

Follow-up on past PAC recommendations 2022 - Report 1





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EXECUTIVE SUMMARY

The Cayman Islands Government is required (by Section 77(7) of the Parliament Standing Orders (2018 Consolidation)) to formally respond within three months of the Public Accounts Committee (PAC) laying an Auditor General report in the Parliament.

As part of the audit process, the Office of the Auditor General (OAG) routinely follows up on implementation of the recommendations that we and the PAC have made as a result of performance audit reports and the PAC's hearings on these reports.

The OAG published *Follow-up on past PAC recommendations* reports in July 2017, October 2018 and August 2021. The August 2021 report stated that the OAG planned to prepare a series of reports following up on the past PAC recommendations in PAC reports that had been tabled between September 2018 and December 2020.¹

UPDATE SINCE OUR AUGUST 2021 REPORT

The August 2021 report provided a status update on the 15 PAC reports that were tabled in the Parliament between September 2018 and December 2020. At that time, the Government had tabled its formal responses (Government Minute) to nine PAC reports. Of these nine reports, only three were submitted within the three-month timescale. The Government Minutes responding to six PAC reports were late, ranging between five months and 22 months late; four responses were more than one year late. The Government had not responded to five PAC reports, despite some being tabled in 2018. The Government Minute for the PAC report tabled in December 2020 report was not due by the time Parliament dissolved in February 2021.

PAC REPORTS

The PAC tabled a report in the Parliament on 15 July 2021. This report covered the three OAG reports *Improving Financial Accountability: Budgeting* (December 2020), the *General Report for the year ended 31 December 2019* (December 2020), and *Owen Roberts International Airport (ORIA) Terminal Redevelopment Project – Progress Update as at August 2018* (January 2019). The previous PAC held hearings on these three OAG reports in January 2021 but was unable to finalise and table reports before the Parliament was dissolved in February 2021 in advance of the election. As a result, the PAC accepted the minutes of the previous PAC and endorsed the OAG recommendations made in the reports. The PAC

¹ The Privy Council approved the name change from the Legislative Assembly to the House of Parliament (Parliament) on 11 November 2020. The change was effective from 3 December 2020.

did not make any additional recommendations. The PAC report stated, as is usual practice, that the Government should respond to the report within three months of it being tabled, i.e., by 15 October 2021. This has not happened.

In July 2021 the PAC held a hearing on the OAG’s report *Improving Financial Accountability and Transparency: Financial Management and Reporting* (May 2021). In September 2021 the PAC held hearings on the OAG report *Follow-up on past PAC Recommendations 2021 – Report 1* (August 2021). The PAC tabled two separate reports arising from these hearings on 8 December 2021. The Government will be expected to respond to these reports within three months of them being tabled in the Parliament, i.e., by 8 March 2022.

In November 2021, the PAC considered the OAG’s report *HSA’s Outpatient Pharmacy Services* (November 2021). The PAC has scheduled hearings in January 2022 when it will take evidence from a range of witnesses on findings and recommendations in this report. The PAC will prepare its own report in due course.

We will report on progress with implementing the recommendations in all of these reports in future reports to PAC.

GOVERNMENT MINUTES

The Government has not tabled any Government Minutes in the Parliament since October 2020. This means that as at the end of December 2021, the Government was late in tabling its formal response for a further three PAC reports, bringing the total Government Minutes outstanding to seven. Exhibit 1 provides a summary of all Government Minutes that are late as at the end of December 2021.

Exhibit 1 – Public Accounts Committee reports tabled for which the Government Minute is late as at December 2021

Report of the Standing Public Accounts Committee on the:	Date tabled	Government Minute due	Government Minute tabled	Delay in tabling Government Minute
Reports of the Office of the Auditor General on: (1) Owen Roberts International Airport (ORIA) Terminal Redevelopment Project – Progress update as at August 2018 (January 2019); (2) Financial Reporting of the Cayman Islands Government: General Report 2019 (December 2020); and (3) Improving Financial Accountability and Transparency: Budgeting (December 2020) (PA and GR)	15 Jul 2021	15 Oct 2021	Not yet tabled	2 months late

Report of the Office of the Auditor General on Efficiency and Effectiveness of the Utility Regulation and Competition Office (OfReg) (June 2020) (PA)	12 Dec 2020	12 Mar 2021	Not yet tabled	9 months late
Report of the Office of the Auditor General on Efficiency and Effectiveness of Summary Courts (November 2019) (PA)	1 Jul 2020	1 Oct 2020	Not yet tabled	15 months late
Report of the Office of the Auditor General on Follow-up on past PAC recommendations (October 2018) (PA)	10 Apr 2019	10 Jul 2019	Not yet tabled	29 months late
Report of the Information and Communications Technology Authority 2015/16 Accounts (FA)	22 Nov 2018	22 Feb 2019	Not yet tabled	34 months late
Report on the Segregated Insurance Fund 2015/16 Accounts (FA)	6 Sep 2018	6 Dec 2018	Not yet tabled	36 months late
Report on the Cayman Islands Monetary Authority 2015/16 Accounts (FA)	6 Sep 2018	6 Dec 2018	Not yet tabled	36 months late

ABOUT THIS REPORT

This report provides an update on the Government's progress in implementing the 61 recommendations made in the following three PAC reports, tabled between 22 November 2018 and 1 July 2020:

<i>OAG report</i>	<i>PAC report tabled</i>	<i>Government Minute tabled</i>	<i>Total Recommendations</i>
<i>Government's use of Consultants and Temporary Staff</i> (February 2018)	22 November 2018	14 October 2020	27
<i>Government's use of Outsourced Services</i> (June 2019)	1 July 2020	14 October 2020	17
<i>Fighting Corruption in the Cayman Islands</i> (November 2019)	13 November 2019	27 July 2020	17
Total recommendations			61

This report provides:




- A high-level assessment of each report, including a Red-Amber-Green (RAG) rating of progress (below).

- An overall conclusion on CIG progress in implementing PAC recommendations (next section).
- Detailed assessments of CIG’s progress for each report (Appendices 1 to 3). Each appendix includes a summary of the PAC recommendations (including the original OAG recommendations where relevant); CIG’s response and planned implementation date to the original OAG recommendations; updated responses received between October and December 2021; and an OAG comment on the updates.

HIGH-LEVEL ASSESSMENT OF REPORTS

Our high-level assessments of CIG’s progress with implementing the recommendations of the three reports covered are outlined in Exhibit 2.

Exhibit 2 – High-level assessment of progress in implementing PAC recommendations

Report	OAG comment	OAG assessment (January 2022)
<i>Government’s use of Consultants and Temporary Staff (February 2018)</i>	The OAG report included 16 recommendations. The PAC endorsed these and made a further 11 recommendations. Of the 27 recommendations made, five recommendations were not accepted. Of the remaining 22 recommendations we have assessed that 15 have been implemented, three are partly implemented or action is planned, and there has been no progress with four. See Appendix 1 for detail.	 Significant progress
<i>Government’s use of Outsourced Services (June 2019)</i>	The OAG report included 15 recommendations. The PAC endorsed the OAG recommendations and made a further two recommendations. Our assessment of progress of the 17 recommendations is that: 13 have been implemented, two have been partly implemented or action planned, there is no progress with two recommendations. See Appendix 2 for detail.	 Significant progress
<i>Fighting Corruption in the Cayman Islands (November 2019)</i>	The OAG report included 11 recommendations and the PAC made a further six recommendations. Of the 17 recommendations made, two were not accepted. We assessed progress with those remaining as: 11 implemented and four partly implemented or action planned. See Appendix 3 for detail.	 Significant progress

Note: **Red** – limited or no progress has been made; **Amber** – some progress has been or is being made; **Green** – significant progress has been made in addressing the recommendations.

Our assessment of the 61 recommendations in these three reports shows that 11 per cent of the recommendations were not accepted. Overall, 61 per cent of the recommendations have been implemented and a further 15 per cent are partly implemented or in progress.

Exhibit 3 – Summary of the implementation of recommendations

	Recommendation not accepted	Recommendation implemented	Recommendation partly implemented or in progress	No or limited progress with recommendation	Total recommendations
Government's use of Consultants and Temporary Staff (February 2018)	5 (19%)	15 (56%)	3 (11%)	4* (15%)	27
Government's use of Outsourced Services (June 2019)	-	13 (76%)	2 (12%)	2 (12%)	17
Fighting Corruption in the Cayman Islands (November 2019)	2 (12%)	9 (53%)	4 (24%)	2 (12%)	17
Total	7 (11%)	37 (61%)	9 (15%)	8 (13%)	61

Notes: * it is not clear if there has been progress with one recommendation; we have therefore assessed it as 'No Progress'.

The OAG does not plan to report back to PAC on these three reports as they have been assessed as Green. However, we will continue to follow up on the four recommendations that have been assessed as **Red** (No Progress).

CONCLUSION

1. This is the latest report in a series following up on the Government's progress in implementing previous recommendations made by the Public Accounts Committee (PAC) and my office.
2. In this report I provide an update on the Government's progress with implementing the recommendations made in three PAC reports and I am pleased to report that the Government has made significant progress in implementing the recommendations. Overall, 76 per cent of the 61 recommendations made have been implemented or are in progress.
3. Despite the significant progress, some important recommendations remain outstanding. For example, it is not clear whether the Government has started to monitor and report on cross-government spending on consultants, temporary staff and outsourced services, which is essential information to inform decision making. There continue to be no policies and procedures in place for the extension of contracts and I am aware, through other work, that a number of high-value contracts continue to be extended. This creates a significant risk to value for money. I also note that the Financial Regulations have still not been updated and continue to be inconsistent with the *Procurement Act*. This is despite the Ministry of Finance and Economic Development committing to do this by the end of 2019. This is extremely disappointing.
4. I have also highlighted that the Government did not accept seven (11 per cent) of the recommendations made. Most of these relate to recommendations made specifically by the PAC in its report on the Government's use of consultants and temporary staff.
5. I am also concerned that since my last follow-up report in August 2021 that the Government has continued to fall behind in its formal responses to PAC reports. As at the end of December 2021 the Government had not responded to five PAC reports. Some of these reports cover significant areas of public interest, such as the efficiency and effectiveness of our summary courts and the utilities regulator OfReg.



Sue Winspear, CPFA
Auditor General
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Cayman Islands

7th January 2022

APPENDIX 1 - GOVERNMENT'S USE OF CONSULTANTS AND TEMPORARY STAFF (FEBRUARY 2018)

The Public Accounts Committee (PAC) held two meetings to consider the report in May 2018. In its report (laid on the Table of the then Legislative Assembly on 22nd November 2018), the PAC concluded:

- The Committee agrees with and accepts the 16 recommendations made by the Auditor General, summarised in Appendix 3 of the OAG report. The Committee urges the Government to implement the recommendations as a matter of priority, given the extensive use of consultants and temporary staff delivering Government services and projects.
- The Committee was disappointed that the Portfolio of Legal Affairs was unaware of its previous recommendation that all contracts should be subject to legal review and agreement prior to them being signed. PAC was also disappointed that the Portfolio of Legal Affairs had not been asked to input to the Government Minute in response to this recommendation, which was due by 1 June 2018. The Committee also believes that the Portfolio of Legal Affairs should play a larger and more pro-active role in advising Government rather than waiting to be asked. The PAC was concerned about the amount of money being spent across government on legal advice. To address this the Committee recommends that the Government should:
 - Develop clear guidance that requires permission to be sought prior to procuring external legal advice if not using the Portfolio of Legal Affairs.
 - Consider carefully the legal advisers it is using, including whether they are potentially conflicted by being involved in any legal cases against the Government.
 - Ensure that its staff are educated on the new requirements of the Procurement Law and other developments, including standard terms and conditions of contract.
- The PAC is disappointed that despite the Procurement Law being passed in December 2016, guidance is only now being updated and training delivered after the commencement date of 1 May 2018. The Committee recommends that Government ensure that:
 - In future all preparatory work is done in advance of new legislation being brought into force.
 - The Portfolio of Legal Affairs is involved in the development of procurement guidance and standard terms and conditions of contract.

- Training on the new Procurement Law and Regulations should make it clear that the requirements also apply to the hiring of temporary staff.
- The PAC agrees with the OAG that business cases are needed to justify the need for using consultants. The Portfolio of Legal Affairs should prepare brief business cases to justify the need to the use of all consultants and legal advisers (at the hearing PLA committed to doing this by September 2018).
- While the Committee acknowledges that the Government will always have the need to bring in consultants for some aspects of work and projects, it nonetheless recommends that Government should invest more in staff training and development to ensure that it has the skills and expertise it needs now and in the future with a view to reducing its overall spending on consultants.
- In relation to the use of temporary staff, the PAC was concerned that their use may have increased as a direct result of the recruitment moratorium and that it may be adversely impacting on employment prospects for Caymanians. The Committee recommends that Government should:
 - Develop a pool of Caymanian staff that it can draw on to provide temporary cover when needed, rather than hiring temporary staff through recruitment agencies.
 - Develop a better understanding of and collect information on temporary staff hired through recruitment agencies.
 - Ensure that it is complying with procurement legislation, policies and procedures when hiring staff through recruitment agencies.
 - Not use recruitment agencies that are known to not promote Caymanians first.

