation environment that has been established between AQIS and industry in many areas. Co-regulation is the concept of individuals and industry becoming involved in traditional AQIS regulatory activities as part of a shared responsibility model that was developed in 1996.¹⁰ Individual areas within AQIS have specific responsibilities toward the enforcement of compliance agreements that have been entered into by industry and individuals. Fraud related activities that are identified during the exercise of these responsibilities are passed to the AQIS C&I for investigation.

⁹ A Specialist Fraud and Internal Investigation Team (FIIT) undertakes the internal fraud investigation function.

¹⁰ Quarantine Review Committee Report, *Australian Quarantine—A Shared Responsibility*, 1996. AQIS is working with industry to identify areas in which it can devolve low risk quarantine activities.

AFFA fraud investigations 1998–2001

1.21 Reported instances of fraud investigated by the department from 1998–1999 to 2000–2001 are shown in Table 1.

Table 1

Fraud investigations by AFFA 1998–2001

<i>Number of Fraud investigations⁽¹⁾</i>	<i>1998–1999</i>	<i>1999–2000</i>	<i>2000–2001</i>
<i>Corporate Governance Group</i>	28	22	23
<i>AQIS</i>	124	87	53
<i>Total fraud investigations</i>	152	109	76
<i>Referred to DPP and/or AFP</i>			
<i>Corporate Governance Group</i>	3	5	5
<i>AQIS</i>	14	3	0
<i>Total number Referred to DPP and/or AFP</i>	17	8	5
<i>Value of fraud found (\$) ⁽²⁾</i>	Not available	Not available	17 800
<i>Cost of fraud investigations (\$) ⁽³⁾</i>	Not available	Not available	Not available

Notes: 1. Further information on investigations conducted is provided in Chapter 5, Tables 3 and 4.

2. The value of identified fraud against the department prior to 2001 was not available. The attribution of the value of fraud investigated by AQIS is not feasible, as such fraud may not involve a direct monetary value. For example, it may result from false declarations in documents.

3. The costs of fraud related investigations were not available. Revised procedures in the department should allow this information to be provided in future years.

Other Agency responsibilities for fraud control in the Commonwealth

1.22 There are three Commonwealth agencies that have specific roles and responsibilities in relation to fraud control. These are the Attorney General's Department, the Australian Federal Police and the Director of Public Prosecutions.

Attorney General's Department

1.23 The Attorney General's Department is responsible for the development of the Fraud Control Policy of the Commonwealth (the Policy) and overall coordination of matters related to the on-going management of its implementation. These responsibilities include setting standards for the conduct of fraud risk assessments and fraud control plans, and the review of the fraud risk assessments and fraud control plans that are prepared by agencies. The Fraud Control Policy of the Commonwealth requires agencies to submit fraud control information annually to the Attorney General's Department.

Australian Federal Police

1.24 The Australian Federal Police (AFP) has the responsibility for the investigation of serious fraud against the Commonwealth and, as the Commonwealth's primary law enforcement agency, also provides police services in relation to:

- laws of the Commonwealth;
- property of the Commonwealth, including places;
- the safeguarding of Commonwealth interests; and
- anything incidental or conducive to the performance of its functions.

1.25 At the operational level, the AFP is responsible for the conduct of quality assurance reviews of fraud investigation standards within agencies. These reviews encompass the procedures followed during investigations, the maintenance of records and investigation manuals, and the performance standard and training of investigators.

Director of Public Prosecutions

1.26 The primary responsibility of the Director of Public Prosecutions (DPP) is to prosecute people who commit offences against Commonwealth law, including Corporations law, and to conduct related criminal assets recovery. All prosecutions and related decisions are made in accordance with the guidelines set out in the Prosecution Policy of the Commonwealth.

1.27 The DPP conducts all prosecutions for offences against Commonwealth law except for purely private prosecutions. The DPP can provide advice on investigations, questions of law, and the sufficiency of evidence and proceedings to recover the proceeds of crime.

The report

1.28 Chapter 2 addresses AFFA's fraud control policy and planning, including the fraud risk assessment that underpins the plan. As well, the coordination of the requirements of the fraud control plan with the corporate planning process and the inclusion of the requirements of the plan in supporting business plans for all responsible levels of administration is considered. Chapter 3 discusses the importance of preventing fraud by creating an ethical workplace culture and relates these requirements to the department's fraud and ethics awareness raising and training activities. The performance assessment and monitoring framework in relation to the fraud control function is considered in Chapter 4 to determine whether it adequately promotes accountability to key stakeholders. Chapter 5 examines the operational arrangements in place for reporting and investigating fraud against the department, and the remedies that are applied. Arrangements for the monitoring of co-regulation compliance agreements are also addressed.

1.29 The audit was conducted in conformance with ANAO auditing standards and cost \$150 000.

2. Planning for Effective Fraud Control

This chapter addresses AFFA's fraud control policy and planning. Aspects considered include the department's fraud risk assessment, the fraud control plan and the links between the fraud control plan and the departments' business and operational plans.

Introduction

2.1 Key elements of sound corporate governance for fraud prevention and control include a comprehensive planning regime that is based on an appropriate risk assessment and complements an agency's policy direction regarding fraud control. In addition, the Fraud Control Policy of the Commonwealth requires that fraud control arrangements be reviewed every two years, including the conduct of a risk assessment and development of a Fraud Control Plan. The Fraud Control Plan should contain appropriate links to the agency's corporate plan and the activities specified in the business and operational plans of individual work areas.

2.2 The ANAO examined whether AFFA had:

- developed a statement of overall departmental policy on fraud prevention and control;
- undertaken appropriate fraud risk assessments;
- developed a Fraud Control Plan that identifies and addresses the key fraud risks faced by the department; and
- effectively linked the Fraud Control Plan with other relevant plans.

Fraud control policy

2.3 In creating its fraud control policy, AFFA had adopted the principles of the Fraud Control Policy of the Commonwealth (the Policy). These are reflected in Chief Executive Instructions (CEIs), Management Protocols and other corporate documents, including the AFFA Fraud Control Plan. The CEIs and the Management Protocols that support them emphasised the role of management in the prevention of fraud.

2.4 In October 2000, the Secretary of AFFA also issued a department-wide staff briefing memo titled *AFFA Corporate Governance—Fraud Policy and Procedures*.¹¹ The memo served to bring together the provisions of the Policy, the FMA Act, the Public Service Act and the department's CEI's and their supporting Management Protocols. The memo emphasised the personal responsibility and accountability of departmental officers for their actions and work activities; all managers are expected to consider the management of risk, including fraud and security, during the development, implementation and ongoing running of their area.

2.5 The staff briefing, the CEIs and the management protocols and the department's Fraud Control Plan demonstrate AFFA's commitment to fraud prevention and control. The department's Intranet information system (known as AFFALink) had been used to make these documents widely available.

2.6 The provision of a staff briefing to outline the department's policy is sound practice. To support this and ensure that the message regarding the importance of, and responsibilities for, fraud control does not lose priority over time, it could be included as a CEI or management protocol. The policy would then be located and managed with other reference documents that guide activities related to fraud control.

Fraud risk assessment

2.7 An agency's fraud risk assessment process should be sufficiently robust to enable all key fraud risks to be identified. Risk assessments should address both the internal and external environments for the agency and they should cover all functions and operations to establish the level, nature, form and likelihood of risk exposures.

2.8 The process of risk assessment should be:

- ongoing and iterative;
- undertaken on a regular basis and as necessitated by changing conditions; and
- based on a sound methodology.

¹¹ Staff Briefing No. 28, dated 13 October 2000. *AFFA Corporate Governance—Fraud Policy and Procedures*.

Timing and changing conditions

2.9 AFFA has used a consultant to undertake a fraud risk assessment every two years as prescribed by the Policy. The most recent fraud risk assessment was completed in July 2000. A new Fraud Control Plan that used this assessment was also completed at that time.

2.10 Measures had also been taken by AFFA to respond to changing conditions. For example, during 2000 many of the department's administrative support functions had been outsourced. The outsourcing created particular challenges in managing fraud risk to the department's routine administrative functions and increased the need for contract management skills. Outsourced activities included, information technology support, travel, human resources (including all aspects of personnel management, recruiting, payroll, leave, recruitment and induction training for new staff and security training when required), property management and perimeter security, the employment of temporary clerical staff, internal audit and legal services. The fraud control plan recognises the risks associated with outsourcing. The department's internal audit section has undertaken audits consistent with the provisions of the plan.

