



**Australian Council of TESOL Associations**

**SUBMISSION**

to

The Parliamentary Joint Committee of Public Accounts and Audit

*Inquiry into the Contract Management Frameworks Operated by Commonwealth Entities*

with reference to

**Auditor-General Report No. 37 2023–24**

*Administration of the Adult Migrant English Program contracts*

**August 2024**

## Table of Contents

<b>Abbreviations .....</b>	<b>4</b>
<b>Executive Summary .....</b>	<b>5</b>
<b>List of Recommendations .....</b>	<b>6</b>
<b>1. Introduction.....</b>	<b>9</b>
<b>2. The Inquiry Question – the current situation .....</b>	<b>9</b>
<b>3. The Auditor’s Report.....</b>	<b>11</b>
<b>4. The Contractual Failings Prompting this Inquiry .....</b>	<b>12</b>
4.1 Expertise	12
4.2 Transition arrangements	14
4.3 Inability to respond to policy changes	15
4.4 Contract Design Flaws	16
4.4.1 Curriculum	17
4.4.2 KPIs: Attainment and Accurate Assessment	18
4.4.3 Forming classes for teaching (1): Streaming	21
4.4.4 Forming classes for teaching (2): the provider payment system	22
4.4.5 Site facilities	23
4.4.6 The effect on those delivering the Program	23
4.4.6 Effect on students	24
4.4.7 Design Flaws in the 2017 AMEP Contract: Conclusions	27
4.5 Quality Assurance services	28
4.5.1 Choice of QA provider: how did “value for money” criteria apply?	28
4.5.2 Choice of QA provider: probity questions	29
4.5.3 Dual role of QA provider	31
4.6 Changing assessments of the QA provider’s performance	32
<b>5. Is short-term competitive contracting appropriate for the AMEP? .....</b>	<b>34</b>
5.1 Is this question permissible?	34
5.2 Why short-term competitive contracting is not fit for purpose in delivering the AMEP	36
5.2.1 Accountability: secrecy and lack of transparency	36
EVIDENCE TO THIS INQUIRY	36
CRITERIA USED TO AWARD CONTRACTS	37

ACCOUNTABILITY AND TRANSPARENCY	37
INDEPENDENT SCRUTINY AND ADVICE	38
5.2.2 “Value for money”	39
5.2.3 Effectiveness and Efficiency	40
PARTICIPATION IN THE AMEP IS DISRUPTED WITH EACH NEW CONTRACT	40
THE MODEL ENCOURAGES WASTEFULNESS	41
THE MODEL INCENTIVISES SHIFTING AND DISGUIISING COSTS	41
THE MODEL’S INHERENT INSTABILITY UNDERMINES EFFECTIVENESS	42
THE MODEL DESTROYS TRUST	42
<b>6. Evaluating the performance of the AMEP .....</b>	<b>43</b>
6.1 The AMEP as a Commonwealth-funded program	44
6.2 Individual provider performance	45
<b>7. Conclusion .....</b>	<b>45</b>
<b>About the principal author .....</b>	<b>47</b>
<b>APPENDIX A: Comments from two external experts .....</b>	<b>48</b>
<b>APPENDIX B: ACTA responses to the Auditor General’s recommendations .....</b>	<b>50</b>
<b>APPENDIX C: Chronology of significant policies impacting on the AMEP contract.....</b>	<b>56</b>

## **Abbreviations**

<b>ACTA</b>	<b>Australian Council of TESOL Associations</b>
<b>ACSF</b>	<b>Australian Core Skills Framework</b>
<b>AMEP</b>	<b>Adult Migrant English Program</b>
<b>AMES Australia</b>	<b>Adult Migrant English Services Australia</b>
<b>ASQA</b>	<b>Australian Skills Quality Authority</b>
<b>CSWE</b>	<b>Certificates in Spoken and Written English</b>
<b>DET</b>	<b>(Commonwealth) Department of Education and Training</b>
<b>DIMIA</b>	<b>Department of Immigration and Home Affairs</b>
<b>DoHA</b>	<b>Department of Home Affairs</b>
<b>ELT</b>	<b>English Language Teaching</b>
<b>ESL</b>	<b>English as a Second Language</b>
<b>KPI</b>	<b>Key Performance Indicator</b>
<b>LWA</b>	<b>Linda Wise &amp; Associates</b>
<b>NEAS</b>	<b>National ELT Accreditation Scheme</b>
<b>NRS</b>	<b>National Reporting System</b>
<b>RTF</b>	<b>Request for Tender</b>
<b>SEE (Program)</b>	<b>Skills for Education and Employment (Program)</b>
<b>SCoA</b>	<b>Settlement Council of Australia</b>
<b>TAFE</b>	<b>Technical and Further Education (Institutes)</b>
<b>TESOL</b>	<b>Teaching English to speakers of other languages</b>
<b>VET</b>	<b>Vocational Education and Training</b>