OAG comment on the Government response: The Government Minute was tabled in the then Legislative Assembly on 14 October 2020. However, the Government Minute did not provide an updated response to the 16 recommendations made by the OAG. For the purposes of this report the OAG requested an update from the Office of the Deputy Governor in October 2021 and received a response in December 2021.

The Government has made good progress in implementing the recommendations. The PAC and OAG made a total of 27 recommendations, of these five were not accepted. Of the remaining 22 recommendations, 15 have been implemented and three have been partly implemented. There has been no progress with three recommendations and it is not clear if one recommendation was accepted so we have also assessed this as ‘no progress’.

We have assessed overall progress with implementing the recommendation as **Green** (Significant progress). The majority of the total recommendations (67 per cent) have been implemented or partly implemented. Of the 22 recommendations accepted, 82 per cent have been implemented or partly implemented.

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>1. The Government should monitor its spending on consultants and temporary staff to provide management information that will help inform decisions on how to best obtain the skills and knowledge that it needs while obtaining value for money. (OAG)</p>	<p>Management agrees with this recommendation.</p> <p><u>Additional response from MDATT:</u> Noted. The contracts under scrutiny in this audit are for either highly specialised services or a one-off scenario such as the cruise berthing facility and it would not be feasible for the Ministry/Department to hire and maintain a team of employees with this level of expertise making skill transfer as part of the contract terms 'Not Applicable'. Additionally, a contract for critical services such as Marketing & Communication services for a particular source market requires an entity</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>The IRIS system currently used by the Cayman Islands Government, can provide reports/data on temporary staff (filtering those with a 'Contract Type' of fixed-term ("AAA_CIG_FIXED_TERM")).</p> <p>The Financial IRIS Accounts Payable module will hold information about payments that are made to consultants and the supporting information (invoices) may provide information about billable hours.</p> <p><u>Update from POLA:</u> The Finance Team prepares monthly reports per expense line item comparing budget against actual spend. For monitoring purposes, the report also includes an itemized list of legal costs for the period. The part of the query as it relates to value is unclear. Value in relation to the provision of legal services will be</p>	<p>It is not clear from the response if the recommendation has been implemented.</p> <p>The response states that reports can be obtained from IRIS and that the accounts payable module in IRIS will hold information. However, the response does not confirm whether the Government uses these functions in IRIS to report and monitor expenditure on consultants and temporary staff as recommended (and accepted).</p> <p>The PAC may wish to ask for an update on</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>to have leverage and scale in the relevant media</p> <p>Planned Implementation date: As part of the preparation for the 2018 Annual Reports</p>		<p>determined not solely on the cost to the Chambers but on the quality of the work delivered (whether this is advisory or litigation), the timeliness of delivery (for example, whether court deadlines or requested response times are being met) and the overall assistance to the Chambers in relation to the brief. Such factors are under continual review throughout the engagement of external legal counsel or other external provider.</p>	<p>whether there is cross-government monitoring of spending on consultants and temporary staff.</p>
<p>2.</p> <p>The Government should better plan for its use of consultants and integrate this with its workforce planning and budgeting processes. (OAG)</p>	<p>Management agrees in principle with the recommendation but notes that it would not be appropriate to maintain a team of employees with the level of expertise required for all consultancy contracts.</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>Wherever possible/practical, the planning and usage of specialized consultants will consider the need to ensure a degree of transfer of skills and experience within CIG. However, as per the previous response to this recommendation, highly specialized (expert) consultants can be brought in to respond to one-off scenarios</p>	<p>It is not clear from the response if this recommendation has been implemented.</p> <p>The Government's response indicates that this recommendation is being implemented. However, the</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p><u>Additional response from MDATT:</u> The contracts under scrutiny in this audit are for either highly specialised services or a one-off scenario such as the cruise berthing facility and it would not be feasible for the Ministry/Department to hire and maintain a team of employees with this level of expertise hence skill transfer is 'Not Applicable'. Additionally, a contract for critical services such as Marketing & Communication services for a particular source market requires an entity to have leverage and scale in the relevant media and advertising industries in order to provide the Department with innovative, creative and effective strategies that</p>		<p>where skill transfer would not be practical or beneficial.</p> <p><u>Update from POLA:</u> The consultants most frequently used by the Portfolio are external legal counsel. While there is undoubtedly a transfer of skills to existing staff, the cases for which external counsel vary considerably in terms of the subject and complexity. The fact that in-house attorneys might have been involved in a case relating to a particular aspect of human rights (for example, age discrimination) does not mean that they will necessarily be equipped to lead on another human rights case (for example, one involving the transfer of prisoners) which brings with it an entirely new range of novel (and often complicated) points of law in the field of national security. It should be noted that in cases such as these, the claimants (being the other party to the proceedings) are</p>	<p>response does not directly address the recommendation made. We are aware through other work that the Government has not yet updated its budgeting process and does not have workforce plans in place.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>allow the Department to successfully market and advertise to the target audiences within each source market. It is in the best interest of the Cayman Islands Global Marketing Strategy to hire experts in the specific source markets to elevate the Cayman Islands brand. This also allows for turnkey execution in addition to providing the mandated outputs of the team located in Grand Cayman.</p> <p>Planned Implementation date: As part of the planning for the 2019 budget.</p>		<p>always represented by external counsel at the rank of Queen’s Counsel.</p>	
3.	<p>The Portfolio of Legal Affairs should develop a procurement manual and</p>	<p>Notwithstanding the absence of a procurement manual, the Portfolio of Legal Affairs (PLA) has been adhering to best practices</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>The POLA has a draft manual in place, and its procurement exercises are carried out in accordance with the Procurement</p> <p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>implement it as soon as possible. (OAG)</p>	<p>such as requiring at least 3 quotations for procurements valued between \$1,500 and \$10,000, and requiring procurements from \$50,000 to be offered for public tender (with amounts above \$50,000 to be reviewed through the DTC). This applies to the procurement of goods and services other than legal services, for which a different approach is taken (see Management Response for Recommendation 12).</p> <p>However, the PLA accepts the need for a procurement manual and will aim to implement one which is tailored to reflect the fact that unlike other CIG entities, PLA's main area of procurement will likely be legal services. In</p>		<p>Act and Regulations and guidance of the CPO.</p>	

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>this respect, the Central Procurement Office (CPO) has advised that it is in the process of preparing policies and procedures which are intended to be launched alongside the new Law and Regulations. PLA may wish to adopt those policies and procedures which, according to the CPO, are intended to be all-encompassing.</p> <p>Planned implementation date: May 1, 2018 (at which time, the new Procurement Law and Regulations will also come into effect).</p>			
4.	<p>The Ministry of District Administration, Tourism & Transport (MDATT)</p> <p>Management agrees with this recommendation.</p> <p>Planned implementation date: Immediately.</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p><u>Update from MDAL:</u> We have updated our procurement policy. Consultants are referenced in</p>	<p>Recommendation implemented.</p> <p>The updated response states that all public</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>and the Ministry of Community Affairs (MCA) should update their procurement policies and procedures, including the need for business cases and providing additional guidance on decision-making criteria for the use of consultants. (OAG)</p>			<p>Section 20 External Support of the policy.</p> <p>The need for business cases is clearly established, as is the threshold of project value that require them; and where we advise them. Business case use is mostly considered in section 3.0 and business case templates are included as appendices to the policy. We provide [additional guidance on decision making criteria for the use of consultants] in section 20.0 on page 22. Procurement of consultants is then as per any other provider – based on the value of the anticipated contract. The intended use or otherwise of consultants, and whether they are internally provided e.g. through PWD or external, is included in the ‘Delivery Arrangements’ (Management Case) of the Project Business Case in each</p>	<p>bodies need to adopt the CPO manuals, procedures and guidelines, or ensure that their manuals comply with the <i>Procurement Act</i> and Regulations.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
			<p>circumstance – and hence is part of the pre-approval process.</p> <p><u>Update from MTT:</u> We updated our old procurement policy to include a requirement for business cases above \$50k and then rewrote an extensive procurement policy and guidelines for the Ministry based on the 2018 procurement regulations.</p> <p><u>Update from the Central Procurement Office (CPO):</u> The CPO has developed manuals, procedures, guidelines and templates that are compliant with the Procurement Act and Regulations. These are all available and accessible to Ministries/Departments and Statutory Authorities and Government Companies (SAGC's) and are available here: https://www.procure.gov.ky/</p> <p>The CPO cannot advise if or how many Ministries/Departments or</p>	

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)	
			SAGC's have their own manuals/processes. If Ministries/Departments/SAGCs do develop their own manual/processes, they have to be compliant with the Procurement Act and Regulations. They may choose approval processes that are more stringent than those set out in the procurement Act and Regulations. This is a matter for the Ministry/Department/SAGC.		
5.	<p>The Government should ensure that business cases are prepared to justify the need for consultants. (OAG)</p>	<p>Management agrees with this recommendation and further notes that Business Cases are a requirement under the new Procurement Law and Regulations, which will commence in May, 2018.</p> <p><u>Additional response from MDATT:</u> Agreed. The Ministry of DATT procurement policy was</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>The <i>Procurement Act</i>, Schedule 6, Roles and Functions and in the Role of the Chief Office[r] and the Role of the Chief Executive paragraph (b) states the following: 'ensuring the creation of and authorizing of a documented business case in the prescribed format for procurement, prior to proceeding to market or soliciting bids'. The CO/CEO is therefore responsible for ensuring that business cases are created and</p>	<p>Recommendation implemented.</p> <p>The OAG can confirm that business cases are being prepared for those procurements that have been tested during annual financial audit work. This testing does not cover all procurement carried out by the</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>implemented in 2014. A Business case requirement and criteria on preparing one is not specifically stated in the current policy. However, the policy states all purchases over \$1,500 require a 3 quote form to be filled out and within this form a justification/business case is required hence many other procurements carried out by the Ministry do have a written justification.</p> <p>Planned implementation date: 1 May, 2018, in line with commencement of the Procurement Law and Regulations.</p>		<p>approved. The CPO has implemented approval processes and checklists for the Public Procurement Committee and the Entity Procurement Committee to ensure that an approved business case has been produced prior to the EPC/PPC approval of that procurement recommendation. The CPO, can confirm that the PPC does check the availability of a business case prior to their approval of the project. The responsibility for ensuring business cases are produced rests with the Entity procurement committee, the Public Procurement Committee and the Chief Officer.</p>	<p>Government, only a sample.</p>
6.	<p>The Government should ensure that Requests for Proposals and Invitations to</p>	<p>Management agrees with this recommendation and notes that detailed guidance and requirements on the use of requests for</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>These are a requirement introduced by the <i>Procurement Act</i> and regulations in May 2018. All procurements above \$100,000 should be advertised on Bonfire</p>
				<p>Recommendation implemented.</p> <p>The OAG can confirm that RFPs and ITTs are</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>proposals are included in the new Procurement Law and Regulations.</p> <p>Planned implementation date: 1 May, 2018, in line with commencement of the Procurement Law and Regulations.</p>		<p>which is the CI procurement portal. CO's and CEOs are responsible for ensuring this happens and it is checked by Entity Procurement Committees for procurements between \$110,000 and \$250,000. Above \$250,000 the Public Procurement Committee reviews these. With regards to policies on Requests for Proposals and Invitations to Tender, they are all on the CI procurement website including templates: https://www.procure.gov.ky/</p>	<p>being prepared through testing of procurements in the annual financial audit work. This testing does not cover all procurement carried out by the Government, only a sample.</p>
7.	<p>The Government should ensure that there is sufficient justification for single source procurements and that it is properly documented and approved. (OAG)</p> <p>Management agrees with this recommendation and notes that detailed guidance and requirements for single source procurements are included in the new Procurement Law and Regulations.</p> <p>Planned implementation date: 1 May, 2018, in line</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>A single source procurement process does not exist in the Procurement Act and regulations. The nearest regulation is a direct award. The process for a direct award is on the CI procurement website, and can be seen here: https://www.procure.gov.ky/direct-award-process</p>	<p>Recommendation implemented.</p> <p>The OAG can confirm that business cases, justifying single source procurement, are being prepared, through testing done as part of the annual financial audits. This</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)	
	with commencement of the Procurement Law and Regulations.		This sets out the process, the Approval & Justification Form and the submission checklist. The approval thresholds are stated in the direct award process document, which is as set out in the Procurement Regulations. Due to the CPO's active involvement with the PPC, it can confirm that for procurements above \$250k, the PPC ensures that business cases are available. For procurements between \$100k and \$250k this responsibility for ensuring that business cases are available rests with the Entity Procurement Committee. Below \$100k the format of the written request has to be specified by the Chief Officer/Chief Executive.	testing does not cover all procurement carried out by the Government, only a sample.	
8.	The Government should extend its procurement guidance to include a wide range of procurement and	Management agrees with this recommendation and notes that the new Procurement legislation provides guidance and requirements for the	N/A	N/A	<p>Recommendation implemented.</p> <p>The Procurement Act and Regulations provide for a wide</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>contracting methods to ensure that obtains value for money in its appointment of consultants. (OAG)</p> <p>various procurement methods recognised under the UN Model Law on Public Procurement.</p> <p>Planned implementation date: 1 May, 2018, in line with commencement of the Procurement Law and Regulations.</p> <p>Additional policy and guidance documents ongoing.</p>			range of procurement and contracting methods.
9.	<p>The Portfolio of Legal Affairs should develop framework agreements or call-off contracts for the provision of legal services. (OAG)</p> <p>Given the unpredictability as to when a request for legal advice might arise and the nature of the issue(s) for consideration at any given time and the urgency in having the advice, reliance on the Chief Officer’s discretion to use a single-source means of procurement for legal services is in our view,</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>POLA does not use call-off contracts taken from a list of possible consultants listed within a Framework Agreement. Decisions in relation to consultants are as per the previous/original management response to this recommendation.</p>	<p>Recommendation not accepted.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>justified. In such instances, more traditional procurement exercises requiring business cases, tendering, etc. are simply not practical.</p> <p>Even in instances of single-source procurement, the PLA endeavours to ensure that value for money is achieved by using its knowledge/experience of the charges/fees levied by the legal advisor engaged to ensure favourable rates of engagement.</p> <p>It should also be noted that given the scope of the PLA's work in matters of public/administrative law, constitutional law and human rights, it has developed relationships over the years with firms and counsel with considerable expertise in</p>			