Fraud risk assessment methodology

2.11 In conducting the July 2000 fraud risk assessment the Business Ethics, Security and Investigations Unit (BESIU) worked with staff from across the department in the development of risk assessments. After explanation of the risk assessment approach in a workshop setting, managers completed questionnaires covering their responsibilities. The questionnaire comprised a series of questions relating to inherent risk and control risk to allow a comparative quantitative assessment of the risk of fraud across the department. Involving staff in the completion of the questionnaire was an effective way to promote ownership and encourage staff to become involved in fraud prevention strategies. The Attorney General's Department endorsed this procedure and the resultant risk assessment.

2.12 The quantitative results obtained from the fraud risk assessment methodology allowed AFFA to:

- identify the factors which contribute to the fraud risk faced by work areas and to assess their relative importance;
- compare the relative results obtained between the various work areas and activities that were reviewed; and
- assign high, medium or low ratings to the risks that had been identified.

2.13 The ANAO found that the fraud risk assessment methodology adopted by AFFA in developing the department's fraud control plan was generally sound and complied with requirements specified by the Attorney General's Department for these plans. In particular it:

- enabled a 'green fields' measurement of fraud risk (that is, a quantitative approach to measuring risk assuming no controls are in place);
- was capable of being applied in a consistent manner; and
- used the operational knowledge of staff through the completion of questionnaires.

Future direction for risk assessment methodology

2.14 AFFA advised that, as part of a wider review of the department's business planning framework, new risk assessment procedures were being developed to more closely integrate fraud risk assessments within that framework. At the time of the audit, preliminary orientation and workshop activities for this project were occurring. Representatives of all work areas were expected to participate in these workshops. AFFA is seeking to develop a framework that will enable fraud risks to be assessed and managed alongside the other business risks faced by the department rather than in isolation. This approach is consistent with that being adopted in the Department of Finance and Administration (Finance) through the operations of Comcover.¹²

2.15 The ANAO found that the management framework required to coordinate this broader risk assessment process into planning across the department is also being established as part of the 2001–2002 corporate planning process and is being incorporated into internal reporting and management procedures. For example, revised quarterly management reports by output groups to the Secretary of AFFA include the requirement to address risk and fraud related matters.

¹² Comcover has been established to promote a risk management culture across the Commonwealth public sector. In doing so Comcover provides support to Commonwealth agencies in developing risk management procedures and strategies.

Fraud Control Plan

2.16 A Fraud Control Plan is a specific requirement of both the Fraud Control Policy of the Commonwealth and the FMA Act.¹³ The Fraud Control Plan provides a mechanism for outlining an agency's overall approach to fraud control and should:¹⁴

- reflect the risks identified in the fraud risk assessment;
- present strategies to rectify shortcomings identified in the risk assessment;
- provide a timetable for implementation of the strategies; and
- nominate action areas responsible for implementing each strategy.

2.17 The ANAO found that AFFA's Fraud Control Plan meets these criteria as summarised in Table 2.

Table 2

Fraud Control Plan assessment

<i>Criteria</i>	<i>Met criteria</i>		<i>ANAO comments</i>
	<i>Yes</i>	<i>No</i>	
Reflect risks identified in risk assessment	✓		The Fraud Control Plan was appropriately linked to the results of the fraud risk assessments.
Include strategies to rectify shortcomings identified in the risk assessment	✓		Areas assessed as being 'medium' or 'high' risk through the risk assessment had strategies developed and included in the plan.
Provide timetable for implementation of strategies	✓		Strategies included in the Plan did not have required completion dates specified. However, the audit committee had established the necessary timetable and is overseeing its implementation.
Nominate action areas responsible for developing and implementing each strategy	✓		Relevant areas were identified by the audit committee as being responsible for developing and implementing strategies included in the Plan and appropriate action had commenced.

¹³ Section 45 of the FMA Act requires CEOs to implement an agency wide Fraud Control Plan that includes and addresses fraud by external parties as well as internal fraud.

¹⁴ Taken from *Best Practice for Fraud Control, Fraud Control Policy of the Commonwealth*, CLEB, 1994, p. 21–22.

2.18 AFFA disseminates its Fraud Control Plan by making it available on the AFFA Intranet. However, it is a lengthy, complex document that is presented in a report format and repeats information that is available elsewhere, such as in CEIs and management protocols. As a result it is not a user-friendly document for those requiring an overview of the department's fraud control arrangements. Knowledge, understanding and use of the plan would be facilitated if it were presented in a more user friendly format that more clearly identifies requirements and the key actions to be taken to achieve those requirements.

Links to corporate plan and other business/operational plans

2.19 An agency's fraud control planning framework should aim to maximise the effectiveness of the fraud control function by promoting a coordinated approach to fraud control across the agency. In particular, there should be clear links between the Fraud Control Plan and the Corporate Plan. As well, it is important that business/operational plans are linked to these higher level plans. The plans should be linked in a way that ensures that activities are directed to achieving the same goals in relation to fraud control.

2.20 Prior to the 2001–2002 corporate planning process, consideration of fraud control was not an explicit requirement in AFFA's Corporate and Business Plans. As a result, required links to business and output (operational) plans did not exist and fraud control was considered as a separate process. However, the need for these links has been recognised and action is being taken in the 2001–2002 corporate planning process to address this issue.

2.21 The revised procedures include the full integration of AFFA's Governance Plan, which includes AFFA's Internal Audit, Security, Fraud and Risk Plans, in the planning process. At the output level, Output Plans will include specific consideration of fraud control issues. If completed as intended, the revised corporate planning process should result in the creation of the links needed to establish an effective, coordinated management framework.

ANAO conclusion

2.22 AFFA has an appropriate fraud control policy with fraud risk assessments being carried out every two years in accordance with the Fraud Control Policy of the Commonwealth. The methodology for these risk assessments was generally sound and complied with requirements specified by the Attorney General's Department.

2.23 AFFA has an appropriate Fraud Control Plan. The Plan recognises the challenges facing the department that result from the changed operating environment created by the extensive outsourcing of administrative functions and contains strategies to address the risks identified in the fraud risk assessment underpinning the Plan.

2.24 Prior to 2001–2002 there were weaknesses in the links between the Fraud Control Plan, the Corporate Plan and lower level business/operational plans. However, these issues have been addressed in the 2001–2002 corporate planning process and its implementation.

3. Promoting an Ethical Workplace Culture

This chapter addresses the importance of creating an ethical workplace culture to prevent fraud and relates this requirement to AFFA's fraud and ethics awareness raising and training activities.

Introduction

3.1 The Fraud Control Policy of the Commonwealth states that:

*The Government recognises that fraud prevention goes beyond monitoring the effectiveness of financial controls. It also requires the maintenance of an ethical climate Chief Executives must ... foster and develop within agencies the highest standards of ethical behaviour ...*¹⁵

3.2 Section 44 of the FMA Act also states that CEOs are responsible for promoting efficient, effective and ethical use of Commonwealth resources. This clearly places the onus on CEOs to promote ethical behaviour in their agencies. It also recognises that leading from the top is important in establishing the ethical tone in an organisation.

3.3 In assessing the effectiveness of AFFA's approach to promoting ethical behaviour, the ANAO examined whether AFFA had:

- established and communicated widely the standards of conduct and/or ethics expected of its officers, including in relation to conflict of interest;
- developed appropriate fraud and ethics awareness raising and training initiatives; and
- promoted awareness of public sector values and ethical standards to external service providers.

Establishing and communicating standards of conduct

3.4 Staff Briefing No.28, CEIs, management protocols and the AFFA Corporate and Fraud Control Plans emphasise the importance of staff displaying the highest ethical and behavioural standards in performing their official duties, their responsibilities regarding fraud control and

¹⁵ *Op cit.*, p. 8.

their role in the protection of Commonwealth resources and information. These documents are widely available and readily accessible to staff through AFFALink, which incorporates an E Bulletin facility to promulgate matters of interest.