## Executive Summary

ACTA's response to this Inquiry's investigation as to "*whether the expertise, governance arrangements, record-keeping, performance measures, and policies and guidelines supporting contract management by various Commonwealth entities are fit for purpose to ensure project delivery*" specifically concerns the Adult Migrant English Program (AMEP), the failings documented in Auditor General Report No. 37 into the AMEP and what can be learned from these failings

We do not know if arrangements currently in place in the Department of Home Affairs (DoHA) for the forthcoming AMEP contract are fit for purpose, because we are not privy to them. However, we have some confidence in the outline of the New Adult Migrant English Program (AMEP) Business Model on the DoHA website.<sup>1</sup> We welcome the statement that new Performance Management Framework will be underpinned by AMEP Quality Guidelines and Standards, assuming that this denotes a move away from narrowly focussed performance measures and quantitative targets, and towards more qualitative expert evaluations, which we argue are more appropriate for an educational program such as the AMEP.

We find the Auditor's Report that prompted this Inquiry unsatisfactory in excluding consideration of the 2017 contract design and therefore the underlying cause of much of what is criticised in the Report. Further, we submit that what counts as "value for money", efficiency, effectiveness, appropriateness and acceptable standards must be defined with reference to the substantive elements of the Program being audited, in this case, the AMEP and its national goals, who it is for, who delivers it, and what is needed to do that. The analysis and recommendations in the Report are circular and self-referential. In consequence, the Report criticises variations to the contract that, had they not been made, would have continued the AMEP on a path that was bringing it close to collapse. It is absurd to propose that those administering the AMEP should have persisted with practices that were clearly preventing teaching and learning, were responsible for mass teacher resignations and student withdrawals, and were the subject of adverse reports by providers, ACTA and other advocacy bodies.

We submit that the Department of Education and Training (DET) designed the 2017 contract to serve their bureaucratic goals of aligning the AMEP with their other labour market programs – in the first instance the Skills for Employment and Education (SEE) Program. The design had nothing to do with delivering quality English language tuition to adult migrants to assist their settlement in Australia. DET was derelict in its lack of understanding of the implications for providers of the changes to the AMEP required by the contract. Many of the failings documented in the Auditor's Report resulted from this misdirected policy, a failure to consider (much less put in place) the record-keeping and data management infrastructure necessary to support the contract, and the institution of performance measures that undermined their stated purpose. When DoHA resumed responsibility for the AMEP in 2019, substantive attention was given to addressing these problems and a process leading to reform began.

Our recommendations stem from learnings to be taken from what can fairly be called a disaster. But we also invite the Committee to look beyond what is needed simply to ensure *delivery* of the AMEP. We ask whether the current model of contracting for this Program is itself fit for purpose. We present evidence to show that this model is not an appropriate, efficient or effective in how Commonwealth funds are deployed in delivering a program such as the AMEP. We recommend that a separate, non-Parliamentary investigation be set up to review the current contracting model and find a way to improve it. We propose a model that will increase participation and promote stability and quality in English language provision for adult migrants.

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<sup>1</sup> [New Adult Migrant English Program \(AMEP\) Business Model \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/new-adult-migrant-english-program-amep-business-model)

## **List of Recommendations**

### **Recommendation 1**

To ensure that the next AMEP contract design is viable, to identify flaws and difficulties, and to promote teacher and frontline managers' engagement with and commitment to the AMEP, a draft Request for Tender should be circulated to providers and other stakeholders (notably ACTA and the Settlement Council of Australia), and the contract design revised in the light of comment and feedback.