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	<p>these areas. These legal service providers, having essentially been “pre-qualified” in terms of their knowledge, experience, and favourable fees due to previous work with the PLA, can therefore be readily called upon to assist with pressing requests for legal assistance. These service providers will often be UK-based (for example, Blackstone Chambers with which the CIG has a long-standing working relationship) and prove to be more cost-effective when compared with legal services procured locally. These firms have generally been willing to offer rates comparable to those charged to the UK Government Legal Department (“UKGLD”) (formerly, the Treasury</p>			

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	<p>Solicitor) and other UK government entities. This is consistent with the objective of ensuring value for money.</p> <p>Where issues arise which require PLA to look for legal expertise outside those firms/counsel with which it has established working relationships, PLA will seek recommendations on qualified counsel from UKGLD and request the UKGLD to negotiate for CIG the reduced rates which would ordinarily be extended to the UKGLD and other UK government entities. These rates which range from 175 – 400 pounds will usually be more favourable than those offered by local service providers.</p>			

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)	
	<p>PLA Management nonetheless agrees that the suggested call-out arrangement may be useful and will explore the feasibility of this proposal with various legal service providers.</p> <p>Planned implementation date: PLA will engage with various firms on the possibility of call-off or similar agreements for legal services but is unable to commit to any actual implementation date at this time. Depending on the outcome of its discussions, we would tentatively suggest the second quarter of 2018.</p>				
10.	The Government should develop standard terms and conditions for	Management agrees with the recommendation but notes that a variety of templates will be needed	No update provided in the Government Minute of July 2020.	This recommendation has been implemented by providing a variety of contracts suitable for some standard contracts, and	Recommendation implemented.

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>consultant contracts that ensure that its interests are protected and it is able to achieve value for money. (OAG)</p>	<p>as it is unlikely that a single standard template would be suitable for all types of contracts.</p> <p><u>Additional response from MDATT:</u> Noted. The Ministry of DATT already has in place consultant contract templates depending on the type and contract sum. The templates are reviewed by the Portfolio of Legal Affairs from time to time. All contract terms and conditions criteria were met in this audit except for skill transfer considerations which has been addressed in the management response for recommendations #1 and #2. In addition, once both parties set out contract terms and conditions, contracts are then reviewed by external</p>		<p>recommended contract suites for more complex construction contracts.</p> <p>The CIG’s procurement website has available template contracts for services. Consultancy is regarded as a service. If Ministries choose to use different contract types they should have them agreed/finalized/approved by the Solicitor General’s Office (SGO). The SGO should also approve final contracts even if the templates on the CIG procurement website are used.</p> <p><u>Update from POLA:</u></p> <p>In June 2021, the SGO provided the CPO with revised contract templates for (i) goods and services; (ii) goods; and (iii) services. These will largely cover most contracts other than those for construction; IT; any contract where the transfer/ownership of IP needs to be set out in detail;</p>	

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	<p>lawyers who are subject matter experts hired by the Ministry/Department.</p> <p>Planned implementation date: End of Q2 2019.</p>		<p>and framework agreements. The templates were revised following discussion with the CPO team.</p> <p>At the SGO’s suggestion, the terms and conditions within the templates were to be incorporated into the RFP template on the CPO’s website to ensure that bidders would be aware of the terms on which they would be expected to contract with CIG.</p> <p>For larger, more complex construction contracts which are not quite standard and for which our templates will not likely be appropriate, the SGO has advised clients on the appropriate contract suites that should be used (for example, the FIDIC suite instead of the very outdated GC/Works suite for works, or the IET/IME MF/1 (2014)). Ultimately, the recommended suites will</p>	

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			<p>depend on the value and nature of the particular project.</p> <p>The point of using the suites is that standard clauses are already included. When using FIDIC Red or Silver book, we have the opportunity to add bespoke ‘Special Conditions’ and these will include a condition dealing with FOIA requests.</p>	
<p>11. The Government should develop guidance to help identify which contracts should be reviewed by lawyers or be subject to legal advice prior to signing. (OAG)</p>	<p>Management agrees with the recommendation.</p> <p><u>Additional response from PLA:</u> PLA agrees that this would be desirable. As indicated in our meeting with auditors, it is entirely left to the CIG entity to determine whether a contract will be sent to PLA for vetting. In certain instances (such as contracts prepared by PWD</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>The Deputy Governor supports the need for legal advice to be sought prior to the signing of contracts, and will work with the Senior Leadership Team in the first quarter of 2022 to develop relevant guidance.</p> <p><u>CPO response:</u> The CO is responsible for the contract between his/her Ministry and the supplier.</p> <p><u>Update from POLA:</u> It falls to CIG entities to request a review of their contracts and agreements;</p>	<p>No progress.</p> <p>The Deputy Governor has indicated that guidance will be developed during the first quarter of 2022.</p> <p>The PAC may wish to ask for an update on the development of guidance.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>which are often standard-form and based on existing industry templates), documents rarely – if ever – come to PLA.</p> <p>Planned implementation date: End of Q2 2019.</p> <p>The type of contracts which should be reviewed by the SGO will be a matter of CIG policy; any decision to be taken in this regard will likely involve engagement of a number of stakeholders. From PLA’s perspective, it is difficult to estimate a likely implementation date for this recommendation.</p>		<p>the SGO cannot compel them to submit contracts for review although our strong recommendation is, as before, that this be done and in a timely manner. We understandably cannot comment on any contracts which are not passed to the SGO for review.</p>	
12.	<p>The Government should ensure that the Legal Department has sufficient capacity</p>	<p>Although there is no standard checklist for reviewing contracts, as emphasised in our meeting with auditors, particular</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>The POLA continues to provide effective support in relation to contract work, with standard CIG</p> <p>Recommendation partly implemented.</p> <p>The response states that the Legal</p>

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<p>and tools, such as standard checklists, to carry out the legal review of contracts consistently. (OAG)</p>	<p>consideration will be given to areas including (but not limited to) liability and limitation of liability, warranties and representations, risk to CIG and how that should be managed/ or shared between the parties, performance securities, force majeure, remedies. We would also reiterate that the scope of review will often vary according to the nature of the contract (for example, an IT contract or data licence agreement may give rise to different considerations than a construction contract). Accordingly, the concept of a standard checklist for all contracts, might provide no more than a useful starting point for contract review.</p> <p>A further point is that in spite of legal advice</p>		<p>entity templates positively contributing to this support.</p> <p>The SGO does not have capacity to create a dedicated Contract Unit, although it would very much like to do so. Contract work is allocated across the SGO team. The use of the standard templates by CIG entities has been a proactive step which can make the review process easier.</p> <p>The standard terms and conditions that the SGO would expect to see in contracts that come in for review or preparation are set out in the SGO templates. However, depending on the nature and complexity of the particular contract, the SGO may recommend further specific provisions to safeguard the requesting entity's interests.</p>	<p>Department does not have sufficient capacity to set up a separate contracts unit as originally intended. However, other measures have been put in place to ensure consistency.</p> <p>The PAC may wish to ask for an update from the Portfolio of Legal Affairs on whether it requested additional staffing and budget as part of the 2022-23 budget process to develop a dedicated Contract Unit.</p>

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		<p>recommending the inclusion of certain provisions to safeguard CIG’s interests (for example, liquidated damages for late delivery/completion and detailed acceptance procedures), client entities may ultimately decide not to act on these recommendations for one reason or another. In certain instances, the client’s reasons for departing from the recommended course will not be expressed to the reviewing lawyer.</p> <p>For particularly complex or more unusual contracts, the SGO will recommend to the client entity the engagement of specialist contract advisor(s) (as was done, for example, in the case of a multi-million</p>			

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	<p>dollar road development contract).</p> <p>Given the volume of contract work observed across CIG in recent times (for example, for the 2016/17 financial year, the SGO was asked to review 66 agreements and related documents), the establishment of a dedicated contracts unit could be considered in the future. However, any decision in this regard would ultimately depend on, among other things, whether the demands of an increased volume of contract work could be dealt with by the SGO's existing complement of lawyers. This in turn would depend not only on the number of contracts for review but their subject matter, complexity and</p>			

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	<p>novelty as well as the volume and demands of non-contract work (contentious and non-contentious) within the SGO. Consideration would also have to be given to alternatives such as the cost-effectiveness of outsourcing certain contract work as a possible means of dealing with increased contract work across CIG.</p> <p>Planned implementation date: None given.</p>			
<p>13. The Government should develop clear policies and procedures for extending contracts. (OAG)</p>	<p>Management agrees with this recommendation.</p> <p><u>Additional response from MDATT:</u> Agreed. The Ministry of DATT has discontinued the use of Evergreen clauses in</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p><u>Response from POLA:</u> There is no standard approach to extending consultant contracts. Each contract is assessed based on its own circumstances and advice rendered to the client accordingly. Ultimately, however, it is for the client entity to determine whether</p>	<p>No progress.</p> <p>We are aware from other audits (financial and performance) that a number of contracts continue to be extended.</p>

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	<p>its contracts. In addition, the Ministry hired an Operations Administrator in the Department of Tourism to improve the efficient management of consultant contracts in the areas of procurement, contract management and evaluation to avoid procurement delays.</p> <p>Planned implementation date: End of Q1 2019.</p>		our advice/recommendations will be accepted or not.	<p>The PAC may wish to ask for an update on the current number and value of all government contracts that have been extended without procurement and the reasons for extending contracts.</p>
14.	<p>The Government should continue to develop its procurement capacity and expertise. (OAG)</p>	<p>Management agrees with this recommendation.</p> <p>Management notes that this work is well on its way and will continue under the leadership of the Central Procurement Office and with the commencement of the new Procurement legislation in May 2018. A</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>Recommendation implemented.</p> <p>The OAG can confirm that the CPO has developed a network of procurement champions and provides regular advice and training, and support as necessary.</p>

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	<p>new website, additional training/ information sessions for Executives and staff involved in procurement, and the ongoing development of policies and guidance documents will complement the new Procurement legislation and help to build capacity and expertise.</p> <p>Management acknowledges the need to complement this with a cohort of trained specialists whose full-time focus is procurement and whose skills, and procurement outcomes, will be improved because they are doing transactions in sufficient volume to gain expertise and not simply conducting procurement as an occasional activity.</p>			