Conflict of interest

3.5 An increasingly important issue facing government agencies is the risk of actual or perceived conflicts of interest influencing government policy, service delivery or facilitating the inappropriate use of confidential information to obtain an advantage at the expense of the Commonwealth. The growing interaction between the public and private sectors through activities such as outsourced service delivery contracts, management and policy advisory committees comprising private sector members and the engagement of temporary staff, requires careful consideration to ensure that public sector agencies maintain their integrity and protect their interests. Similarly, to protect against potential fraud, legal risks and damage to their reputation, agencies need to ensure that their contract tendering processes are fair and transparent. The ANAO reviewed arrangements in selected areas within AFFA where there may be a greater risk of exposure to these risks.¹⁶

3.6 Senior staff in the areas reviewed during the audit had a sound awareness of conflict of interest issues. AFFA had implemented measures to manage these risks. The APS Values and Code of Conduct and a minute from the Secretary regarding official conduct of Commonwealth public servants has been distributed to managers and are also available on AFFALink. These documents emphasise the need for conflicts of interest to be declared or avoided. As well, sound contract management practices have been implemented that address fraud and other related risks associated with contracting and which promote high standards of accountability and transparency in the contract tendering and selection process. Examples of better practices identified include:

- requiring all applicants for positions on an advisory body, which included non-public sector members, to complete and submit a non-conflict of interest letter with their applications;
- including disclosure of interest requirements in the terms of reference for an advisory body;

¹⁶ The areas reviewed were the Australian Bureau of Agricultural and Resource Economics (ABARE), Advancing Agriculture Australia (AAA) and the Bureau of Rural Sciences (BRS). These areas were selected as they represented a cross-section of businesses within AFFA that have private sector interaction or produce sensitive information.

- ensuring members are not present during discussions of matters in which they have a particular interest;¹⁷
- ensuring there is more than one departmental officer involved in tender processes, with segregation of responsibilities between appraisal, approval and informing successful tenderers;
- the development of procurement plans prior to the conduct of major requests for tender that outline the tender process, and measures that ensure probity, including the requirement for members of tender evaluation teams to declare any possible conflicts of interest; and
- periodic reminders to staff of the risks associated with particular aspects of their duties and the procedures to be followed. This included information regarding the acceptance of gifts and/or hospitality and the use of frequent flyer points.¹⁸

Fraud and ethics awareness raising and training

3.7 To facilitate staff understanding of fraud control, agencies should provide information and conduct awareness raising sessions on an on-going basis in order to ensure that visibility and awareness of fraud issues is maintained.

Induction training

3.8 The department conducts a one-day induction course for new appointees to the APS at intervals of six to eight weeks. The course covers fraud, public sector values and ethics and security training. Fraud and ethics training is also included in the annual graduate training course that is conducted by the department. The Public Service and Merit Protection Commission (PSMPC) Guidelines on Official Conduct of Commonwealth Public Servants 1995, the APS Code of Conduct and AFFA Staff Briefing No.28¹⁹ are distributed during this training. Attendees receive instruction on the role of the Business Ethics, Security and Investigations Unit (BESIU) and the fraud reporting and investigation procedures within AFFA. Attendance at the course is mandatory for new permanent employees and staff of in-house contractors. However, attendance by temporary employees was not mandatory despite many of these employees being employed for lengthy periods of time.

¹⁷ An independent review of the operations of one body had recently recommended this measure. While it may not always be necessary or practical for members of advisory committees or similar bodies to be required to leave a meeting during such discussions, the members in this case considered that it would be the preferred method for dealing with conflicts of interest.

¹⁸ CEI No.6 provided clear instruction to staff when offered gifts or hospitality during the conduct of their duties as public servants.

¹⁹ Staff Briefing No.28, dated 13 October 2000. *AFFA Corporate Governance—Fraud Policy and Procedures*.

3.9 The service provider responsible for coordinating induction training does not have information on staff employed within the department by in-house contractors or under other contract arrangements. For example, temporary staff provided by employment agencies. Consequently, most of these personnel do not attend induction courses.

3.10 Detailed statistics of attendance at induction courses conducted over time were not available although a limited sample was available for courses conducted in Canberra for staff appointed since October 2000. This sample suggested that, despite the mandatory course requirement:

- the level of attendance of new AFFA staff was about 70 per cent only;
- many new starters do not receive the training until after they have been in the department for some time;
- some participants do not complete the full course; and
- training did not include all staff from in-house contractors.

3.11 Outside Canberra newly appointed technical field officers from AQIS receive training on the APS Code of Conduct, Misconduct and Discipline as part of their one-year career courses.²⁰ A requirement of the training package is that these segments are conducted in the first two weeks after the courses commence. Temporary staff recruited due to the demands placed on quarantine inspection resources as a result of the outbreak of foot and mouth disease in Europe in February 2001 had received fraud and ethics training as part of their specialist orientation training.

3.12 Induction training is an important mechanism to ensure that new starters, permanent and temporary, are aware of AFFA's corporate culture and expected standards of conduct. Mandatory training for permanent employees recognises its importance. However, because a significant number do not attend induction training, the current training in these matters is not achieving its objective of raising staff awareness and understanding of fraud control. The opportunity to emphasise the responsibilities of individual employees for fraud control at an early stage in their employment is being lost. There is also evidence that some managers are not giving fraud and security issues the attention departmental policy instructions require.²¹ This is a matter, which warrants further consideration by AFFA.

²⁰ Certificate IV in Quarantine & Export Inspection.

²¹ The conduct of the fraud and security segments of a typical induction course was observed by the ANAO. Returning after lunch for these segments, 10 per cent of the participants were missing. The reason given was that staff had returned to their workplace during lunch and their supervisors considered that they were too busy to return to the course. Comments were also made to the ANAO that some of the delay in staff attendance was due to supervisors not releasing staff or insisting on attendance at the training.

Recommendation No.1

3.13 The ANAO recommends that, in order to support staff awareness and understanding of fraud, AFFA ensures that all new staff receive appropriate fraud, ethics and security induction training and that it undertakes continuing fraud awareness raising and training for existing staff as appropriate.

AFFA response

3.14 Agreed.

Continuing fraud and ethics awareness raising

3.15 The regular conduct of suitable training on fraud related issues is better practice in maintaining an awareness amongst employees of the fraud risks and policy of the department, and the APS as a whole.

3.16 A structured program of continuing fraud and ethics awareness raising had not been provided in AFFA since 1997. Staff in the department located outside Canberra had been given some training, but the frequency was not uniform across states. The 1997 training (in the then Department of Primary Industries and Energy) had good attendance levels throughout the department and included a program to distribute fraud and ethics policy literature to all members of the department. The *AFFA Performance through People* program, a staff development program that was introduced in 2000 includes modules related to ethical conduct and fraud awareness,²² but these modules have not yet been implemented.

3.17 At the time of the audit, security training that included some fraud related content had recently been completed in Canberra under the terms of the department's Human Resources Contract (HR Contract). However, this training was being conducted for a branch of the department that had identified several instances of security lapses resulting in the loss of property and had been requested in response to these losses. Outside Canberra security training was not occurring at the time of the audit due to the need for clarification between the HR service provider and the department as to the requirements of the HR Contract in regard to such training being conducted outside Canberra as part of the contract. However, during the audit the department advised that a plan was in place to extend this training into business units and the regions.

²² Modules include *The Law and You*, *Contract Management* and *Security, Conduct and Ethics*.

Training for managers

3.18 The provision of training for managers in relation to fraud control is important because of the supervisory responsibilities exercised and the example that is set at this level. In AFFA, the department's fraud control policy includes the requirement that staff at these levels be involved in risk and fraud management.²³

3.19 While middle management development courses had been conducted by AFFA for many years, these courses have not specifically addressed fraud and ethics. However, fraud related issues had been addressed in general terms as part of Risk Management training that was being conducted for managers to support the revised business planning processes being developed in the department. At the time of the audit a review of the content and structure of AFFA middle management training was in progress.

3.20 AQIS has also developed a middle management development program that includes competency segments covering ethical conduct and accountability issues, the promotion of the values and ethos of the public service and compliance with legislation. However, one year after its development the program had not been implemented.

3.21 The ANAO considers that the current review of middle management training provides the opportunity to consider the provision of more specific fraud related training.

Training in contract management

3.22 A continuing issue for the APS is the effectiveness of contract management, particularly given the extent of outsourcing. Although many of the risks associated with outsourcing are not specifically fraud related, it can expose departments, amongst other things, to the risk of loss of public funds, loss of reputation and poor standards in the delivery of services. As a result, departments should provide appropriate contract management training for staff.

3.23 AFFA's internal audit of outsourcing (See paragraph 3.25) also identified the need for improved procedures in the development and management of contracts, including the provision of training. The report made recommendations in line with the ANAO best practice model.²⁴ The department has established a timetable and commenced actions to implement these recommendations.

²³ The involvement of managers in risk and fraud management is an indicator of better practice. Comcover *Key Performance Indicators of Best Practice in Risk Management*.

²⁴ ANAO Better Practice Guide, *Contract Management—Better Practice*, ANAO, February 2001.