### **Recommendation 2**

The forthcoming AMEP contract should explicitly state that the central and primary purpose of the AMEP is to deliver quality English language tuition to adult migrants to meet their short- and long-term social, economic, educational, emotional and individual settlement needs.

### **Recommendation 3**

As a program whose primary goal is to contribute to adult migrants' settlement in Australia, the AMEP should be designed and administered within the Immigration portfolio.

### **Recommendation 4**

This Inquiry should include analysis of, and recommendations in regard to, how contracts can balance the need for consistency in the management of a given program *vis à vis* the impact of legitimate policy changes, and arbitrary or undue political interference, on governance, record-keeping and performance measures.

### **Recommendation 5**

The Inquiry should give in-depth attention to the question of what should be done when it becomes clear that all or part of a contract is problematic, dysfunctional or damaging to the program it governs.

### **Recommendation 6**

The requirement to offer streamed AMEP pre-employment and social English classes should be discontinued in order to give providers genuine flexibility in forming classes according to learner English language levels and the specific needs of local cohorts.

### **Recommendation 7**

The forthcoming AMEP contract should direct the AMEP's goals, intended outcomes, management, Quality Assurance, curriculum, assessment and teaching methodologies towards the Program's distinctive role in integrating tuition in English as a second/additional language with broad settlement objectives and the AMEP's unique contribution to building social cohesion in Australia.

### **Recommendation 8**

The forthcoming AMEP contract for Quality Assurance services should ensure that these services are delivered by a provider who is not also tasked with delivering professional development.

### **Recommendation 9**

The forthcoming AMEP contract for Quality Assurance services should include evidence-based criteria for assessing the Quality Assurance provider's performance. The KPIs for this provider should rest mainly on qualitative data, should not include meeting quantified targets, and should include a survey of opinions on QA provision from general service provider frontline managers and teachers.

### **Recommendation 10**

In considering the Auditor's Report, the Committee should identify the failings that are attributable to the poor design and implementation of the 2017 AMEP contract by the Department of Education and Training. The Committee should find that this Department was derelict in its design of and planning for the implementation of the 2017 AMEP contract. The Committee should recognise that the variations made after 2019 by the Department of Home Affairs were necessitated by the serious problems the 2017 contract had created, by policy changes required by Ministers and by the effects of the COVID pandemic on the delivery of tuition in the AMEP.

### **Recommendation 11**

The Committee should recommend that an independent, expert inquiry that includes co-design processes be established to investigate how Commonwealth contracting for the AMEP can be made fit-for-purpose, efficient and effective in resourcing, supporting, enhancing, regulating and evaluating the performance of this Program.

### **Recommendation 12**

The value for money assessment that underpins procurement decision-making prior to the award of AMEP contracts should be made public when the successful tenderers are announced.

### **Recommendation 13**

The initial award of AMEP contracts should be open to appeal.

### **Recommendation 14**

The expertise of those determining the award of AMEP contracts should be made public when contracts are awarded.

### **Recommendation 15**

The Department of Home Affairs should, as soon as possible, set up an independent AMEP Advisory Committee that includes representation from providers, including teachers, and advocacy groups such as ACTA and the Settlement Council of Australia, and external experts in teaching English as an additional language.

### **Recommendation 16**

Evaluations of the AMEP should routinely include data on student retention from one contract to the next.

### **Recommendation 17**

The performance of the AMEP overall from one contract to the next should be regularly and systematically evaluated through independent research commissioned under the auspices of the Immigration portfolio and conducted by appropriate experts to investigate:

- i. participation and retention
- ii. English language attainment
- iii. program quality (from data based on relevant Standards)
- iv. student satisfaction
- v. settlement outcomes, not only but including employment
- vi. the quality of the evidence base relating to the AMEP.