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		<p>Planned implementation date: Communications by CPO on the new Procurement Law and Regulations to begin February, 2018.</p> <p>Procurement Champions within each central Government Agency to be identified by 30 June, 2018.</p> <p>Capacity of CPO to be enhanced by 31 December, 2018.</p>			
15.	<p>The Government should establish effective policies, criteria and processes for evaluating and managing consultant contracts, including guidance on the</p>	<p>Management agrees with this recommendation.</p> <p><u>Additional response from MDATT:</u> Agreed. Although criteria and processes are not documented, for the most part the Ministry/Department consistently evaluates and manages consultants'</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>This recommendation has been implemented.</p> <p>There is a contract management toolkit on the CIG procurement website and can be found here: https://www.procure.gov.ky/procurement-legislation-policy-amp-guidance</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
options available to address poor performance and on carrying out post-contract evaluations. (OAG)	<p>performance as evidenced in the progress reports, minutes of meetings, performance feedbacks/post project evaluations conducted which were provided to the Audit Office.</p> <p>Planned implementation date: December, 2018.</p>			
<p>16. The Government should establish guidance for procuring and managing temporary staff. (OAG)</p>	<p>Management agrees with this recommendation.</p> <p><u>Additional response from MDATT:</u> Agreed. The Ministry/Department hires temporary staff for vacant positions awaiting recruitment or for specific one-off projects where additional staff is required to achieve objectives. The Ministry recommends this should be a centralised</p>	<p>No update provided in the Government Minute of July 2020.</p>	<p>This recommendation has been implemented for the appointment of temporary staff.</p> <p>This is addressed within the <i>Public Services Management Act (2018)</i> and the Personnel Regulations (2019 Revision). In addition, the Hiring Practices Policy (Personnel Circular 1 of 2017) provides CIG Managers with guidance relating to recruitment and employment contracts – which includes fixed term/temporary employment.</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
	<p>process managed by the Portfolio of the Civil Service. If this is not possible, the Ministry will have documented guidelines after consultation with the Portfolio of the Civil Service and the Central Procurement Office.</p> <p>Planned implementation date: December, 2018.</p>			
<p>The Committee agrees with and accepts the 16 recommendations made by the Auditor General, summarised in Appendix 3 of the OAG report. The Committee urges the Government to implement the recommendations</p>	<p>N/A</p>	<p>The Government Minute does not provide an update on the implementation of the OAG recommendations.</p>	<p>See 1–16 above.</p>	<p>See 1–16 above.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>as a matter of priority, given the extensive use of consultants and temporary staff in delivering Government services and projects. (PAC)</p>				
<p>17. The Committee recommends that the Government should develop clear guidance that requires permission to be sought prior to procuring external legal advice if not using the Portfolio of Legal Affairs. (PAC)</p>	<p>N/A</p>	<p>The Portfolio of Legal Affairs maintains its position that it will undertake a review of all contracts that are sent to the Attorney General’s Chambers for review. The Chambers, like other legal practices, acts on the instructions of its clients (Ministries, departments and other public entities). While the Chambers recommends the review of contracts before execution (and therefore agrees with the Committee’s recommendation), it cannot</p>	<p>The recommendation as stated is not accepted. Within the first quarter of 2022, guidance will be issued requiring POLA consultation and Deputy Governor permission, prior to procuring external legal advice.</p> <p><u>Update from POLA:</u></p> <p>The usual course would be for requests for advice/representation to first be made to the SGO/Chambers. If thereafter a client entity wished to engage a specialist legal advisor, while it is not for the</p>	<p>Recommendation in progress (action planned).</p> <p>The PAC may wish to ask for an update.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		<p>compel client entities to abide by this recommendation.</p> <p>Where requests are made for legal advice or representation, the usual practice is for the Portfolio to provide legal assistance to the client Ministries and Departments. If the Portfolio is unable to provide this assistance for reasons including, but not limited to, constraints on existing resources due to other ongoing matters within the Attorney General’s Chambers, the novelty or complexity of the issues raised, the need for specialized expertise in the subject area, or the political sensitivity or public importance of the matter, the Chambers would consider whether external legal support should be obtained and if so, a recommendation would be made to the client entity. If the client is in agreement, the</p>	<p>SGO/Chambers to ‘approve’ that engagement by a CIG entity/Chief Officer, our strong preference is that this be done through the SGO/Chambers. We would be able to offer, among other things, assistance in identifying suitable counsel with the appropriate skills and experience, preparation of letters of instruction and negotiating more favourable rates.</p>	

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		Chambers would offer to assist in recommending possible suitable counsel that could be utilized to assist. With a view to mitigating costs, the Chambers would act in an instructing capacity to external counsel and assist with legal preparation as far as possible.		
18.	The Committee recommends that the Government should consider carefully the legal advisers it is using, including whether they are potentially conflicted by being involved in any legal cases against the Government. (PAC)	N/A	The Government accepts this recommendation and would highlight that in selecting external counsel, the Chambers takes steps to identify attorneys with the requisite skills, knowledge and experience suited to the particular matter for which their services are sought. External counsel would also advise of any possible conflicts in accepting a brief from Government.	This recommendation has and continues to be implemented. This appears to be more a matter of professional ethics - legal counsel are required by the governing Codes of Conduct, rules of professional conduct or guidance of the professional bodies of which they are members, to undertake conflict checks before taking on any brief and this is routinely done by external counsel engaged by the Chambers.

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			<p>Given the role of the Attorney General (and by extension, the Chambers) as principal legal advisor to the Government, the Chambers is aware when litigation is instituted against a core Government entity (whether that be in the form of a Ministry or department). It will therefore be able to determine whether external counsel engaged to represent Government from time to time might be acting against Government and if so, the nature of the matter in which counsel is involved. This, in our experience, has been quite rare.</p> <p>It should be emphasized, however, that the mere fact that a barrister/attorney engaged by CIG for a matter (which is the specific query put to the Portfolio), has been involved in a case against CIG at some point in time will not necessarily give rise to a conflict of interest; it will depend on the particular circumstances. Further,</p>	

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			some conflicts can be managed (for example, by waiver with informed consent or creating ethical screens).	
19. The Committee recommends that the Government should ensure that its staff are educated on the new requirements of the Procurement Law and other developments, including standard terms and conditions of contract. (PAC)	N/A	<p>Government accepts this recommendation and provides the following facts that show the recommendation is being followed:</p> <p>During 2018 and 2019, over 600 Civil and Public Servants were trained on the <i>Procurement Law</i> and Regulations. Nine training sessions, have been delivered on the practical use of Bonfire, the Cayman Islands’ electronic procurement portal. These were attended by 144 Civil and Public servants. Further training workshops were held during September and October 2019 on the development of tender documentation and evaluation of tenders. 86 Civil</p>		<p>Recommendation implemented.</p> <p>The OAG can confirm that the Central Procurement Office provides ongoing training.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		and Public servants attended these workshops.		
20. The Committee recommends that Government ensure that in future all preparatory work is done in advance of new legislation being brought into force. (PAC)	N/A	<p>Government accepts this recommendation and confirms that as much preparatory work will be carried out as possible in advance of future new legislation coming into force.</p> <p>The following fact demonstrates that this recommendation was substantially followed in advance of the enactment of the <i>Procurement Law</i> on 1 May 2018:</p> <ul style="list-style-type: none"> 19 training workshops were delivered in advance of the procurement law being enacted. These were attended by over 400 Civil and Public Servants. 	<p>This recommendation has and continues to be implemented. One example is provided below.</p> <p>An example of recent new legislation being brought into force with thorough preparation, was the <i>Civil Partnership Act (2020)</i>. Preparatory work included clear sequential stages:</p> <ul style="list-style-type: none"> achieving an initial understanding of the Act from the Attorney General (AG) (and likely required Regulations) agreeing/developing Regulations and content with the Legislative Drafting Department; receiving input from, and providing regular information to, the Deputy Governor (DG) - to ensure responses to the 	Recommendation being implemented.

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
			<p>media/public could be provided;</p> <ul style="list-style-type: none"> • finalizing the drafting of the Regulations in preparation for Cabinet approval; • providing ongoing AG and DG briefings, to ensure relevant questions/clarifications could be provided; • developing a plan of action being developed, and presented to the DG; • liaising with the Government Information Services (GIS), in order to prepare media information; • providing a detailed study of the Act/Regulations by General Registry Management - to clearly understand their roles and responsibilities; • developing a manual register, forms and procedures for the registration of civil partnerships; • coding the Department's accounting system to enable 	

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
			funds to be received/receipted in relation to the Act; <ul style="list-style-type: none"> • designing and finalization of certification for formalisations and recognitions; and • supporting staff training, and briefings held with Civil Registrars. 	
21. The Committee recommends that Government ensure that the Portfolio of Legal Affairs is involved in the development of procurement guidance and standard terms and conditions of contract. (PAC)	N/A	Government accepts this recommendation. All procurement guidance is available on the Cayman Islands Government’s procurement website on the following link: https://www.procure.gov.ky/ The Procurement Office is the lead agency for issuing guidance on procurement practices and procedures. This link and all content on the website have been made available to the Portfolio of	This recommendation has been implemented through the provision of contract templates. The standard contract templates are available within the guidance of the bid document drafting centre here: https://www.procure.gov.ky/bid-document-drafting-centre They are in Appendix D – Contractual Terms and Conditions of each standard tender template.	Recommendation implemented.

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		<p>Legal Affairs to review and provide any further input to improve and ensure compliance with the laws and regulations of the Cayman Islands.</p> <p>The Portfolio of Legal Affairs has also assisted the Procurement Office with the preparation and finalization of certain standard terms and conditions of contract. The Portfolio, however, has emphasized that because the nature and complexity of contracts may vary, even where standard terms and conditions are used, contracts should be submitted for review prior to execution.</p> <p>The Portfolio has also offered to assist the Procurement Office in the review of terms and conditions of RFP template</p>		

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		documents currently issued by that Office for use across CIG.		
<p>22. The Committee recommends that Government ensure that training on the new <i>Procurement Law</i> and Regulations should make it clear that the requirements also apply to the hiring of temporary staff. (PAC)</p>	N/A	<p>The recruitment of temporary staff is distinguished from the procurement of temporary professional services from an employment agency. The <i>Public Service Management Law</i> (“PSML”) and Personnel Regulations allow for the appointment of staff on “temporary” contracts, under prescribed circumstances. The staff who are employed on short, fixed-term contracts are employees of the Cayman Islands Government, receiving salary and benefits. This recruitment is governed by the PSML and not the <i>Procurement Law</i>.</p> <p>In regards to the procurement of temporary professional services via an employment agency, Government accepts</p>	<p>The recommendation as stated is not accepted, as the Procurement Law does not apply to temporary staffing. The hiring of temporary staff is addressed within the <i>Public Services Management Act (2018)</i> and the Personnel Regulations (2019 Revision).</p> <p>Paragraph 3 (1) (c) of the <i>Procurement Act</i> states that the Act does not apply to ‘Contracting for Employment’. There are therefore no procurement policies related to employment contracts entered into via a recruitment agency.</p>	Recommendation not accepted.

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		<p>the spirit of this recommendation and will comply with it when it is practical to do so. Section 3(1)(c) of the <i>Procurement Law</i> states that contracting for employment is an exception and in these circumstances the <i>Procurement Law</i> does not apply i.e. where the hiring of temporary or short term staff results in an employment contract, the <i>Procurement Law</i> does not apply. However, the Law specifies that the principles of procurement must still be followed to ensure value for money.</p> <p>The Government accepts the recommendation to emphasise, during training, the applicable provisions of the <i>Procurement Law</i> when procuring temporary professional staff from an employment agency.</p>		

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>23. The Committee recommends that Government ensure that the Portfolio of Legal Affairs should prepare brief business cases to justify the need to the use of all consultants and legal advisers (at the hearing PLA committed to doing this by September 2018). (PAC)</p>	<p>N/A</p>	<p>The Portfolio of Legal Affairs has been preparing brief business cases for the use of consultants and legal counsel.</p>	<p>This recommendation is implemented as POLA continues to prepare business cases for such purposes.</p> <p>Please refer to the relevant response provided within recommendations 5 and 9 above.</p>	<p>Recommendation implemented.</p>
<p>24. The Committee recommends that Government should invest more in staff training and development to ensure that it has the skills and</p>	<p>N/A</p>	<p>The Government agrees in principle with this recommendation and notes that this is an on-going initiative across the Civil Service. Training and development are priorities in the 5 Year Strategic Plan and</p>	<p>This recommendation has been implemented and is ongoing.</p> <p>The CIG has already outlined a wide variety of training and development initiatives in the previous management response to this recommendation. The CIG</p>	<p>Recommendation in progress.</p> <p>The response mostly relates to training for project management, business case development, change</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>expertise it needs now and in the future with a view to reducing its overall spending on consultants. (PAC)</p>		<p>are also embodied in the CIG Core Competency Framework, where individual contributors have a responsibility to develop themselves and managers have a responsibility to develop themselves and their teams. There has been a significant increase in training and development activity over the past two years, with a particular focus in the areas of project management, business case development, change management, and leadership. There has also been some training in business process review and, more recently, in the area of innovation. While the Civil Service is building our capacity in these areas, it is anticipated that it will take some time for the trainees to gain the necessary experience and to build their proficiency in these areas to allow them to work independently.</p>	<p>also continues to use secondments of existing staff as both a tool for employee development, as well as to help cover temporary vacancies – please see below.</p>	<p>management and leadership. The Government commissions consultants to deliver a wide range of activities. It is not clear if staff are being trained in these other aspects.</p> <p>The PAC may wish to ask for an update on the impact of training in the areas specified on the commissioning of, and expenditure, on consultants for these types of services.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		<p>Consequently, it is anticipated that there will continue to be a need to engage some external support in some of these areas while recently trained staff obtain the necessary exposure.</p> <p>An example of the training that we have done to increase our internal capacity was the training that was coordinated by the Strategic Reforms and Implementation Unit under the Office of the Deputy Governor in 2018 and 2019 (and continues in 2020). This training focused on project management, business case preparation, and change management.</p> <p>APMG Better Business Cases (BBC) Foundation and Practitioner – Based on the ‘Five Case Model’ – the UK government’s best practice approach to developing spending proposals and</p>		