Promoting external service provider awareness

3.24 Along with the trend for growing use of outsourcing in the APS, AFFA has made increasing use of external service providers. In these circumstances AFFA retains responsibility for the services and needs to ensure that services delivered through external service providers are conducted in line with relevant public sector values and ethical standards.²⁵

3.25 AFFA includes clauses in contracts and service level agreements that outline expected standards of behaviour in relation to matters such as protection of confidential information and conflicts of interest. However, an internal audit of outsourcing arrangements completed during the ANAO audit found that:

... compliance with Commonwealth Fraud Control Policy was not mentioned (in contracts with third party service providers) and there has not been a best attempt to instruct providers in the level of ethics to be expected and conformance with privacy, fraud and APS guidelines.

3.26 Once implemented, the internal audit recommendations should ensure that better practices in relation to promoting awareness and encouraging appropriate commitment by external service providers to relevant public service values and standards of conduct are adopted across the department.

3.27 Measures that could be taken to promote greater awareness of the necessary compliance by external service providers with the Commonwealth's and AFFA's Fraud Control Policies include:²⁶

- providing relevant information regarding APS Values and Code of Conduct, privacy principles and Fraud Control Policy in tender and contract documentation;²⁷

²⁵ See also PSMPC *State of the Service Report 1999–2000*, p. 3. ... *The APS is accountable for all aspects of a contractor's performance and agencies will need to consider...(contract provisions) ... that spell out clearly the standards of behaviour that are expected and the penalties for non-compliance.*

²⁶ This issue is also discussed in ANAO Report No.47 1999–2000, *Survey of Fraud Control Arrangements in APS Agencies*, ANAO, 20 June 2000; and Commonwealth Industry Commission Report No.48, *Competitive Tendering and Contracting by Public Service Agencies*, Melbourne, 1996.

²⁷ Values such as delivering services fairly, effectively, impartially and courteously to the Australian public and being accountable for their actions are equally important for external service providers.

- providing the AFFA fraud control policy to external service providers;²⁸ and
- emphasising in the body of contracts the expectation that APS ethical behaviour standards and fraud control requirements will be met.

3.28 The internal audit report also included several recommendations directed at the training of departmental officers in contract management skills. The recommendations, once implemented, should support AFFA in more actively managing its contractual relationships and ensure that external service providers have a greater awareness of relevant public sector values and ethical standards.

ANAO conclusion

3.29 AFFA is committed to enhancing the standard of conduct of its officers and developing an ethical workplace culture. In order to do this, AFFA has:

- made the department's overall fraud policy and fraud control plan available to staff on its Intranet information system;
- implemented appropriate arrangements to manage conflict of interest issues; and
- emphasised the importance of induction training, including about APS values and ethical conduct, for all new staff and in-house contractors.

3.30 However, while the induction training for new staff is mandatory, all relevant staff do not attend the required courses. As well, fraud awareness raising and suitable training activities for existing staff have not been undertaken since 1997.

3.31 AFFA delivers some of its services through contracts with third party service providers. However, while there is a general requirement in contracts that relevant legislation be complied with, the contracts do not specifically include the need for the providers to comply with the Fraud Control Policy of the Commonwealth and APS Values and Code of Conduct, including meeting ethical standards. An AFFA internal audit has also recognised this deficiency and made recommendations to meet this need.

²⁸ Where external service providers have access to sensitive information and Commonwealth property it may also be appropriate to ensure they are aware of relevant legislation, such as the *Privacy Act 1988*, and the agency's security policy.

4. Performance Information and Reporting

This chapter considers the performance assessment and monitoring framework in relation to the fraud control function with a view to determining whether it adequately promotes accountability by key stakeholders.

Introduction

4.1 Performance assessment of fraud control activities is an essential element of an agency's accountability to key stakeholders, such as the Portfolio Minister, the Minister for Justice and Customs, clients, the Parliament and the general public. Legislative responsibilities imposed by the *Financial Management and Accountability Act 1997* (FMA Act) on agency CEOs further increase the importance of monitoring performance.

4.2 The ANAO examined whether AFFA had established mechanisms to assess the effectiveness of the fraud control function. Such mechanisms include the requirement for:

- key performance indicators against which fraud control activities can be assessed; and
- monitoring and reporting arrangements for fraud control activities, including the implementation of fraud control strategies identified in the department's Fraud Control Plan.

Performance information

4.3 The development and use of appropriate performance indicators are essential elements in the management and accountability framework of agencies. Appropriate performance information is an essential tool in overall management and performance improvement. It is also crucial to public sector accountability, being the main means through which assurance is provided transparently to the Parliament and the public that the Government's objectives are being met.²⁹

4.4 AFFA has not established performance benchmarks, targets or standards with regard to fraud control. AFFA advised that while such indicators are not a requirement in the Fraud Control Policy of the

²⁹ Detailed discussion and guidance is provided in the joint ANAO/Finance Better Practice Guide, *Performance Information Principles*, ANAO, November 1996.

Commonwealth, it does accept that they are an appropriate management tool. Despite the lack of formalised performance indicators, AFFA does have some procedures to provide information to management on fraud related matters in the department. These include:

- monthly fraud reports by the Business Ethics, Security and Investigations Unit (BESIU) to the AFFA executive;
- audit committee oversight of the implementation of the department's Fraud Control Plan;
- internal audit activities and reports;
- quarterly compliance reports by the Australian Quarantine Inspection Service Compliance and Investigations Unit (AQIS C&I) to the AFFA executive; and
- six monthly compliance reports by the AQIS C&I unit to the AQIS Business Finance Committee.

4.5 In addition, internal and external assessments are conducted periodically that provide information on the effectiveness of various aspects of the department's fraud control function. Examples of such assessments included:

- evaluations by the Australian Federal Police (AFP) of the investigation function in BESIU and the AQIS C&I unit;
- internal quality assurance reviews of the investigation function in BESIU and the AQIS C&I unit;
- internal audit reviews; and
- reviews by the Attorney General's Department of the two yearly Fraud Risk Assessment and Fraud Control Plan.

4.6 The AFFA fraud control policy assigns responsibilities for fraud control and risk management to managers.³⁰ However, the ANAO found that measures that would allow the department to monitor or evaluate whether managers are meeting these responsibilities had not been developed. Including these responsibilities in the job descriptions and performance agreements of managers, with associated performance indicators and targets, is considered as better practice in risk management.³¹

³⁰ Staff briefing No.28, October 2000.

³¹ Comcover *Key Performance Indicators of Best Practice in Risk Management*, 2000.

4.7 To enhance its management and accountability framework AFFA should develop appropriate fraud related performance indicators for inclusion in reports to the AFFA executive and the audit committee. For example:

- executive and audit committee satisfaction with the performance of the BESIU and AQIS investigation and compliance sections;
- the participation rates of staff in fraud related training;
- the percentage of middle management job descriptions and performance agreements that include risk management as a responsibility;³²
- the number of permanent staff, in-house contractors and temporary employees attending induction training within set times of their commencing employment with the department; and
- the number of reviews of planned and existing controls and procedures to be conducted per annum³³ and the percentage of these completed in accordance with timeframes and budgets.

4.8 The ANAO acknowledges that the development of targets and benchmarks is not always easy. However, AFFA should identify those measures that are most appropriate to its requirements. The ANAO Better Practice Guide for Internal Audit includes some suggestions and additional guidance.³⁴

Recommendation No.2

4.9 To improve AFFA's performance assessment framework for fraud control the ANAO recommends that AFFA incorporate performance indicators, benchmarks and targets into performance reports to the AFFA executive and the audit committee and that job descriptions and performance agreements of managers include responsibilities for risk, including fraud, management.

AFFA response

4.10 Agreed.

³² In risk management benchmarking, Comcover considers the assignment of responsibility for risk management through job descriptions is a Key Performance Indicator of a positive and pro-active focus in organisations.

³³ These should be based on an assessment of fraud risks.

³⁴ *New Directions for Internal Audit; A Guide for Public Sector Managers*, ANAO, July 1998.

Monitoring and reporting

4.11 An effective monitoring and reporting regime should provide assurance that agreed goals are being met as well as promoting accountability in responsible areas by providing information that demonstrates their contribution towards achieving corporate goals.

4.12 Within the limitations imposed by the lack of performance indicators related to fraud, the ANAO undertook an assessment of AFFA's monitoring and reporting framework for the fraud control function to determine if:

- the implementation of strategies contained in the Fraud Control Plan and recommendations from investigations and reviews undertaken by the BESIU and AQIS investigation and compliance sections had been monitored on an ongoing basis;
- internal reports provided a complete picture of fraud control activities and related activities undertaken in AFFA; and
- external reports met the requirements specified in the Fraud Control Policy of the Commonwealth.

Monitoring arrangements

4.13 The AFFA audit committee monitors the implementation of strategies identified in the department's Fraud Control Plan and recommendations arising from internal audit reports. For example, the committee had been active in establishing and monitoring implementation dates arising from the plan.

