

VICTORIA

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Victorian  
Auditor-General

Audit summary  
of  
Managing the  
Requirements for  
Disclosing Private  
Sector Contracts

Tabled in Parliament  
23 June 2010

# Audit summary

The Financial Reporting Direction—FRD12A *Disclosure of Major Contracts* (FDR12A) under the *Financial Management Act 1994* and other government contract disclosure policies, require agencies to publicly disclose summary details of contracts over \$100 000 and make public the full text of all contracts over \$10 million. A statement about private sector contracts is also required within annual reports. Only material which falls within exemptions of the *Freedom of Information Act 1982* may be excluded, for example, genuinely confidential business information or trade secrets.

We examined whether these contract disclosure requirements had been complied with. Contract management and reporting by the Departments of Planning and Community Development (DPCD), Sustainability and Environment (DSE) and Treasury and Finance (DTF) were examined in depth, combined with a review of the information published by all 11 departments on the Contract Publishing System (CPS) maintained by the Victorian Government Purchasing Board (VGPB). We used 1 January 2010 as the date on which we checked compliance.

## Conclusions

Departments are generally complying with the requirement to disclose summary details of contracts above \$100 000 on the CPS. The incidence of non-compliance was low and the reasons for non-compliance do not point to systemic breakdown of controls.

However, levels of non-compliance with the requirement to publish the text of contracts where they exceed \$10 million are higher, and reflect systemic breakdowns in disclosure and reporting controls that diminish transparency.

One consequence is that the relevant statements of compliance made by secretaries in their departmental annual reports have not been accurate, raising questions also about the effectiveness of the internal processes they use to support this certification.

There is also confusion about aspects of the disclosure requirements, including disagreement about which agencies need to comply. Consequently, there are inconsistent reporting practices that diminish transparency further.

## Findings

### Compliance with contract disclosure requirements

Collectively across all 11 departments, about 1 900 private sector contracts valued at around \$31 billion are disclosed on the CPS. As at 1 January 2010, six departments had not disclosed on the CPS the text of 43 of 144 contracts valued at over \$10 million, as required by the disclosure policies. The total value of these contracts was around \$3 billion, which is 10 per cent of the total value of all contracts on the CPS.

There is misunderstanding regarding the disclosure requirements. Disclosure of standing offer agreements was inconsistent between departments.

At DSE and DTF there were deficiencies in processes to approve, explain and document decisions to excise information from published contracts.

### Departmental oversight and contract administration

DPCD, DSE and DTF all had adequate internal policies and guidelines to record and report private sector contracts. The internal policies are well documented and consistent with FRD12A and government policies and are regularly reviewed and disseminated on the departments' intranets.

Contract disclosure controls in DTF were not as strong as the other two departments examined, and inconsistencies, errors and omissions in their underlying contract records were detected.

### Central oversight and contract administration

The confusion, inconsistency and non-compliance with disclosure requirements by departments can be addressed in part through clearer guidance from the VGPB.

CPS functionality does not facilitate departments' making adequate disclosures. There is no function to record contract variations, or to record procurement under a whole of government contract; there is no means to link related contracts; and no mandatory description and titling conventions. The CPS's rudimentary search functionality limits users' ability either to locate a specific contract or to aggregate information.

## Recommendations

Number	Recommendation	Page
1.	The secretaries of departments should strengthen their processes for monitoring their compliance with contract disclosure requirements on the Contract Publishing System and in their annual reports.	16
2.	The Departments of Sustainability and Environment and Treasury and Finance should develop and document protocols and procedures for approving and documenting decisions for excising contract information.	16
3.	The Departments of Sustainability and Environment and Treasury and Finance should develop a protocol and supporting processes regarding the future release of excised information.	16
4.	The Department of Treasury and Finance should establish a process to monitor the department's payment system to identify payment activities that trigger a disclosure requirement.	22
5.	The Victorian Government Purchasing Board should issue additional guidance on disclosure requirements, particularly in regard to: <ul style="list-style-type: none"> <li>• which government entities should comply with the contract disclosure requirements</li> <li>• conventions for contract descriptions, values and titling.</li> </ul>	22
6.	The Victorian Government Purchasing Board should improve the Contract Publishing System functionality to allow: <ul style="list-style-type: none"> <li>• for an improved search function</li> <li>• variations to be recorded against the original contract</li> <li>• entries to record procurement under standing offer agreements.</li> </ul>	22