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		<p>enabling effective business decisions – this certification is focused on the expertise needed to develop effective business cases and spending proposals. (Candidates must earn the Foundation certification prior to taking the practitioner course and exam.)</p> <ul style="list-style-type: none"> • Better Business Cases Foundation level certification - 40 persons • Better Business Cases Foundation & Practitioner level certification - 17 persons <p>APMG Change Management Foundation and Practitioner – Developed in collaboration with the Change Management Institute this course and exam is designed to help organisations and their people manage the impact of change and provide techniques to effectively plan and implement</p>		

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		<p>successful transformation initiatives.</p> <ul style="list-style-type: none"> • Foundation level certification - 1 person • Foundation & Practitioner level certification - 19 persons <p>APM Project Fundamentals Qualification (PFQ) – Developed by APM, the chartered body for the project profession, this course and exam is focused on the key elements of the project management life cycle and covers knowledge areas including: planning and scheduling, communication, resource management, project risk management and project reviews.</p> <p>APM Project Management Qualification (PMQ) – Developed by APM, the chartered body for the project</p>		

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		<p>profession, this course and exam assesses breadth of knowledge in all areas of project management and covers knowledge areas from the APM Body of Knowledge, including budgeting and cost management, conflict management, communication, earned value management, leadership, negotiation, procurement, sponsorship and teamwork. (Candidates must earn the PFQ prior to taking this course and exam.)</p> <ul style="list-style-type: none"> • Foundation (PFQ) level certification - 54 persons • Foundation (PFQ) and Practitioner (PMQ) level certification – 19 		
25.	The Committee recommends that Government should develop a pool of Caymanian	N/A	The Government continues to develop its Caymanian staff to meet its workforce needs. Employees are encouraged to undertake training related to	The recommendation as stated is not accepted. The Cayman Islands Government remains committed to the recruitment of Caymanians, Recommendation not accepted.

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>staff that it can draw on to provide temporary cover when needed, rather than hiring temporary staff through recruitment agencies. (PAC)</p>		<p>both their current and future roles.</p> <p>Where a vacancy is temporary, it can be difficult to forecast the need and to match that with a standing pool of reserved candidates whose competencies are perfectly matched to short term vacancies which arise.</p> <p>There are numerous ways that the need for temporary cover may arise – resignations, maternity cover, long term serious illnesses, and death can all result in an unanticipated and unplanned need for temporary cover within a Civil Service entity. It should be noted that as the roles that may unexpectedly become vacant may vary significantly, and the vacancy may be only short term, it is notoriously difficult to maintain adequately skilled persons who remain on</p>	<p>both at a temporary and permanent level.</p> <p>The Hiring Practices Policy (Personnel Circular 1 of 2017) provides CIG Managers with guidance relating to recruitment and employment contracts. This policy allows for the Deputy Governor to approve temporary appointments without having to advertise the post, and this includes ‘urgent appointments’ as well as ‘temporary staff appointed for three months or less’ (paragraph 5.4). Such appointments can be made under section 32 of the Personnel Regulations (2019 Revision).</p> <p>CIG does not have a corporate scheme relating to “pools” of Caymanian staff to cover short-term employment. However individual entities and departments have the ability to utilise different approaches to meet their business needs. For</p>	

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
		<p>standby only, until needed. The impacted areas of expertise vary and are difficult to forecast. The skills and expertise may be in financial management, administrative assistance, or specialized technical expertise.</p> <p>The need for someone in a temporary capacity is met through a number of different means, and temporary workers from recruitment agencies make up only a small proportion of the temporary staff. The use of Acting appointments, temporary employment contracts, internal secondments, and bringing retirees back to work on a temporary basis are some of the main avenues that are used to address the need for temporary cover.</p>	<p>example the Education Department has historically pulled from a pool of retired teachers for their supply teaching needs.</p> <p>The CIG has used secondments of existing staff as both a tool for employee development, as well as to cover temporary vacancies. IRIS is showing approximately 16 secondments currently; however [there are likely to be more because where] ... the primary employer is paying for the secondment it is not recorded in IRIS.</p>	

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
<p>26. The Committee recommends that the Government should develop a better understanding of and collect information on temporary staff hired through recruitment agencies. (PAC)</p>	<p>N/A</p>	<p>The Government believes that rather than creating another reporting regime, which has an emphasis on historical data, and given the unique circumstances that lead to the various uses of recruitment agencies for temporary cover, it is better to allocate limited resources toward the implementation of work force planning. Government has committed to implement workforce planning over a five-year period, enabling agencies to better forecast their workforce needs in light of their medium term business objectives.</p>	<p>Update not required. Recommendation not accepted.</p>	<p>Recommendation not accepted.</p>
<p>27. The Committee recommends that the Government should not use recruitment agencies that are</p>	<p>N/A</p>	<p>Recruitment agencies operating in the Cayman Islands are subject to an established regulatory framework in order to conduct business, obtain a valid trade</p>	<p>The recommendation as stated is not accepted. There is no objective method to clearly identify recruitment agencies who</p>	<p>Recommendation not accepted.</p>

Recommendation	Original management response to OAG recommendation (February 2018)	Government response (July 2020)	Government update (December 2021)	OAG comment (January 2022)
known to not promote Caymanians first. (PAC)		and business license and to operate in compliance with the established immigration requirements and policies. Government is committed to only engaging with recruitment agencies who are in good standing.	do/do not promote Caymanians first. Personnel Circular 6 of 2007 – Employment of Consultants and Temporary Relief Staff has been issued by POCS	

APPENDIX 2 – GOVERNMENT’S USE OF OUTSOURCED SERVICES (JUNE 2019)

The Public Accounts Committee (PAC) held three meetings to consider the report between 5th September 2019 and 13th February 2020. In its report, laid on the Table of the Legislative Assembly on 1st July 2020, the PAC concluded:

- The Cayman Islands Government outsources some of its services to private sector contractors. It is essential that the Government receives value for money from these outsourced services. The Government remains responsible for the services that it outsources and therefore needs to have appropriate accountability arrangements in place.
- The PAC endorses the 15 recommendations made by the Auditor General as set out in Appendix 3 in the OAG report and encourages the Government to implement these as soon as possible.
- The Committee is concerned that it took over two years for the Procurement Regulations to support the *Procurement Law 2016* to be developed, potentially delaying the improvement of procurement practices in the Government and wider public sector. The Committee recommends that civil servants provide a clear timeline for the development of all supporting documents and activities needed to bring legislation fully into force when it presents draft legislation to the Legislative Assembly.
- The Government should ensure that it achieves value for money from the delivery of services. It has a crucial role to play in providing jobs for Caymanians. The Committee recommends that the Government should routinely assess those services that it has outsourced to determine whether it would be better to deliver these services in-house.

OAG comment on the Government response: The Government has made good progress in implementing the recommendations made by the PAC and the OAG. The PAC and OAG made a total of 17 recommendations. Of the 17 recommendations, 13 have been implemented (76 per cent) and two have been partly implemented. There has been no progress with two recommendations. We have therefore assessed the overall progress with implementing the recommendations as **Green** (Significant progress).

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>1. The Government should develop a procurement manual, as a matter of urgency that is in line with the <i>Procurement Law</i> and Procurement Regulations. The manual should be supplemented with a complete set of well-designed templates for use across the entire civil service. (OAG)</p>	<p>Management notes that, since the period of this audit (2012-2017), in addition to implementing a new <i>Procurement Law</i> and Regulations in May, 2018, the CPO has established a new Procurement Portal, which it has populated with a wealth of procurement templates and other resource and guidance materials (see details below).</p> <p>Management agrees that some additional guidance would be helpful, and proposes that CPO develop a Procurement Guidance Document. The purpose of this document would be to help public servants engaged in procurement to find a path through the templates and resources available on the https://www.procure.gov.ky/ website from the beginning to the conclusion of their procurements.</p> <p>Details of Procurement Resources and Materials developed since the audit period include:</p> <p>a. The Cayman Islands Government procurement website: https://www.procure.gov.ky/ contains all templates that can be used by the entire public sector of the Cayman Islands which are in line with the procurement law and regulations.</p> <p>b. This link on the CI procurement website</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented by the Central Procurement Office.</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
	<p>https://www.procure.gov.ky/procurement-legislation-policy-amp-guidance contains copies of the Procurement Law, Regulations, Reference guides, Code of Conduct for Procurement, Procurement Policy as well as other related laws and regulations.</p> <p>c. This link: https://www.procure.gov.ky/orbidder provides access to the automated drafting system (including training videos on its use) for tender documentation and includes a number of templates for the various procurement routes allowed in the procurement law.</p> <p>d. This link: https://www.procure.gov.ky/understanding-the-procurement-journey provides guidance on roles and responsibilities, strategic considerations, methods of supply, bid development, evaluation, solicitation, contract management and a tool list to guide people through the procurement process. This page also has detailed training including videos on the use of the CIG electronic procurement portal, Bonfire.</p> <p>Planned implementation date: End of September, 2019.</p>		

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>2. The Government should, as soon as possible, update the Financial Regulations to rectify any inconsistencies with the Procurement Regulations. (OAG)</p>	<p>While noting that the recommendation is outside the timeframe of the audit, Management agrees with recommendation. The Financial Secretary has already established a project team to undertake the legislative review.</p> <p>Planned implementation date: End of Dec 2019.</p>	<p>A project team, which comprised of staff from the Central Procurement Office, the Ministry of Finance and the Strategic Reforms Implementation Unit was tasked with rectifying the duplications, inconsistencies and gaps between the Financial Regulations, the Procurement Regulations and the <i>Procurement Law</i> (“the Legislation”). The work of the project team was reviewed and overseen by a Steering Committee consisting of the Honourable Deputy Governor, the Financial Secretary and Chief Advisor to the Deputy Governor.</p> <p>On 9 June 2020, Cabinet approved the issuance of drafting instructions to amend the Legislation and the Legislative Drafting Unit is currently preparing the Orders and Bill to achieve the amendments. The Government aims to have the Orders approved by Cabinet by 31 August 2020 and the Bill approved by the Legislative Assembly by 31 October 2020 - or sooner depending upon the timing of the Meetings of the Legislative Assembly.</p>	<p>No progress.</p> <p>The OAG is aware from its performance audit on <i>Improving Financial Accountability and Transparency: Financial Management and Reporting</i> (May 2021) that this recommendation had not been implemented. The Ministry of Finance and Economic Development (MFED) told us that this recommendation would now be completed by the end of December 2021; two years later than originally planned.</p> <p>The PAC may wish to ask for an update.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>3. The Government should ensure that strong business cases are prepared to justify the need for outsourced services and the value for money to be delivered. (OAG)</p>	<p>Management agrees with this recommendation. Since the timeframe of this audit, the Government has mandated the use of business cases in the Procurement Law and Regulations for procurements over CI\$100k. For example, Procurement Regulation 3(1) sets out the following requirements:</p> <p><i>3. (1) A procurement process may be initiated by an entity only after the procurement project has been appraised and the results documented in an approved business case.</i></p> <p><i>(2) The business case shall -</i></p> <p><i>(a) demonstrate the economic need for the project;</i></p> <p><i>(b) include a thorough risk and impact assessment that details costs and the socio-economic impact of the procurement project on small and medium sized suppliers operating in the Islands;</i></p> <p><i>(c) provide a breakdown of all anticipated procurement projects within the larger project;</i></p> <p><i>(d) recommend the procurement method to be utilized;</i></p> <p><i>(e) specify the benefits that the project is expected to deliver;</i></p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented. Business Case templates and preparation guidance are located on the Central Procurement Office’s website: https://www.procure.gov.ky/templates</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
	<p><i>(f) demonstrate the options to be incorporated into the procurement process to promote positive economic development of the Islands in accordance with regulation 20; and</i></p> <p><i>(g) demonstrate that there is a basis on which a decision may be made on whether to proceed to the procurement stage.</i></p> <p>Compliance with the requirements for business cases in legislation should help Chief Officers and their teams to deliver strong business cases and value for money in decisions around outsourced services.</p> <p>At the same time, Management recognises that implementation of this work is at an early stage and requires on-going support and capacity-building. A range of strategic support is already being provided, e.g.:</p> <ul style="list-style-type: none"> • Standard templates for CIG business cases (developed by the Strategic Reforms Implementation Unit-SRIU) have been approved by the Director, CPO, to justify and support all investment decisions and procurement spends. • Further, as part of a strategy to develop civil service capability in relation to the development and appraisal of business cases and project execution, the SRIU is in its second year of facilitating certification 		