4.14 The activities of AFFA Internal Audit are an integral part of the fraud control monitoring function in the department and complement other monitoring activities. The AFFA Internal Audit work program had addressed issues that were consistent with the risks identified in the AFFA Fraud Control Plan and the areas of risk specifically identified in the Commonwealth's Fraud Control Policy. For example, since the July 2000 Fraud Control Plan was implemented AFFA Internal Audit has examined outsourcing,³⁵ official travel, the use of credit cards and fuel cards and portable and attractive assets. On behalf of the audit committee, AFFA Internal Audit monitors progress in implementing recommendations arising from its reports and brings forward outstanding issues at the two-monthly committee meetings.

³⁵ The internal audit review of the management of outsourcing addressed the operation of the Corporate Contract Management Unit, the HR, Property Services and IT contracts, and Fraud Control and Risk Management. The 31 recommendations made in this internal audit reflect the extent of recent changes in AFFA.

4.15 The follow-up of recommendations resulting from fraud investigations is important in ensuring that appropriate action is taken when needed to reduce the risk of a re-occurrence and in fraud awareness raising generally. Some follow up has occurred from time-to-time, in the form of minutes from BESIU to areas affected by the findings of investigations and staff advisory notices have been placed on the AFFA Link. However, given the number of investigations that have occurred in comparison to the action that has been taken, the ANAO considers that more could be done. As well as considering the effect of findings on departmental procedures and taking appropriate action, greater use of the E Bulletin on the AFFA Intranet to promulgate the results of internal audits and fraud related investigations would enhance fraud awareness raising among AFFA staff.

Internal reporting

4.16 The FMA Act 1997 requires that agencies advise their Portfolio Minister of fraud related matters, including the development of the agency fraud control plan. AFFA had met this obligation.

4.17 Detailed confidential reports on the progress and outcomes of fraud and compliance related investigations are provided to the Secretary of AFFA. The Governance Group provided monthly reports and AQIS provided quarterly reports. The information contained in the reports included:

- summaries of investigations and audits undertaken by the BESIU Fraud and Internal Investigations Team in the Governance Group and the AQIS C&I unit;
- details of matters being investigated by the AFP and other Commonwealth and State agencies when appropriate; and
- details of remedies being administered for proven cases of fraud or failures in compliance.

4.18 A revised structure for the presentation of quarterly reports made by output groups to the Secretary of AFFA was being implemented at the time of this audit as part of the revised corporate planning process. The reports include a requirement to address risk and fraud issues. Internal audit presents its reports in a format that includes a risk assessment of any recommendations that are made. The BESIU also report to the audit committee on fraud related issues when appropriate and the AQIS C&I report on a six monthly basis to the AQIS Business Finance Committee.

External reporting

4.19 The Fraud Control Policy of the Commonwealth requires agencies to submit fraud control information annually to the Attorney General's Department. The annual reports include information on whether particular fraud control activities had or had not been undertaken and the extent of fraud and losses against the department.³⁶ AFFA had provided these reports to the Attorney General's Department in a timely manner.

4.20 Agencies are also required to provide comment on fraud related matters in their annual reports. AFFA had met this requirement.

ANAO conclusion

4.21 AFFA has an appropriate system for submitting reports on fraud matters to the AFFA executive and the department's audit committee and fulfilling its external reporting obligations. However, it does not have performance indicators, benchmarks or targets to assess its performance in controlling fraud, thereby promoting greater awareness of the effectiveness of its fraud control and preventative measures.

4.22 The AFFA fraud control policy assigns responsibilities for fraud control and risk management to managers. Measures that would allow the department to monitor or evaluate whether managers are meeting these responsibilities have not been developed.

4.23 There are sound arrangements for monitoring progress in implementing fraud control strategies and for following up recommendations made in internal audit reports. However, the overall effectiveness of the fraud control function would be enhanced by more actively considering the implications, for departmental procedures, of the findings from fraud investigations. As well, greater use could be made of the E Bulletin on the AFFA Intranet to enhance fraud awareness raising among AFFA staff by promulgating the results of internal audits and fraud related investigations.

³⁶ The *Fraud Control Policy of the Commonwealth* includes theft as one of the specific types of matters that should be recorded as part of an agency's overall fraud reporting requirements.

5. Operational Arrangements for Fraud Control

This chapter examines the operational arrangements in place for reporting and investigating fraud against the department, and the remedies that are applied. Arrangements for the monitoring of co-regulation compliance agreements are also addressed.

Introduction

5.1 Commonwealth agencies must have, or have access to, an adequate fraud investigation capacity to assist in the management of fraud control. Procedures should be developed to provide detailed guidance on how to report and investigate instances of fraud. As well, appropriate training and support mechanisms should be in place to assist with achieving a high standard of investigation.

5.2 The department has two internal investigation units that deal with fraud. These are:

- the Business Ethics, Security and Investigations Unit Fraud and Internal Investigation Team (BESIU FIIT) which is responsible for the investigation of any suspected fraudulent activity or impropriety that is internal to AFFA or is not related to AQIS legislation. The team is staffed by two investigators; and
- the AQIS Compliance and Investigation Unit (AQIS C&I) deals with alleged contravention of AQIS legislation. This includes the investigation of suspected fraudulent activity or other impropriety within the industries, or the general public, with which AQIS deals.³⁷ The unit is staffed by 15 investigators located in Canberra and regional areas.

³⁷ Compliance risks relate primarily to breaches of AQIS specific legislative requirements by industries monitored by AQIS. Investigations may include actions by members of the public.

5.3 The ANAO examined whether:

- processes for reporting and recording alleged instances of fraud had been established;
- an investigations manual that met legislative and policy requirements and contained procedures and guidelines to deal with all fraud related issues had been developed;
- fraud investigations complied with operational procedures and included appropriate processes for quality control and referral to the Commonwealth Director of Public Prosecutions (DPP), Australian Federal Police (AFP) and State authorities when needed;
- appropriate training and support had been provided to officers responsible for conducting fraud investigations; and
- procedures for the referral of matters to the DPP for prosecution or for seeking compensation through remedies other than criminal prosecution had been developed and were adhered to.

Fraud allegations: reporting and recording

5.4 Agencies should establish clear reporting arrangements for fraud including alternative reporting channels for staff and the public in case the person to whom the allegation would normally be reported is suspected of being involved in the fraud. A system that records all allegations reported to the area responsible for managing fraud is also required to assist in the prevention and detection of fraud by providing summary information on the nature, extent and location of fraud impacting on an agency. The availability of comprehensive fraud information supports the development and maintenance of a fraud intelligence capability, thereby ensuring that any systemic issues can be identified in a timely manner, as well as providing base data for performance information. Such information should complement the fraud risk assessment process and form the basis of an agency's planning for the development and implementation of fraud control strategies.

5.5 The ANAO examined whether AFFA had:

- developed clear procedures for reporting all allegations of fraud; and
- established an appropriate system to record all allegations and cases of fraud.

Reports to the Business Ethics, Security and Investigations Unit

5.6 AFFA fraud reporting procedures are set out in Management Protocol 18 and Staff Briefing No.28. All cases of suspected fraud in any Group within AFFA, unless explicitly excluded through the provisions of other Management Protocols, should be reported to the BESIU. The confidentiality of reports of breaches of the APS Code of Conduct (including fraud) is emphasised. AFFA had established alternative channels for reporting allegations of fraud. The reporting arrangements are:

- directly to the AFFA Secretary, General Manager-Governance or the Director-BESIU;
- directly to line supervisors; or
- via a 24 hour 1800 telephone service.

5.7 When a report is received it is the responsibility of the Director - BESIU to determine what further action, if any, should be taken. Departmental procedures required that in all cases the BESIU undertake a preliminary assessment to determine the seriousness of the case and the most appropriate course of action. For example, whether an investigation by the BESIU FIIT or the involvement of the AFP was required.³⁸ Typically, the Director of BESIU undertakes this preliminary assessment.

5.8 BESIU has established an electronic case management recording system to assist in maintaining a central record of all fraud-related allegations and investigations undertaken. The system has the capability for case data to be cross-referenced and analysed.

5.9 The number of allegations and results of investigations undertaken by the BESIU FIIT during calendar years 1998–2001 are shown in Table 3.

³⁸ Management Protocol 18.