### **Recommendation 18**

The award and monitoring of contracts for the AMEP and SEE Program should be streamlined and modernised on risk-based principles as follows:

- 1) Individual provider performance should be Standards-based along the lines of the 2009 NEAS *AMEP Standards Manual*.
- 2) Individual provider performance should be evaluated annually and rigorously by independent assessors with recognised TESOL expertise on a 5-point performance ranking scale, viz.:
  - A = outstanding performance
  - B = good performance
  - C = satisfactory performance
  - D = somewhat unsatisfactory performance
  - E = unsatisfactory performance.
- 3) Providers scoring C or below more than once in any 3-year period should be asked to show cause as to why their contract should not be re-opened for tendering.
- 4) Providers who consistently score A or B should not be required to compete for new contracts until a new 10-12 year cycle.
- 5) New tenders for all provision should be called every 10-12 years.
- 6) Provider assessments should be undertaken by an independent, expert body with no other role in AMEP provision. The assessment team should include experts in TESOL and one in public administration. Assessments should include classroom observations and interviews with students, teachers and front-line managers.

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## 1. Introduction

The Australian Council of TESOL Associations (ACTA) welcomes the opportunity to make this submission to the Parliamentary Joint Committee of Public Accounts and Audit *Inquiry into The Contract Management Frameworks Operated by Commonwealth Entities*, specifically with reference to **Auditor-General Report No. 37 2023–24 Administration of the Adult Migrant English Program contracts** (henceforth the Auditor’s Report).

Since 1985, ACTA has been the national peak professional Council of educators concerned with teaching English to speakers of other languages (TESOL).<sup>2</sup> The Council comprises representatives from State and Territory TESOL associations, including their presidents. Association members include teachers, consultants, curriculum developers, teacher educators, other academics and researchers in the TESOL field in tertiary education, Vocational Education and Training (henceforth VET), the Adult Migrant English Program (henceforth the AMEP), the Skills for Education and Employment (henceforth SEE) Program, Foundation Skills and community education, and school and pre-school settings.

This response has been prepared in consultation with the ACTA Adult TESOL Consultancy Group.<sup>3</sup> It is endorsed by the ACTA Executive. For a further endorsement from two external experts, please see Appendix A.

Detailed evidence on which this submission draws is presented in:

- Footnotes containing references, extracts from relevant documents, answers to questions asked in Senate Estimates, emails to the ACTA Vice-President, and verbatim comments by teachers and frontline managers who responded to an online survey conducted by ACTA in 2019.<sup>4</sup>
- Exhibits 1 – 8.

Our submission is based on ACTA’s long involvement in advocating about the AMEP, including the contract that is the subject of the Auditor’s Report.<sup>5</sup> We welcome this Inquiry as a once-in-a-lifetime opportunity to consider how AMEP contracts can be made fit for purpose.

Our submission falls into three main parts. First, we respond to the Inquiry question and to the Auditor’s Report that prompted the Inquiry’s question. Second, we describe the reasons for the problems that have attracted the Auditor’s criticism of the administration of the 2017 AMEP contract and recommend on how, going forward, these problems can be avoided. Finally, we propose that these problems raise a fundamental question, namely: how should the current model of contracting for the AMEP be improved to best ensure efficiency, effectiveness and high standards in delivering an English language program for adult migrant English language learners to assist their settlement in Australia?

## 2. The Inquiry Question – the current situation

We note that the Inquiry seeks to:

*examine whether the expertise, governance arrangements, record-keeping, performance measures, and policies and guidelines supporting contract management by various Commonwealth entities are fit for purpose to ensure project delivery.*

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<sup>2</sup> [Australian Council of TESOL Associations – Australian Council of TESOL Associations](#)

<sup>3</sup> The Consultancy Group consists of approximately 20 Adult Migrant English Program (AMEP), SEE Program and Foundations Skills provider managers, team leaders and teachers, and teacher educators and TESOL consultants.

<sup>4</sup> Over 300 AMEP and SEE Program teachers responded to this survey.

<sup>5</sup> For the public record of ACTA submissions, go to: [Advocacy – Australian Council of TESOL Associations](#)

ACTA is not privy to current arrangements in the Department of Home Affairs (henceforth DoHA) for the forthcoming the AMEP contract.