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
	<p>training from APMG, a global accreditation and examination institute, for business case development and project management, change management (new in 2019) and has held Master Classes for Business case reviewers.</p> <p>In 2018:</p> <ul style="list-style-type: none"> • 34 civil servants gained Better Business Cases (BBC) Foundation certification from the Association for Project Managers (APM) in business cases development; • 87 gained APM PQF Foundation certification in project management; • 17 persons, including 2 MLAs, attended a master class for strategic leaders responsible for reviewing and approving business cases. <p>In 2019:</p> <ul style="list-style-type: none"> • 21 persons attended a master class for strategic leaders responsible for reviewing and approving business cases; • 60 persons are scheduled to take project management training (20 for PFQ-Foundation Level and 40 for PMQ-Practitioner level); • 40 persons are scheduled to attend better business case training (20 for BBC Foundation and 20 for BBC Practitioner); 		

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
	<ul style="list-style-type: none"> • 20 persons are scheduled to attend Practitioner level certification in change management; • 60 people are scheduled to attend a Benefit Management master class to ensure that managers are able to identify, define and test the business benefits for projects; • 40 Strategic leaders are scheduled to attend master class to be an effective sponsor for business case and project delivery. <p>Planned implementation date: On-going.</p>		
4.	<p>The Government should ensure that Requests for Proposals and Invitations to Tender are prepared for all open procurements and are in line with policies and procedures. (OAG)</p> <p>Management agrees with this recommendation, and since the timeframe of this audit, the Government has established in the procurement legislation the requirements for the way tenders are to be prepared (for example, Procurement Regulation 7, which sets out the requirements pertaining to Competitive Procurement methods). In addition, the CPO provides guidance and other support for Chief Officers and their teams, in order for them to fulfil their responsibilities in this area under the Law and Regulations.</p> <p>For example, the CPO has provided a range of additional resources, including the automatic drafting system for developing RFPs identified in management response 1.c above.</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.</p> <p>The Central Procurement Office continues to provide training and over 100 public servants have received training on Requests for Proposal and on Tender Documentation Development and Evaluation.</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
	<p>The CPO is also available to offer hands-on guidance and support, as requested.</p> <p>Planned implementation date: On-going.</p>		
5.	<p>The Government should ensure that there is sufficient justification for single-source procurements and that it is properly documented and approved, and should secure the approvals before the supplier is appointed. (OAG)</p>	<p>Management agrees with this recommendation, and since the timeframe of this audit, the Government has set out in procurement legislation (see Regulation 5) requirements for single-source procurements, including thresholds and approvals.</p> <p>The process is also set out on the CI procurement website including template forms for justification and approval. https://www.procure.gov.ky/direct-award-process</p> <p>Management anticipates compliance with the legal requirements, going forward.</p> <p>Planned implementation date: On-going.</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.</p> <p>Recommendation implemented.</p>
6.	<p>The Government should continue to develop procurement expertise across its staff to support effective procurement. (OAG)</p>	<p>Management agrees with this recommendation. The <i>Procurement Law</i> states that the training and education of colleagues involved in procurement is the responsibility of the Chief Officer, Chief Executive Officer, and the Director of the CPO. Management acknowledges that the further development of procurement expertise needs to continue to be an ongoing priority and commitment for all concerned parties.</p>	<p>Further to the detailed management response to the Report of the Auditor General, the Central Procurement Office continues to develop procurement expertise and provide effective support across the public service.</p> <p>In August 2019, the Central Procurement Office conducted a 5-</p> <p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
	<p>Since the timeframe of this audit, and specifically since the implementation of the <i>Procurement Law</i> and Regulations, the CPO has facilitated training sessions for over 900 public servants, in procurement; the Law and Regulations; practical use of the electronic procurement portal; and document generation.</p> <p>In addition, Management proposes the following additional activities to be undertaken:</p> <ul style="list-style-type: none"> • CPO to facilitate the establishment of Procurement Champions and a procurement forum and working group • CPO to facilitate procurement certification and training and development opportunities for the public sector <p>This is to pursue opportunities for membership, professional procurement certifications and ongoing training and development for civil/public servants from an internationally-recognised body such as Chartered Institute of Procurement and Supply.</p> <p>Planned implementation date:</p> <p>CPO, COs/CEOs to continue to develop procurement expertise across civil/public service staff – On-going.</p>	<p>series live webinar training programme where 150 public servants learned how to utilise the Government’s e-procurement tools. The webinars were recorded and are available at: https://www.procure.gov.ky/bonfire-training</p> <p>Also in September 2019, the Central Procurement Office conducted a workshop on Specifications Development and Evaluation Criteria which was attended by 100 public servants.</p> <p>The Central Procurement Office has approved the Chartered Institute of Procurement and Supply (CIPS) as the accreditation body for professional procurement training and certification. Five public servants have embarked on this training programme and one staff member from the Central Procurement Office has also committed to achieving chartered status for CIPS.</p>	

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
	<p>COs to nominate Procurement Champions for the CPO to work with in continuing the development of procurement expertise across the Government – by end of August 2019.</p> <p>CPO-To facilitate procurement certification training and development – by end December 2020.</p>		
7. The Government should monitor and analyse how much it is spending on outsourced services, in order to provide management information that will help inform decision-making on the future outsourcing of services. (OAG)	<p>Management agrees that the spend on outsourced services should be monitored by Ministries, but in a manner that is proportionate to the percentage of overall spend. Given the relatively small percentage of annual spend; management seeks additional clarification as to the nature/extent of any additional centralised monitoring anticipated by the OAG.</p> <p>Management proposes, through the FS, to consult with CFOs to agree appropriate ways forward.</p> <p>Planned implementation date: End of Dec 2019</p>	<p>Further to the detailed management response to the Report of the Auditor General, consultation with Chief Financial Officers will be undertaken to identify the best fit approaches to monitoring and analysing spend on outsourced services. The Ministry plans to have this recommendation implemented by the end of 2020.</p>	<p>Action planned to implement the recommendation.</p> <p>The response states that MFED planned to implement this recommendation by the end of 2020. We have not received an update on whether this has now been implemented.</p> <p>The PAC may wish to ask for an update.</p>
8. The Government should look at options to centrally procure and contract out similar types of services in order to make better	<p>Management agrees with this recommendation. The Government should have a strategy to procure for services across entities where it is more efficient and cost effective to do so. Since the timeframe of this audit, the Government has already established a framework for the central</p>	<p>Further to the detailed management response to the Report of the Auditor General, the Central Procurement Office continues to support collaboration across Ministries and procure similar products and services</p>	<p>It is not clear if this recommendation has been implemented.</p> <p>The updated response provides examples given</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>use of its collective buying power, while meeting other policy objectives such as supporting small and medium-sized companies. (OAG)</p>	<p>procurement of stationery supplies. However, management notes that central procurement in areas where the specifications vary, such as security services, will be more difficult and require more collaboration and consultation across agencies.</p> <p>As a next step forward, Management proposes that the CPO, in consultation with the relevant Ministries, facilitate a review of the various outsourced services and identify any additional viable options for central procurement.</p> <p>Planned implementation date: Review by end of Dec 2019 and proposal by Mar 2020.</p>	<p>to better utilise collective buying power.</p> <p>Since the management response, in February 2020, the Government has centrally re-tendered and entered into new framework agreements for the supply of office products, paper, printing consumables, janitorial and sanitation products. In December 2019, the Government also entered into framework agreements titled ‘Computers for Government’ which is available to all entities to source from. In June 2020, the Government also procured its Oracle Software maintenance and support jointly across two Ministries.</p> <p>In addition, where products and services are procured by one entity and it is appropriate, the advice from the Central Procurement Office is that the outcome of the procurement should be made available to all entities. Consultation is ongoing with Chief Officers and Ministries to identify further opportunities for collaboration and joint procurements to take advantage of increased buying power.</p>	<p>are for procurement of goods not outsourced services.</p> <p>The PAC may wish to ask for information on whether the CPO has supported core government with centrally procuring outsourced services.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>9. The Government should ensure that it carries out market research in advance of procuring outsourced services or deciding to outsource a particular service for the first time. (OAG)</p>	<p>Management agrees with this recommendation, and since the timeframe of this audit, the Government has introduced into the Procurement Regulations (Regulation 10) provisions for market research to be undertaken, where it is appropriate to do so. In addition, a Request for Information template is available within the document drafting system “Orbidder”.</p> <p>Management further advises that market research is currently being conducted within CIG, and notes that since the beginning of 2018, 12 Requests for Information (one approach to market research) have been conducted through the CI Government electronic procurement portal (Bonfire). In addition 33 market research reports have been requested and developed by the CI supply market research provider (Procurement QI), for various procurement projects.</p> <p>Management notes that the data provided by the OAG in its report suggests that the outsourced services within CIG have remained relatively static over the period of review for this audit.</p> <p>Planned implementation date: On-going.</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>10. The Government should ensure that it prepares robust pre-tender estimates to inform the procurement process for future outsourced services. (OAG)</p>	<p>Management agrees with this recommendation, and notes that, since the timeframe of this audit, standard CIG business case templates have been introduced, which provide a robust framework and structure for decision-making, including the development and consideration of pre-tender estimates (e.g. The Financial Case section).</p> <p>Planned implementation date: On-going.</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.</p>	<p>Recommendation implemented.</p>
<p>11. The Government should develop new approaches, such as more and better engagement with the market, to foster competition among potential suppliers of outsourced services. (OAG)</p>	<p>Management notes this recommendation, and agrees that, with the advice and guidance of the CPO, CIG should continue to explore a variety of market engagement approaches, such as those referenced within the OAG report, to foster competition among potential suppliers. This work will be complemented by the use of market research resources discussed in response to recommendation 9, above.</p> <p>Planned implementation date: On-going.</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented.</p> <p>The different approaches to foster competition are included in the procurement training delivered by the Central Procurement Office. This includes Requests for Information, access to US market reports on over 1,000 products and services, and inviting suppliers through the Government’s electronic procurement portal. The portal, Bonfire, now has over 3,600 suppliers registered and will get automatic alerts to opportunities for which they are registered.</p>	<p>Recommendation being implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>12. The Government should ensure that contracts for outsourced services are in the best interests of the Government, including appropriate clauses such as consequences for poor or non-performance, and termination clauses. Contracts should set out success measures that are clearly linked to the needs of the Government. (OAG)</p>	<p>Management agrees with this recommendation. Government should ensure that contracts are sent to the Solicitor General’s Office (SGO) for review.</p> <p>In addition to the above, the SGO will work to issue some basic contract terms/templates to Government.</p> <p>Response from General Registry: The success measures are documented from both a functionality standpoint and at a service level. Functionality requirements are agreed upon at the onset of an enhancement request and updated on an iterative basis to meet the needs of the industry. General Registry tests the delivery of the functionality during a User Acceptance Testing (UAT) cycle for each enhancement. This ensures the functionality measure is delivered as expected.</p> <p>Furthermore, each module is piloted by selected service providers prior to full implementation.</p> <p>The service level is specified in the Master Service Contract and monitored by a 24/7 automated application to ensure the availability of the online service used by both General Registry users and CSP users.</p> <p>Planned implementation date: COs - On-going. SGO – by end of July 2019.</p>	<p>The Government accepts this recommendation.</p> <p>The Attorney General’s Chambers, when preparing or reviewing contracts at the request of a Ministry or Department, looks at, among other things, clauses for termination, warranties and indemnities and limitation of liability with a view to mitigating the overall contract risk to CIG. The Chambers has also provided the Procurement Office with some standard clauses that should be incorporated into CIG contracts.</p> <p>The Chambers agrees with having success measures within contracts, to the extent that these can properly be incorporated into contracts. However, success measures or KPIs such as contract lifecycle, delays in approvals and missed milestones may be more a matter of contract management and evaluation of performance by contract managers during and after contract execution.</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>13. The Government should ensure that the duration of contracts for outsourced services achieve value for money, balancing the need for regular market testing and the administrative costs of procurement. (OAG)</p>	<p>Management agrees with this recommendation. The CPO is available to advise COs/CEOs on how to make decisions in relation to contract duration, to ensure the proper balance of considerations is achieved. In addition, the standard business case templates, in the sections dealing with Procurement and the Commercial Case for a project, prompt users to consider and document considerations and proposals relating to the specification and duration of contracts.</p> <p>Planned implementation date: On-going.</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been fully implemented. The guidelines related to the length of contracts is also covered in the training delivered by the Central Procurement Office.</p>	<p>Recommendation implemented.</p>
<p>14. The Government should ensure that contracts have expiry dates and that written contracts are in place for all outsourced services. (OAG)</p>	<p>Management agrees with this recommendation, and expects compliance for any new contract awards, and further anticipates that this matter will be addressed within the standard contracts proposed by the SGO.</p> <p>Management proposes, through the CPO, to provide guidance and support to COs to resolve examples cited by the OAG of existing contracts without expiry dates.</p> <p>Planned implementation date: End of Dec 2019.</p>	<p>As detailed in the management response to the Report of the Auditor General, this recommendation has been actioned with ongoing guidance and support by the Central Procurement Office. This guidance and support is provided through training delivered by the Central Procurement Office.</p> <p>In addition, the Central Procurement Office has contacted Chief Officers for the identification of any services which may not have written contracts in place. The Central Procurement Office will then support and guide Ministries with any such</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
		contracts through a procurement process to ensure that they are in compliance with the procurement laws and regulations. This is an ongoing process.	
<p>15. The Government should establish effective policies, criteria and processes for evaluating and managing contracts for outsourced services, including guidance on the options available to address poor performance and on carrying out post-contract evaluation. (OAG)</p>	<p>Management agrees with this recommendation, and proposes, through the CPO, to:</p> <ul style="list-style-type: none"> Review the contract management frameworks for the existing outsourced services contracts and to recommend contract management arrangements that are appropriate for each contract/service. <p>Response from General Registry: General Registry closely manages the Brac Informatics contracted service. Using an online Help Desk system any functionality issues identified by users of the service are documented. These are reviewed by GR/BIC staff and dispatched for resolution. Delivery of requested enhancements and the status of help desk tickets are reviewed on a weekly basis at a joint GR/BIC project team meeting. All issues are addressed and resolutions documented.</p> <p>Planned implementation date: Review by end of Dec 2019 and proposals for new contract management proposals by June 2020.</p>	<p>The Central Procurement Office is in the process of developing a practical contract management toolkit for managers to utilise in the effective management of their outsourced services. The toolkit will be available in August 2020, following which a training program will be delivered to managers across the Cayman Islands public sector on an ongoing basis.</p>	<p>Recommendation implemented.</p> <p>The OAG can confirm that the CPO website contains a contract management toolkit and training was provided.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>The PAC endorses the 15 recommendations made by the Auditor General as set out in Appendix 3 in the OAG report and encourages the Government to implement these as soon as possible. (PAC)</p>	<p>N/A</p>	<p>Updated responses to each of the OAG’s 15 recommendations are outlined above.</p>	<p>See 1 – 15 above.</p>
<p>16. The Committee recommends that civil servants provide a clear timeline for the development of all supporting documents and activities needed to bring legislation fully into force when it presents draft legislation to the Legislative Assembly. (PAC)</p>	<p>N/A</p>	<p>The Government agrees with the recommendation of the Public Accounts Committee and will ensure that there are sufficient resources to fully support and implement new legislation, policies and procedures.</p>	<p>Recommendation to be implemented but it is not clear how this will be done.</p> <p>The PAC may wish to ask the Government to provide examples of when this recommendation has been put into practice.</p>
<p>17. The Committee recommends that the Government should routinely assess those services that it has outsourced to determine whether it</p>	<p>N/A</p>	<p>Value for money is a key principle set out in the Procurement Law. When an outsourced service contract expires and has to be renewed, the Procurement Regulations require that a business case is completed and approved prior to the</p>	<p>Recommendation implemented.</p>