Table 3
Investigations by BESIU 1998–2001

Number of incidents investigated	1998	1999	2000	2001⁽¹⁾
Case classification				
Major investigations	26	15	16	5
Minor/Miscellaneous	39	25	40	20
Total number of investigations	65	40	56	25
Fraud related investigations	37	27	27	16
Number of cases referred to AFP	6	2	2	0
Number of cases advanced to DPP	3	1	3	0
Misconduct/Other investigations	28	13	29	9
Value of fraud found (\$) ⁽²⁾	Not available	Not available	Not available	17 800
Cost of fraud investigations (\$) ⁽³⁾	Not available	Not available	Not available	Not available

Notes: 1. Investigations commenced up to June 2001.

2. The value of identified fraud against the department prior to 2001 was not available.

3. The costs of fraud related investigations were not available. Revised procedures within AFFA should allow this information to be provided in future years.

5.10 Requirements that have been established for the presentation of departmental annual reports include that information be presented by financial years.³⁹ However, as shown by Table 3, the BESIU FIIT maintains its records of fraud related investigations by calendar years. Aligning the record keeping function for AFFA fraud investigations with the financial year could assist the efficiency of recording and reporting requirements. Also, fraud investigation records did not clearly identify the cost of any fraud or the cost of the investigations that had been conducted. Such information provides valuable performance information for management.

5.11 The ANAO found that cases of impropriety are not always reported to the BESIU. Authority has been delegated that allows managers and supervisors to take action under the *Public Service Act (PSA) 1999* for breaches of the APS Code of Conduct without reference to the BESIU.⁴⁰ Such breaches may include minor instances of fraudulent behaviour.

³⁹ *Requirements for Annual Reports*, Department of the Prime Minister and Cabinet, May 2000.

⁴⁰ Management Protocol 29 and section 16 of the PSA 1999.

5.12 The AFFA executive is not informed of how frequently these delegations are exercised and the nature and extent of the matters that are being considered. Consequently, the development of reporting procedures and a central register, that summarises the nature and outcomes of all misconduct cases that are determined by managers and supervisors, would be appropriate. The benefits to be obtained by a central register include:

- contributing to the maintenance of a uniform approach to the investigation and the application of sanctions for fraud and impropriety in the department;
- assisting in reviewing identified risks or in identifying any new risks that may emerge;
- informing discussions about strategies for managing fraud; and
- consistency in reporting to the AFFA executive regarding the extent of fraud and inappropriate conduct by staff.

Reports to the Australian Quarantine Inspection Service Compliance and Investigations Unit

5.13 Allegations of breaches of AQIS legislation, including fraud, are reported to AQIS C&I either:

- directly from AQIS compliance officers; or
- by members of the public, including AQIS industries, via a dedicated 1800 telephone service known as 'The AQIS Redline'.

5.14 The number of allegations and results of investigations undertaken by the AQIS C&I between financial years 1998–1999 and 2000–2001 are shown in Table 4.

Table 4**Investigations by AQIS C&I 1998–1999 to 2000–2001**

Number of incidents investigated	1998–1999	1999–2000	2000–2001
Total number of investigations	1397	819	622
Fraud related investigations			
<i>Fraud related to export</i>	<i>103</i>	<i>61</i>	<i>59</i>
<i>Fraud related to quarantine</i>	<i>21</i>	<i>26</i>	<i>14</i>
Total number of fraud related investigations	124	87	53
Number of Briefs of Evidence referred to Commonwealth DPP	26	20	4
<i>Briefs of evidence regarding fraud</i>	<i>14</i>	<i>3</i>	<i>Nil</i>
Value of fraud found (\$) ⁽¹⁾	<i>Not applicable</i>	<i>Not applicable</i>	<i>Not applicable</i>
Cost of fraud investigations (\$) ⁽²⁾	<i>Not available</i>	<i>Not available</i>	<i>Not available</i>

Notes: 1. The value of identified fraud is not always attributable due to the nature of the fraudulent acts. For example, benefit may be obtained by deceit rather than monetary value eg., false declarations in documentation.

2. Revised recording procedures within AFFA should allow attribution of investigation costs from July 2001.

5.15 AQIS C&I has a case management system that provides for the recording of all allegations received and cases investigated. Details of all allegations received are recorded and maintained. Importantly, even where an investigation has not found any specific fraud or breach of legislation, information is retained on the AQIS C&I intelligence database as it may be useful during later investigations. For example, it may indicate systemic issues. AQIS C&I also collect and collate information from other law enforcement agencies to assist it in undertaking its functions.

5.16 At the time of the audit, AQIS was developing an analysis capability to enable a more pro-active approach to their compliance and investigation activities. This will include the capability to develop risk profiles of individuals and organisations to assist in identifying higher risk targets for pro-active investigation and assessment.

Fraud investigation manuals

5.17 The BESIU FIIT and AQIS C&I used the same Compliance Investigation Manual (the Manual) to assist fraud investigators in undertaking their duties in accordance with legislation and policy requirements.⁴¹ Developed in AQIS, the Manual had been reviewed by the AFP as part of an investigation quality assurance review (QAR) in 1998. The Manual was under development at that time. The AFP found that the Manual contained a number of better practices that mirrored the Commonwealth Fraud Investigations Standards package, as well as training material made available by the AFP College. The Manual had since been completed. A further QAR review by the AFP was occurring at the time of the audit. To complement the Manual a separate investigation manual had also been developed to meet the specific needs of BESIU investigators.

5.18 The manuals provide detailed guidance for all aspects of the investigation function such as interview and investigation techniques, evidence handling requirements and liaison with the AFP and DPP. Guidelines are also included for dealing with staff found to have breached the public service Code of Conduct. However, there were a number of references in the BESIU investigation manual to AFFA's predecessor agency, the Department of Primary Industry and Energy, as well as legislation that is no longer current such as the *Australian Public Service Act 1922*.⁴²

5.19 It is important that investigation manuals are updated regularly to reflect changes in an agency's operating environment. Consequently, it would be appropriate for AFFA to review the content of their investigation manuals to ensure references to the agency's structure and management protocols as well as legislation are current and relevant. For example, given the recent government focus on Commonwealth agencies delivering services electronically, reference to the *Electronic Transactions Act 1999*, and related investigation techniques would be useful for investigators working in an increasingly electronic environment.

⁴¹ There are a range of legislative and policy directions that Commonwealth investigators must adhere to in the conduct of investigations such as the *Commonwealth Fraud Investigation Standards Package*, the *Fraud Control Policy of the Commonwealth*, the *Prosecution Policy of the Commonwealth* as well as the *Evidence Act 1995* and the *Privacy Act 1988*.

⁴² This legislation has been replaced by the *Public Service Act 1999*.

Fraud investigations

5.20 The department's CEIs state that, where practicable, the fraud investigation function is to be undertaken in a manner consistent with:

- the Fraud Control Policy of the Commonwealth;
- the department's Fraud Control Plan and Fraud Control Handbook ;
- and
- professional standards and requirements for fraud investigation.⁴³

5.21 Samples of fraud investigations undertaken by the BESIU FIIT were reviewed and the processes used by the AQIS C&I were examined to assess compliance with these guidelines. The training of investigating officers in the BESIU and the AQIS C&I was also examined.

5.22 The activities of both investigation units was found to be consistent with the requirements of the Fraud Control Policy of the Commonwealth and complied with the department's Fraud Control Plan and Fraud Control Handbook. Professional standards and requirements for fraud investigators had been met.

Business Ethics, Security and Investigations Unit

5.23 BESIU fraud investigations are reactive in nature. Overall, investigations of routine or minor instances of fraud are undertaken in a timely and professional manner, meeting the investigation standards prescribed in the CEIs and the Manual. All cases over the past two years that had been referred to the DPP for determination had a supporting brief of evidence that met the requirements set by the DPP.

5.24 Serious and/or complex matters had been referred to the AFP. In these cases, briefs of evidence provided to the AFP from preliminary investigations conducted by the FIIT were considered by the AFP to be of an acceptable standard and supported further investigation and prosecution.

⁴³ The department's Fraud Investigations Manual states, for example, that assessment of allegations should be made in accordance with the *Prosecution Policy of the Commonwealth*.

Australian Quarantine Inspection Service Compliance and Investigations Unit

5.25 Consistent with the size and nature of its principal workload, AQIS C&I had a significantly larger investigative capacity than the BESIU. This is due to the high number of compliance investigations undertaken by the unit that relate specifically to breaches of AQIS legislation. However, many cases include fraud related aspects such as:

- false descriptions of products on labels or official documentation;
- false declarations or false documentation in export, import or quarantine related matters;
- intentional false advice to AQIS concerning imported quarantine material; and
- forgeries or other false representations where a benefit is obtained.