The best information in the public domain is the outline of the *New Adult Migrant English Program (AMEP) Business Model* on the DoHA website.<sup>6</sup>

On that evidence, we have confidence that a contract based on this framework will be “fit for purpose to ensure project delivery”. It seems clear that the Department has taken on board many of the lessons to be learned from what can only be described as the disastrous 2017 contract. As we will argue, DoHA has demonstrated its expertise in addressing the problems created by that contract and has largely regained the confidence of providers and stakeholders. Our continuing reservations relate the most recent ministerial interventions. The direction and intent of the latter have not been made clear to providers or ourselves (see section 4.3 and Appendix C).

Regarding contract management, ACTA has no information on the proposed Performance Management Framework. We would welcome this information and the opportunity to provide feedback. The website statement that it will be based on Quality Guidelines and Standards appears to be in line with ACTA advocacy for over a decade. We note that the line in an earlier version – that the Framework would be “administered by a third-party provider” – has been removed. To avoid the conflict of interest in current arrangements (see section 4.5 below), we submit that Quality Assurance must be separate from Professional Development provision. We warmly welcome the proposed AMEP Academy but, again, suggest further information and the opportunity to provide feedback would benefit everyone (see also section 5.2.1 re accountability).

The last version of the new “Business Model” on the DoHA website stated that providers would be paid according to students’ hourly attendance in class. This no longer appears. We cannot interpret the significance of this change. The 2017 AMEP contract demonstrated clearly that this payment model is not financially or educationally viable (please see section 4.4.4). We believe that it would be in the best interests of the Department and providers for the proposed payment metric to be made public and open to feedback from providers and advocacy groups, especially ACTA and the Settlement Council of Australia. How providers are paid will be critical to the success of the forthcoming contract.

A failure to consider feedback on the design of the 2017 contract was the underlying cause of many variations noted and criticised in the Auditor’s Report. ACTA submits that the best test of DoHA’s “expertise, governance arrangements, record-keeping, performance measures, and policies and guidelines supporting contract management” in regard to the AMEP would be to publish a draft of the Request for Tender for the forthcoming contract.

## **RECOMMENDATION 1**

**To ensure that the next AMEP contract design is viable, to identify flaws and difficulties, and to promote teacher and frontline managers’ engagement with and commitment to the AMEP, a draft Request for Tender should be circulated to providers and other stakeholders (notably ACTA and the Settlement Council of Australia), and the contract design revised in the light of comment and feedback.**

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<sup>6</sup> [New Adult Migrant English Program \(AMEP\) Business Model \(homeaffairs.gov.au\)](http://homeaffairs.gov.au)

### 3. The Auditor's Report

Please see Appendix B for ACTA's responses to each of the recommendations in the Auditor's Report.

The Auditor's Report provides a transparent and valuable record of problems in the management of the 2017 AMEP contract and what followed.

However, the Report says nothing about the *causes* of these problems. ACTA recognises that the Auditor's focus is administrative, as is also this Committee's. Nevertheless, we urge the Committee to interest itself in what underpinned many of the failings that have prompted this Inquiry. Only in this way can lessons can be learned that will assist effective delivery of the AMEP and similar programs in the future.

The starting point must be consideration of what the AMEP is tasked to deliver, namely *English language tuition*, whose purpose is *to assist the successful settlement of adult migrants and refugees in our country*.

The Auditor's Report makes only passing reference to the purpose of the AMEP (para. 1, p. 7).<sup>7</sup> Its description of the audit objective, criteria and scope is generic and self-referential (para. 1.11).

ACTA submits that auditing principles should not be applied simply with reference to themselves. A program does not exist merely to serve its contractual requirements, as the Auditor's Report appears to assume. What counts as efficiency, effectiveness, appropriateness and acceptable standards should be defined and evaluated with reference to the substantive elements of the program, organisation or entity that is being audited. In the case of the AMEP, auditing principles must be applied with reference to the meanings, values and evidence about the Program's constitutive elements: its goals, who it is for, who delivers it, and what is needed to do that.

The Auditor's Report does not do that. Consequently, its generic self-referencing recommendations have potentially dysfunctional, disruptive and punitive implications for precisely the wrong people – namely, migrant and refugee English language learners, their teachers, front-line provider managers, and committed and knowledgeable Departmental officials.

For example, the interpretation of the Auditor's recommendations (for example, re “value for money”, an “evidence-based approach” and “quality of services”) is crucial to whether their impact will be positive or negative.