Recommendation	Original management response to OAG recommendation (June 2019)	Updated response in Government Minute (July 2020)	OAG comment (January 2022)
<p>would be better to deliver these services in-house. (PAC)</p>		<p>commencement of the re-procurement. The business case is designed to support evidence based decision-making. This decision-making process includes the assessment of all options including that of bringing the service in-house.</p> <p>In regards to providing jobs for Caymanians, it is important to note that this broader objective is captured in Procurement Regulation 20, Cayman Islands Economic Development Preference. This is supported by local industry consultation and local industry impact statement from bidders to evaluate which submission provides the most positive impact on the Cayman Islands. This evaluation can contribute to the allocation of points the overall scoring of bids to determine the preferred bidder.</p>	

APPENDIX 3 - FIGHTING CORRUPTION IN THE CAYMAN ISLANDS (NOVEMBER 2019)

The Public Accounts Committee (PAC) held five meetings to consider the report between 8th January and 20th March 2019. In its report (laid on the Table of the Legislative Assembly on 13th November 2019), the PAC concluded:

- Corruption has been identified as one of the most important problems facing the world today, and addressing it has become increasingly urgent. Corruption is a problem that affects both advanced and developing countries, and exists in both the public and private sectors.
- The PAC endorses the [11] recommendations of the Office of Auditor General.
- The *Public Authorities Law* should be amended to include the Central Planning Authority (CPA) and Development Control Board (DCB) and other boards in Government or Legislation passed to provide similar provisions to allow Ministers proper oversight.
- All future legislation that carries a clause to bring the law into effect by order in Cabinet to have a date by which the law should come into effect.
- The Cayman Islands Government should make fraud training a part of every new employee induction program.
- The Director of Planning should ensure that any potential conflicts by Board members' with agenda items should be declared at the start of each meeting of the CPA and DCB.
- The Director of Planning should audit Board members' declaration of interest along with their declared conflicts; with agenda items at Board meetings.
- The Government should consider amending the Development and Planning Law and Regulations to ensure that developers put in place reasonable traffic management devices such as speed bumps.

OAG comment on the Government response: The Government Minute was tabled in July 2020. As a result the OAG obtained an update on progress with some of the recommendations from the Office of the Deputy Governor in early November 2021.

The Government has made significant progress in implementing the recommendations. Of the 17 recommendations made, two recommendations were not accepted. Of the remaining 15 recommendations, nine have been implemented, four have been partly implemented or action is planned, and there is no progress with two. We have assessed overall progress with implementing the recommendation as **Green** (significant progress) as 77 per cent of the recommendations have been implemented or partly implemented.

Recommendation	Original management response to OAG recommendation (November 2018)	Government response (July 2019)	Updated Government response (November 2021)	OAG comment (January 2022)
<p>1. The Government should bring into force the <i>Standards for Public Life Law 2014</i> urgently. (OAG)</p>	<p>The commencement of laws on behalf of the Government is the prerogative of the Cabinet. The status of the Law is regularly highlighted in the Commission’s own reporting.</p> <p>Planned Implementation date: none given</p>	<p>This has been completed. On 25 February 2020, HE the Governor, signed the Commencement Order for the SPL and the SPL (Amendment) Law 2016 as well as the SPL Regulations 2020.</p>	<p>N/A</p>	<p>Recommendation implemented.</p>
<p>2. The Government should consider extending the list of designated authorities to whom whistle-blowers can turn.</p>	<p>This recommendation is noted for consideration, and the Deputy Governor agrees to consult with the relevant agencies to determine if this is a necessary and appropriate action to take now or in the future.</p> <p>Extending the list of designated authorities could widen access for whistle-blowers. At the same time it could present issues including: challenges for ensuring a consistent approach</p>	<p>This is in progress. Consultation held with key stakeholder agencies, including the OAG, Ombudsman and the IAS, identified that there is no current restriction on where an individual can go to make a disclosure of improper conduct, and that a non-designated authority can ensure whistle-blowing protections for an individual by arranging for the whistle-blower to make the disclosure</p>	<p>It is expected that in the first quarter of 2022 there will be an amendment to the WPA [<i>Whistleblower Protection Act</i>] to extend the agencies.</p>	<p>Recommendation in progress.</p> <p>Action planned but not yet complete.</p>

		<p>among the different authorities, potential duplication of efforts, data collection and reporting challenges, etc. It would also require clear protocols and procedures to be established and maintained for cross-agency collaboration and communications.</p> <p>The term “designated authority” has a specific meaning within the context of the <i>Whistleblower Protection Law</i> and it is noted that the law applies horizontally to the private and public sectors. Other oversight bodies, such the Auditor General’s Office, only have jurisdiction within the public sector. It is possible to adopt a “whistleblower” clause in the <i>Public Management and Finance Law</i>, for example, to extend protections for persons who report wrongdoing without extending the actual remit of the OAG to the private sector. So there may be alternative ways of achieving the objective.</p>	<p>to the Ombudsman. The stakeholders agreed that while the proposal to expand the number of designated authorities has merits, there are also potential drawbacks that would require further consideration/mitigation. They recommended that the stakeholder feedback and final decisions on any changes would be incorporated within the wider review of the Whistle-Blower Protection Law being planned for 2020, by the Office of the Ombudsman. The Deputy Governor accepts this recommendation.</p>		
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		Planned Implementation date: Consultations to be completed by March 2019.			
3.	The Anti-Corruption Commission should extend its performance indicators to include efficiency and effectiveness measures and report these publicly in its annual report. (OAG)	Breaking down the cost of a single investigation would be difficult to do as the ACC would need to account for the time each Investigator spent on that case. Different investigators may spend different amounts of time working on a matter. Implementation date: none given	While the Anti-Corruption Commission (ACC) did not accept this recommendation as presented, they have made an effort to provide more statistics in their annual report while balancing the need to maintain the integrity and confidentiality of evidence, information, and witnesses. This was demonstrated in their 2018/2019 Annual Report. The ACC has made a commitment to continue to look for ways to inform the public about its work while maintaining the necessary safeguards.	N/A	Recommendation not accepted.
4.	The Cayman Islands Government should identify a single owner of the Anti-Fraud Policy who is responsible for ensuring that it is regularly updated	CIG accepts this recommendation and the Deputy Governor proposes to appoint the Accountant General as the single owner of the Anti-Fraud Policy going forward. Implementation date: The appointment of the Accountant	This has been completed. The Accountant General has been appointed as the owner of the Anti-Fraud Policy and has been given the responsibility to ensure that the Policy is regularly updated and updates are communicated to Civil Servants.	The Accountant General provided a report to the Deputy Governor as part of the December, 2020, Audit and Risk Assurance Committee (ARAC) meeting, on both the ongoing updates to	Recommendation in progress. An update of the Anti-Fraud Policy is underway but has been delayed. The PAC may wish to ask the Accountant

	and communicated to staff. (OAG)	<p>General will be made with immediate effect.</p> <p>The Accountant General will be required to coordinate a review of the policy by CFOs on an annual basis or within 30 days of any significant organisational change, and to report to the Deputy Governor on the outcomes of the review and any proposed changes to the policy.</p> <p>Implementation date: The review and report on the policy shall be submitted to the Deputy Governor annually with the first report being prepared by June 2019.</p>		<p>this policy, as well as the planning and delivering of training. That said, a more substantial update to the Anti-Fraud Policy was prepared later than this date, however due to the complexities of the proposed revisions, the policy rollout has been delayed/is still in progress.</p>	<p>General for an update, including reasons for the delays in rolling out the updated Anti-Fraud Policy.</p>
5.	<p>Statutory Authorities and Government Companies should ensure that they have fit-for-purpose fraud and corruption policies or clearly state why one is not necessary. They could adopt the CIG policy or adapt it to</p>	<p>CIG accepts this recommendation. The Deputy Governor proposes to seek Cabinet's support to extend the policy to statutory authorities and government owned companies pursuant to section 49(d) of the Public Authorities Law (2017), which gives Cabinet the authority to extend policy that applies to the civil service to the public authorities as and</p>	<p>This has been completed. On 18 January, 2019, Cabinet approved the extension of the CI Government Anti-Fraud Policy to SAGCs and Government Companies pursuant to Section 49(d) of the <i>Public Authorities Act</i>, effective Jan 2019 and subject to the following provisions:</p> <p>a) The Cayman Islands Government Anti-Fraud Policy may be adopted, as</p>	N/A	<p>Recommendation implemented</p> <p>The Cabinet approved the extension of the CIG Anti-Fraud Policy to all SAGCs with effect from January 2019.</p>