5.26 Records of investigations undertaken by AQIS C&I included an investigation report that outlined the primary reasons and findings from each investigation. The use of this report had been expanded in 2001, with all investigations being seen as an opportunity to conduct a 'cause and effect' review of various aspects of the operations of establishments that had been investigated. These reviews included an assessment of a number of contingent risks such as administrative processes and operational procedures and practices. In this way, the AQIS C&I had sought to provide a value-added service to industry rather than following a strict compliance regime only.

5.27 AQIS C&I had also undertaken fraud investigations jointly with other agencies, such as the Australian Securities and Investment Corporation, to enable a more whole-of-government approach to their fraud and compliance investigations. Importantly, no cases that had been referred to the DPP had been returned due to a poor quality investigation.⁴⁴

Quality assurance

5.28 The most recent external quality assurance review (QAR) of BESIU investigations was conducted by the AFP in July 1998.⁴⁵ At that time the AFP commended the AFFA investigation process and noted that practices

⁴⁴ The audit concentrated on matters since 1998. Seventy-five briefs of evidence had been submitted to the DPP since that time. AFFA advised that prior to 1998 a similar record of 100 per cent acceptance by the DPP existed.

⁴⁵ Under the Fraud Control Policy of the Commonwealth the AFP has a responsibility to periodically conduct QAR on selected completed fraud investigations undertaken by Commonwealth agencies.

adopted by senior staff in the unit were reflected in the very good standard of investigation practice and methodology. However, the QAR also identified a number of areas where improvements to the investigation process could be made. AFFA had taken appropriate action to address each of the issues that were raised. Importantly, all cases that had been referred to the DPP over the past three years had been accepted as meeting the standard required for prosecution.

5.29 A QAR by the AFP was being conducted of the AQIS C&I at the time of the ANAO audit.⁴⁶ In addition to this quality assurance process, AQIS C&I has an internal Quality Management System (QMS) in place that has achieved accreditation under the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) guidelines.⁴⁷ The QMS provides quality processes to all core functions, including investigations, and is subject to both internal and external review.⁴⁸ The implementation of such an internal quality assurance process that complements the role of the AFP is an example of better practice and assists to ensure a continued high standard of investigation.

Fraud investigator training

5.30 The investigation officers in the BESIU have been trained to the prescribed competency level required by the Fraud Control Policy of the Commonwealth.

5.31 All AQIS C&I investigators had also been trained to the prescribed competency level and their performance had been subject to an internal quality assurance process. This process assisted in identifying any weaknesses in investigative processes or any specific training needs.

5.32 BESIU and many of the AQIS C&I investigators had been recruited with considerable experience gained externally in the area of criminal investigation. The appointment of investigators with prior experience in investigation is a better practice in ensuring the quality of investigations is not compromised when there is staff turnover.

⁴⁶ An initial draft report provided by the AFP indicated that AQIS C&I had passed all audit criteria and had generally achieved a good standard of investigation.

⁴⁷ The QMS had been issued a Certificate of Conformity with ISO 9002–1994 by the ISO Certification Body, Davis Langdon International Quality Certification Services (DLIQ). AQIS C&I have advised that this will be updated to meet the new ISO 9001–2000 standard shortly.

⁴⁸ Twenty internal reviews (referred to as audits) are undertaken annually of the QMS as well as 10 audits that are undertaken by DLIQ, the certifying body.

Prosecution and compensation

5.33 AFFA is responsible for conducting initial investigations into fraud allegations. Where, following preliminary investigation, a *prima facie* case of fraud is found to exist, the most appropriate course of action is determined by using guidance provided in the Manual. This may involve referral of the matter to the Commonwealth Director of Public Prosecutions (DPP) for prosecution or seeking compensation for minor offences and breaches of regulations through remedies other than criminal prosecution.

5.34 The ANAO examined whether the department had established procedures for:

- referral of cases to the DPP; and
- imposing alternative remedies for minor fraud and other related matters.

Referral to Commonwealth Director of Public Prosecutions

5.35 The Investigations Manual provided instruction for referral of cases to the DPP for prosecution in accordance with the Prosecution Policy of the Commonwealth. In line with the Fraud Control Policy of the Commonwealth, both the BESIU and AQIS C&I had referred cases to the DPP for prosecution. The majority of the cases that had been referred by AQIS C&I were for breaches of AQIS legislation and not specifically for fraud. While AFFA has not entered into a Memorandum of Understanding with the DPP, investigators advised that good lines of communication existed with the DPP that assisted the investigation and referral process.

Alternative remedies

5.36 Proving criminal intent as part of fraudulent behaviour is often difficult. Consequently, the availability and use of administrative or other remedies is in many cases an appropriate avenue for recourse and is often more cost-effective than undertaking criminal proceedings for minor offences. However, when deciding on the action that is to be taken a balance needs to be maintained between the costs of the action and the deterrent effects that more public action can achieve. Alternative remedies should not be applied where a serious offence has been committed. It is also important that, where external providers deliver services, alternative avenues are available, other than prosecution, to deal expeditiously with breaches and to recover losses cost-effectively.

5.37 Serious offences, including fraud and breaches of contract and legislative provisions, had been dealt with by AFFA through criminal proceedings and not by using administrative or disciplinary measures.

Alternative remedies that had been used by AFFA to pursue recovery of losses in the case of minor offences included:

- sanctions available under the *Public Service Act 1999* (PSA); and
- specific legislative provision relating to AQIS.

5.38 The PSA provides the authority for agency heads to impose various sanctions on APS employees who are found to have breached the Code of Conduct.⁴⁹ The CEO has endorsed AFFA's formal set of procedures and delegations for determining breaches of the Code of Conduct and appropriate remedial action. AFFA advised that sanctions available under the PSA in accordance with established procedures had only been imposed twice since the introduction of the PSA 1999.

5.39 Legislative provisions also provide the capacity to apply administrative remedies for defined breaches. For example, AQIS legislation gives AFFA authority to impose administrative penalties and fines or suspend or revoke operating licences for those found to be breaching legislation. However, it is important to recognise that the application of these administrative remedies does not necessarily mean that fraud has occurred although they may be used where suspected fraud would be difficult to prove.

Co-regulation

5.40 Co-regulation arrangements are viewed by AFFA as a partnership between the department and those industry representatives and individuals authorised under a compliance agreement to conduct quarantine and export related inspection activities previously carried out by the department.⁵⁰ Agreed sanctions apply to those who fail to abide by the terms of their agreement. While AFFA advised that co-regulation should create no greater risk than that of direct inspection by the department, it also acknowledged that continued vigilance was necessary as the nature of co-regulatory activities meant that the risk of fraudulent behaviour was present. At the time of the audit 1083 quarantine agreements were in place with a further 2008 under development or on trial. In the exports area 426 agreements were in force with a further 40 under development.⁵¹

⁴⁹ *Public Service Act 1999*, Section 15, (1).

⁵⁰ Co-regulation is the concept of individuals and industry becoming involved in traditional AQIS regulatory activities as part of a shared responsibility model developed in the Quarantine Review Committee Report, *Australian Quarantine—A Shared Responsibility*, 1996. AQIS is working with industry to identify areas in which it can devolve low risk quarantine activities.

⁵¹ For further detail of the scope of co-regulation arrangements and the numbers of agreements see <http://www.affa.gov.au> *Develop New Service Delivery Methods*.

5.41 A specified audit and monitoring regime is carried out by AQIS officers from the work area that is responsible for the particular area covered by an agreement. The aim of this regime is to ensure that all co-regulation compliance agreements are monitored in some way in any year. The regime is based on a risk assessment that determines the frequency and intensity of individual audits and inspections and how monitoring occurs. For example, physical inspections may occur in high-risk areas, electronic monitoring in low-risk and/or high volume areas or a combination of methods as appropriate. Where a critical level of non-conformance⁵² is found an agreement is immediately suspended and reinstatement only occurs if AQIS is satisfied that the problem has been fixed and will not occur again.

5.42 The AQIS Compliance and Investigation Unit (AQIS C&I) provides support to the effectiveness of the audit and inspection regime through activities related to the application of the unit's Compliance Risk Assessment Methodology.⁵³ These activities assist in focussing the regime on higher risk areas. Quarantine and export inspection services of other countries also conduct checks on products originating in Australia and initiate action with Australian authorities should a breach be identified. However, the aim of the co-regulation compliance regime is to identify any deficiencies in performance before they become a problem and thus avoid this final check identifying any requirement for action.

5.43 Where any breach or suspected breach of legislation is identified the matter is referred to the AQIS C&I, which is then responsible for further investigation and the coordination of any subsequent prosecution. In 2000–2001, 61 critical non-conformance events were identified. Of these, two were referred to AQIS C&I for further investigation.