In regard to performance indicators and targets, the Auditor's Recommendation 6 assumes that are valuable *per se* and that quantity will assure quality.<sup>8</sup> In contrast, the 2015 ACIL Allen AMEP Evaluation recommended decreasing the number of KPIs.<sup>9</sup> The 2017 AMEP contract adopted this recommendation but, as we will show in section 4, narrowly defined quantitative KPIs were taken to be proxies for quality. They incentivised cheating and directly undermined the Program's ability to deliver English language tuition *at all*. We will propose that, to evaluate the performance of individual AMEP providers, KPIs should rest primarily on knowledgeable *qualitative* assessments by TESOL

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<sup>7</sup> The Auditor's Report refers to the role of the AMEP as follows:

The design of the program recognises that learning English can help migrant settlement. (para. 1.1, p.18).

ACTA finds this description rather oblique and hard to interpret.

<sup>8</sup> **Recommendation 6.** The Department of Home Affairs establish a comprehensive suite of performance indicators and targets in the service provider contracts for the Adult Migrant English Program, require that service providers report performance against the indicators and targets and take appropriate contract management action where performance is below requirements.

<sup>9</sup> **Recommendation 3:** The Australian Government should reduce the administrative burden on the AMEP service providers to the extent possible by rationalising the programme's reporting requirements. [amep-evaluation-report.pdf](http://amep-evaluation-report.pdf) ([homeaffairs.gov.au](http://homeaffairs.gov.au))

experts using Standards-based tools and, further, that the performance of the AMEP overall should be tracked in independent research (section 6).

**ACTA submits that, to be effective, and not to perpetuate or worsen the damage done to the AMEP since 2017, the Inquiry must take as *prima facie* that contractual and administrative requirements should be designed with an in-depth understanding of the *particular* programs they regulate. These requirements should serve, support and enhance that program, not the reverse. Ultimately, these requirements should clearly and demonstrably seek to advance a given program’s mission and purpose.**

In the following section, we describe the substantive elements in the 2017 AMEP contract that derailed the Program and brought it close to collapse.<sup>10</sup> We argue that it is absurd to propose that those administering the AMEP should have persisted with practices that were clearly undermining teaching and learning in the Program, responsible for mass teacher resignations and student withdrawals, and consistently reported by ACTA and other advocacy bodies.

## 4. The Contractual Failings Prompting this Inquiry

We note that this Inquiry was prompted by:

*recent major inquiries into Commonwealth Procurement and Probity and Ethics [that have] revealed serious failings. Recent audit reports have highlighted similar issues ‘downstream’ of procurement in how agencies manage contracts once executed.*<sup>11</sup>

ACTA submits that the root cause of the “issues ‘downstream’ of procurement” lay with “the expertise, governance arrangements, record-keeping, performance measures, and policies and guidelines supporting contract management” lay in design of the 2017 contract.

### 4.1 Expertise

In 2013, when the Abbott Government created the Department of Immigration and Border Protection, the AMEP was one of several settlement-related programs that were relocated to other portfolios. The AMEP went briefly to the Department of Industry and, in 2014, to the Department of Education and Training (henceforth DET), bringing with it a sizeable budget.

The first recommendation of the Evaluation of the 2011-2017 AMEP contract stated:

#### ***Clarifying programme objectives***

*The AMEP’s longstanding objective of settlement for migrants into Australia (through the development of English language proficiency) is clear, and should continue to be its primary goal.*<sup>12</sup>

To ACTA’s knowledge, this is last clear statement of the AMEP’s goals.

ACIL Allen’s Recommendation 1 did not accord with DET’s priorities. The Department had no interest in, knowledge about or commitment to the AMEP’s settlement role. From the draft Request for Tender for the AMEP, its priorities could be deduced as being:

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<sup>10</sup> This claim is not an exaggeration. The principal author of this submission was told by a responsible government official that terminating the AMEP was seriously considered within the Coalition Government.