	<p>suit their individual needs. (OAG)</p>	<p>when necessary to ensure good governance (S49(d)).</p> <p>Implementation date: Submission for Cabinet approval to be made by December, 2018.</p>	<p>is, or adapted by the public authorities to suit their individual needs.</p> <p>b) Any public authority wishing to assert that such a policy is not necessary is required to provide a clear statement of justification to their respective Chief Officer, within 30 days of receipt of the policy.</p> <p>c) Any public authority with an existing fit-for purpose fraud and corruption policy can be exempted from this requirements, upon submission of the policy to their respective Chief Officer with 30 days of receipt of the policy.</p>		
6.	<p>The Cayman Islands Government should ensure that all civil servants have completed the fraud awareness training and that updated training is completed regularly. (OAG)</p>	<p>CIG accepts that all civil servants should have periodic training on fraud awareness which is relevant to their roles.</p> <p>The online training on fraud awareness, which was developed in-house, is a valuable training resource for civil servants. The Deputy Governor, through Chief Officers, will continue to ensure</p>	<p>This is in progress. The Ministry of Finance and the Portfolio of the Civil Service will endeavor to have all existing Civil Servants complete the fraud awareness training by 31 December 2020.</p> <p>Revised Implementation date: 31 December 2020</p>	<p>Fraud awareness training has been ongoing. Data obtained from the Degreed platform shows the following course completions up to 10th December, 2020:</p> <ul style="list-style-type: none"> Anti-Fraud Policy Overview – 1480 	<p>Recommendation in progress.</p> <p>The update as at November 2021 provided by the Government states that as at December 2020 between 1311 and 1492 civil servants have completed the anti-fraud training.</p>

		<p>that civil servants take advantage of this training.</p> <p>Implementation date: The Deputy Governor, in consultation with Chief Officers, to set targets for civil service participation in the online fraud awareness training by December, 2018.</p> <p>However, CIG accepts that this particular mode of delivery is not suitable for all civil servants. The Deputy Governor intends to seek recommendations for other approaches from Chief Officers and the Accountant General, as the newly-appointed owner of the CIG Anti-Fraud Policy.</p> <p>Implementation date: The Accountant General/Owner of the Anti-Fraud Policy to monitor take up of training, on an ongoing basis, and to make recommendations to the Deputy Governor for more role-specific training by the end of Q2, 2019.</p>		<ul style="list-style-type: none"> • Anti-Fraud Whistle Blower – 1492 • Anti-Fraud Hospitality – 1320 • Anti-Fraud Business Ethics - 1311 <p>The CIG Fraud Awareness training is to be also migrated to LinkedIn, so that Civil Servants will be able to train using this popular platform. This migration to LinkedIn process is currently underway. We understand that fraud awareness training takes place in groups as well as individual sessions. There the number of civil servants who have taken the training is much higher than the numbers given.</p>	<p>However, this is only between 31% and 35% of the number of civil servants at the end of December 2020.</p> <p>The response also states that Anti-fraud training is expected to be completed by all new recruits as part of induction but this is done online.</p> <p>It is not clear if staff are expected to regularly complete the anti-fraud training as recommended.</p> <p>The PAC may wish to ask for an update.</p>
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				Training has been made available on-line for all Civil Servants, and they are expected to complete this as part of their induction as a new Government employee. A communication was issued to HODs/HR staff to ensure that this happens, and a planned follow-up communication is planned to reinforce the importance of this training.	
7.	The Cayman Islands Government should establish an audit committee for the core government to act as a driver for continuous improvement in internal control, financial management and financial reporting across government and, through a	CIG accepts this recommendation and advises that work to establish a CIG Audit and Risk Assurance Committee (ARAC) is well-advanced. A Terms of Reference (ToR) for the Committee has been completed, with input from the Ministry of Finance, the OAG and Internal Audit, as well as advice from the UK Government Internal Audit Agency.	This has been completed. The Audit and Risk Assurance Committee (“ARAC”) has been established by the Deputy Governor to provide him with independent and objective advice on the comprehensiveness, reliability, and integrity of assurances on governance, risk management and control for the Cayman Islands Core Government. The ARAC held	N/A	Recommendation implemented. The Auditor General can confirm that the ARAC has meet quarterly since it was established in January 2019 and that this provides effective oversight and assurance to the Deputy Governor.

	<p>process of constructive challenge, to provide the Deputy Governor with the required assurance on the arrangements in place. (OAG)</p>	<p>Prospective Committee members have been identified.</p> <p>The ToR proposes that the Committee will consist of three non-Executive members, one of whom will serve as the Chair and another as Deputy Chair.</p> <p>The following officers will have a standing invitation to attend ARAC meetings:</p> <ul style="list-style-type: none"> • The Deputy Governor • The Financial Secretary • The Director of Internal Audit Services • The Auditor General • Chief Advisor to the Deputy Governor. <p>The ToR also provides for the ARAC to invite any Chief Officer or other Senior Officer to attend and provide briefings to the Committee on the areas of their work relevant to the scope of responsibility of the Committee, and to respond to questions from the Committee on progress in implementing audit recommendations or their risk management arrangements.</p>	<p>two quarterly meetings in 2019.</p>		
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		<p>Implementation date: Membership appointments to be completed by December, 2018.</p> <p>Committee to be operationalised for the start of the 2019 financial year.</p>			
8.	The membership of the CPA and DCB should be balanced to include members representing sectors beyond the building and development industry. (OAG)	<p>The appointment of members to the CPA and the DCB is the prerogative of the Cabinet and any changes would require legislative amendment.</p> <p>Implementation date: none given</p>	In August 2019, the Ministry of Commerce, Planning and Infrastructure received Cabinet approval to appoint new members to the CPA board in an effort to bring diversification and balance.	N/A	<p>Recommendation implemented.</p> <p>The membership of the CPA was significantly changed again in July 2021.</p>
9.	The Central Planning Authority and Development Control Board should continue to improve the transparency of their operations, including demonstrating that technical advice has been obtained and how this was used	<p>The Department will continue to encourage and support the CPA and the DCB in improving the transparency of the decision-making process.</p> <p>Implementation date: TBD</p>	The Central Planning Authority (“the Authority”, “CPA”) and the Development Control Board (“the Board”, “DCB”) continue to support and encourage members of the public being informed of and involved in the planning process. To date, the Authority and the Board, with the support of the Department of Planning (“DoP”), have implemented several initiatives to further	N/A	<p>Recommendation implemented.</p>

	<p>in decision making. (OAG)</p>		<p>these aims. First, steps have been implemented (through the OPS) that allow the CPA/DoP to ensure that appropriate technical advice is sought/received from the requisite agencies (e.g. National Roads Authority/Department of Environment). Internal procedures then allow any such advice to be carefully considered. Publication of the meeting agenda on the departmental website one week before the meeting date, the publication of meeting minutes (for several years) on the department website, and the content of meeting minutes, including steps to better articulate the reasons supporting the decisions taken (including the various factors considered in making the determination, and the provision of sufficient reason(s) for its determination to adopt or reject the technical advice provided by commenting agencies) round out the efforts to enhance the transparency of the process.</p>		
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10.	The Department of Planning should establish corruption risk management programmes in line with the Anti-Fraud Policy. (OAG)	The Department notes and accepts the recommendations of the OAG to strengthen processes and had begun work to develop the recommended policies and procedures. Implementation date: Q1 2019	The Department of Planning has adopted the CIG Anti-Fraud Policy and requires all employees to file a Declaration of Interest via the Ministry's electronic portal.	N/A	Recommendation implemented. The OAG confirmed this during its audit of the 2020 financial statements.
11.	The Department of Planning should ensure that notice of interest forms are completed regularly by all staff and used to effectively manage any potential conflicts. (OAG)	The Department notes and accepts the recommendations of the OAG to strengthen processes and had begun work to develop the recommended policies and procedures. Implementation date: Q1 2019	This recommendation has been implemented and all Department of Planning employees are required to file on an annual basis, with updates submitted as necessary, via the Ministry's electronic portal.	N/A	Recommendation implemented. The OAG confirmed this during its audit of the 2020 financial statements.
12.	The <i>Public Authorities Law</i> should be amended to include the Central Planning Authority (CPA) and Development Control Board (DCB) and other boards in Government or Legislation passed to provide similar	N/A	The agencies that are currently governed by Public Authorities Law ("PAL") are either Statutory Authorities or Government Companies ("SAGCs") of very different organizational structures and purposes compared to the regulatory boards such as the Central Planning Authority (CPA) and the Development Control Board (DCB). As a		Recommendation not accepted.

	<p>provisions to allow Ministers proper oversight. (PAC)</p>		<p>result of these differences, many of the provisions of the PAL would not be applicable or serve to enhance Ministries' oversight of the non-SAGC regulatory boards. For example, the regulatory boards do not have responsibilities in the areas of organizational governance, human resources and financial management for the entities they serve, so the provisions in the PAL for those areas (e.g. Part 3 sections 8, 15, 16, Part 4, Part 5, Part 6, and Part 8 sections 54 and 55) would not be applicable to regulatory boards.</p> <p>The PAC's concern that Ministries have statutory authority to provide proper oversight to the regulatory boards like the CPA and DCB is noted. The Ministries' authority for oversight and / or to provide direction to a regulatory board is generally outlined in the legislation that creates each regulatory board. Each Ministry will be encouraged to review the legislation governing their</p>		
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			non-SAGC boards that are not captured under the PAL to ensure there are adequate legislative provisions for the oversight of those boards.		
13.	All future legislation that carries a clause to bring the law into effect by order in Cabinet to have a date by which the law should come into effect. (PAC)	N/A	There are a number of factors that will determine when legislation with a deferred commencement clause will be brought into force. The importance of the subject matter and the complexity and amount of work required for implementation of the legislation, such as accompanying regulations, getting resources in place for implementation, and getting governance structures finalized, will vary greatly between different pieces of legislation and influence how quickly the law can be commenced. As a result, Government is not in a position to give an undertaking to implement this, but does note the PAC's concerns and will endeavour to bring future legislation with deferred commencement	From 1st January, 2020 until 1st November, 2021, there were thirty-six (36) new Acts or Amendments to Acts which contained a deferred commencement clause. Thirty-one (31) of these pieces of legislation are fully in force, three (3) are partially in force and two (2) are not yet in force.	<p>It is not clear if the Government accepted this recommendation.</p> <p>The update provided in November 2021 states that there has been some improvement in the time taken to bring legislation into force after it has been passed by the Parliament, but it does not confirm that draft legislation includes effective date clauses when passed.</p> <p>The PAC may wish to ask for more information on the legislation that has not yet been brought fully or partly into force, and reasons for the delays.</p>

			clauses into force as expeditiously as possible.		
14.	The Cayman Islands Government should make fraud training a part of every new employee induction program. (PAC)	N/A	This recommendation is accepted. The Portfolio of the Civil Service undertakes periodic reviews and updates of their orientation sessions, which are mandatory for new hires, and are working to incorporate the anti-fraud training as part of these mandatory orientation sessions no later than end of June 2020.	N/A	Recommendation implemented. See response to Recommendation 6 above. Anti-fraud training is now part of the CIG induction training. However, this is delivered online.
15.	The Director of Planning should ensure that any potential conflicts by Board members' with agenda items should be declared at the start of each meeting of the CPA and DCB. (PAC)	N/A	This recommendation has been implemented.		Recommendation partly implemented. The OAG has reviewed a sample of minutes from CPA and DCB meetings. We can confirm that the CPA minutes capture and potential conflicts of interest at the start of meetings. We could not see any note of conflicts of interest in the minutes of DCB

					meetings that we reviewed.
16.	The Director of Planning should audit Board members' declaration of interest along with their declared conflicts; with agenda items at Board meetings. (PAC)	N/A	The Director of Planning accepts the need to ensure that processes exist to ensure compliance with the spirit and intent of members filing a declaration of interest, and that declared conflicts are appropriately recorded in meeting minutes.	N/A	Recommendation accepted but it is not clear what action is being taken. The PAC may wish to follow up on this.
17.	The Government should consider amending the Development and Planning Law and Regulations to ensure that developers put in place reasonable traffic management devices such as speed bumps. (PAC)	N/A	The Department of Planning undertakes to ensure the inclusion of traffic management considerations during the review of the regulatory provisions related to Subdivisions and large-scale developments; such as multi-unit apartment complexes.	The <i>Development and Planning Act</i> (and the relevant Regulations) were last amended in December, 2020. Whilst the current provisions do not contain specifications for the placement of traffic management devices, the Central Planning Authority utilizes its authority under Section 15 of the <i>Development and Planning Act</i> (and	Recommendation implemented.

				Regulation 25(h)) to impose conditions for the construction of roads, which includes the installation of traffic management devices in line with recommendations from the National Roads Authority (NRA). Such NRA recommendations have, to date, predominately impacted larger subdivisions which tend to utilize a linear roadway design.	
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