5.44 Through a joint project with industry, AQIS had developed compulsory training packages for those seeking involvement in co-regulatory activities.⁵⁴ These training packages are designed for delivery to management and staffs of enterprises wishing to gain quarantine and export approval of their premises. The packages include reference to the

⁵² Three categories of non-conformance are defined; minor, major and critical. A minor act of non-conformance is generally of an administrative nature requiring simple correction to procedures. A major act is typically due to a failure in process or procedure that can be corrected within an agreed period of time. A critical act is of such significance that it could severely impact on Australia's export or quarantine certification with our trading partners.

⁵³ The Compliance Risk Assessment Model is a commodity based risk assessment/risk identification methodology designed by AQIS C&I for use in a co-regulatory environment.

⁵⁴ *Gaining Quarantine Approval of Your Premises, AQIS, April 2000.*

expectation that legislative provisions will be met and the supervisory regime that is in place to ensure compliance. Importantly, sanctions for non-compliance and poor performance are identified. However, while reference is made to the values that drive AQIS, the APS guidelines on Values and Code of Conduct, fraud and ethics that AQIS staff are expected to display in their dealings with co-regulators, and procedures for reporting breaches of these guidelines by AQIS staff, are not included.⁵⁵

5.45 The ANAO considers that, where possible, AQIS should complement the existing audit and inspection compliance regime by creating an awareness of public service values and ethics in their partners. The inclusion in the training packages of appropriate references to these APS requirements would be an appropriate measure in creating such awareness in those entering compliance agreements. By doing so, an awareness of the values that AQIS employees are expected to conform to when conducting agreed compliance requirements, such as inspections and audits of premises, should be created within the industries concerned. Also, APS requirements related to fraudulent behaviour and ethical conduct would be reinforced to the AQIS employees involved in these activities.

ANAO conclusion

5.46 The ANAO concluded that AFFA had:

- established appropriate centralised reporting and recording processes to record allegations of internal fraud and breaches of non-Australian Quarantine Inspection Service (AQIS) legislation;
- established appropriate centralised reporting and recording processes to record allegations of compliance breaches related to the legislation under which AQIS operates, including allegations of fraud related to those breaches;
- developed an investigations manual that provided clear guidance on all aspects of the fraud investigation process;
- undertaken fraud investigations in a timely and professional manner in accordance with the AFFA Fraud Investigations Manual and the Fraud Control Policy of the Commonwealth; and
- provided appropriately trained staff to its investigation sections.

⁵⁵ See PSMPC *State of the Service Report 1999–2000*, p. 3.

5.47 AFFA has followed established procedures for determining the most appropriate course of action for pursuing fraud and other matters resulting in the loss of Commonwealth funds. In particular, serious offences, including fraud and breaches of contract and legislative provisions, had been dealt with by AFFA through criminal proceedings and not by using internal administrative or disciplinary measures.

5.48 Allegations of minor misconduct and minor offences that are made to supervisors or managers are handled directly by those supervisors/managers. However, in the absence of a suitable reporting regime, the executive is not informed of the full extent of the occurrence and nature of such matters. The development of reporting and recording procedures that summarise the extent to which these delegations have been exercised, and the nature of the matters that have been dealt with, would be appropriate. This would support the identification of any systemic issues and the provision of appropriate assurance for all stakeholders regarding the adequacy of this aspect of the governance arrangements.

5.49 Co-regulatory compliance agreements with industry and individuals for the conduct of quarantine and export inspections include agreed sanctions that apply to those who fail to conform to the terms of their agreement. An audit and monitoring regime and appropriate compulsory training packages support the department's administration of these agreements.

A handwritten signature in black ink, appearing to read 'P. J. Barrett', with a large, stylized loop at the bottom.

Canberra ACT
16 November 2001

P. J. Barrett
Auditor-General

Appendix

Appendix 1

Previous ANAO Performance Audits on Agency Fraud Control Arrangements

- Audit Report No.25, 1990–91, *Efficiency and Effectiveness of Fraud Investigations*, Australian Federal Police
- Audit Report No.15, 1991–92, *Procedures for Dealing with Fraud on the Commonwealth*, Department of Defence
- Audit Report No.40, 1991–92, *Systems for the Detection of Overpayments and the Investigation of Fraud*, Department of Social Security
- Audit Report No.11, 1992–93, *Procedures for Dealing with Fraud on the Commonwealth*, Department of Administrative Services
- Auditor General's Report No.4, 1999–2000, *Fraud Control Arrangements in the Department of Education, Training and Youth Affairs*
- Auditor General's Report No.47, 1999–2000, *Survey of Fraud Control Arrangements in APS Agencies*
- Auditor General's Report No.5, 2000–2001, *Fraud Control Arrangements in the Department of Industry, Science and Resources*
- Auditor General's Report No.6, 2000–2001, *Fraud Control Arrangements in the Department of Health and Aged Care*
- Auditor General's Report No.16, 2000–2001, *Fraud Control Arrangements in the Australian Taxation Office*
- Auditor General's Report No.22, 2000–2001, *Fraud Control Arrangements in the Department of Defence*
- Auditor General's Report No.45, 2000–2001, *Fraud Control Arrangements in the Department of Family and Community Services*

Index

A

APS Code of Conduct 23, 38, 39, 52, 53
AQIS Compliance and Investigations Unit (AQIS C&I) 25, 45, 48, 50, 54-60, 62
Attorney General 14, 26, 31, 32, 34, 45, 49
audit committee 13, 15, 17, 25, 33, 45-49
Audit objective 12, 23
Australian Federal Police (AFP) 25-27, 45, 48, 51-53, 56-59
Australian/New Zealand Standards (AS/NZS) 4360 12, 23
Australian Quarantine Inspection Service (AQIS) 11, 12, 15, 22-26, 39, 41, 45-48, 50, 54-63
awareness raising 12-15, 17, 23, 27, 36, 38, 40, 43, 48, 49

B

better practice 12, 23, 37, 40-42, 45, 46, 56, 59
BESIU Fraud and Internal Investigations Team (BESIU FIIT) 48, 50, 52, 53, 56, 57
Business Ethics, Security and Investigations Unit (BESIU) 24, 31, 38, 45-48, 50, 52, 53, 56-60
business/operational plans 14, 34, 35

C

Chief Executive Officer(s) (CEO) 11, 21, 34, 44, 61
Code of Conduct 14, 23, 37-39, 42, 43, 52, 53, 56, 61, 63
Comcover 32, 41, 45, 46
Commonwealth Director of Public Prosecutions (DPP) 25-27, 51, 53, 55-60
conflict of interest 14, 36, 37, 43
contractors 14, 38, 39, 43, 46
contracts 13, 14, 37, 41-43, 47
corporate governance 24, 26, 29, 30, 38
corporate plan 5, 14, 24, 25, 27, 29, 32, 34, 35, 48

E

ethical workplace 12-14, 23, 27, 36, 37, 39, 41, 43
ethics 17, 24, 27, 31, 36, 38-42, 45, 50, 52, 57, 63
external service providers 13, 36, 42, 43

F

Finance 32, 44, 45, 48, 71
fraud allegations 51, 60
fraud control plan 11-14, 21, 23, 24, 26, 27, 29-36, 43-45, 47, 48, 57
fraud control policy 11-16, 21, 23, 26, 27, 29, 33, 34, 36, 41-45, 47, 49, 56-60, 63

G

governance 12, 16, 22-24, 26, 29, 30, 34, 38, 48, 52, 64

I

internal audit 13, 15, 24, 31, 34, 41-43, 45-49
investigation manuals 27, 56
investigations 13, 15, 16, 24-27, 31, 38, 45, 47-60, 63, 67
investigator training 59

K

key performance indicators 41, 44, 45

M

monitoring 12, 15, 16, 23, 24, 27, 36, 44, 47, 49, 50, 62, 64

O

objective 12, 21, 23, 39, 44
operational arrangements 15, 27, 50, 51, 53, 55, 57, 59, 61, 63

P

performance indicators 13, 15, 17, 41, 44-47, 49
planning for effective fraud control 14, 31, 33, 35
prosecution 13, 25-27, 51, 56, 57, 59, 60, 62

Q

quality assurance 27, 45, 56, 58, 59

R

reporting 11-13, 15, 16, 21, 23-25, 27, 32, 38, 44, 45, 47-54, 63, 64
risk assessment 12-14, 23, 24, 26, 27, 29-35, 45, 48, 51, 62

S

standards of conduct 13, 36, 39, 42

T

training 12-14, 16, 17, 23, 25, 27, 31, 36, 38-41, 43, 46, 50, 51, 56, 57, 59, 62-64, 67

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