<sup>11</sup> [The logical sequel to procurement probity and ethics is – Parliament of Australia \(aph.gov.au\)](http://aph.gov.au)

<sup>12</sup> ACIL Allen Consulting, 2015. AMEP Evaluation. [amep-evaluation-report.pdf \(homeaffairs.gov.au\)](http://amep-evaluation-report.pdf(homeaffairs.gov.au) p. x

- i. to align the AMEP with other DET labour market and employment programs, specifically the Skills for Employment and Education (SEE) Program, which DET administered<sup>13</sup>
- ii. to align the AMEP with DET's generic contracting principles and guidelines.

As described in the Auditor's Report,

*The contracts resulted from a combined procurement process for the AMEP and Skills for Education and Employment Program (SEE) programs. (para. 2.8, p. 24)*

ACTA believes that it is reasonable to suppose that aligning the AMEP with SEE Program was designed to create the conditions to support a subsequent argument by DET for combining the two programs as one (see also footnote 10).

Aligning the AMEP with the SEE Program was done by:

- i. changing the requirements for the curriculum taught through the AMEP
- ii. instituting the same assessment and reporting system as was used in the SEE Program.

In sections 4.4.1 and 4.4.2, we outline the effects of these two changes.

The Auditor's Report states that:

*The extent to which the contracts with the general service providers have been varied indicates that those contracts did not provide an appropriate basis for the management and delivery of the program. (para. 2.17, p. 29)*

From the outset, it was clear that DET did not understand the implications of their new policy directions for teachers and provider frontline provider managers. Aligning the AMEP with DET labour market programs, the SEE Program and DET's contracting principles gave rise to dysfunctional governance arrangements and performance measures, as will be documented below. A promised data management system never eventuated, resulting in defective and chaotic reporting.

It was not until the AMEP moved back to the Immigration portfolio that some of the problems inherent in this policy shift were addressed. Centrally, the program objectives described in the ACIL Allen Evaluation were restored.

Our recommendations in the light of this experience are as follows.

## **RECOMMENDATION 2**

**The forthcoming AMEP contract should explicitly state that the central and primary purpose of the AMEP is to deliver quality English language tuition to adult migrants to meet their short- and long-term social, economic, educational, emotional and individual settlement needs.**

## **RECOMMENDATION 3**

**As a program whose primary goal is to contribute to adult migrants' settlement in Australia, the AMEP should be designed and administered within the Immigration portfolio.**

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<sup>13</sup> Prior to the changes to eligibility for the AMEP in the 2020 Act, students in the SEE Program were almost entirely English language learners who were ineligible for the AMEP and classified as "job seekers". After the eligibility changes took effect, the SEE Program was massively underspent.

## 4.2 Transition arrangements

The Auditor's report states that:

*the transition from the prior contracts to the current AMEP general service provider contracts that commenced on 1 July 2017 was not well planned and executed.*<sup>14</sup>

ACTA endorses this finding. Unfortunately, the Auditor's Report does not consider the implications of this finding for many of the failings it documents.

We endorse the Auditor's Recommendation 5 and ask the Committee to consider how its implementation should be monitored.<sup>15</sup>

We also ask the Committee to note that DET ignored warnings from providers and ACTA that the draft RFT they circulated contained serious flaws: see **Exhibit 1 ACTA Response to the draft Request for Tender AMEP 2017-2020**.

We note the 2001 ANOA Performance Audit of the AMEP made the same criticism of transition arrangements, which was accepted by the then-Department of Immigration and Multicultural Affairs (henceforth DIMIA).<sup>16</sup> Nevertheless, we are aware that since the 1998 AMEP contract (the first under the new competitive contracting model), each transition has been highly disruptive when existing providers are not successful in gaining a new contract and new providers are installed (see section 5.2.3).

The 2017 transition may have been the worst ever. It appears to us that DET did not appear to understand transition arrangements were necessary at all. The significance of the changes instituted in the new contract for both providers and data management were clearly underestimated (see section 4.4 below).

These issues became a matter of in-house discussion and reporting at the first meeting of AMEP and SEE Program managers forum in November 2017, to which the principal author of this submission was invited as a guest speaker. See **Exhibit 2: Report to ACTA on the 2017 Managers Meeting**. Among other things, Exhibit 2 documents that, five months into the new contract, the DET officials responsible for the AMEP were new in their positions and appeared to have little understanding of it.

From this airing of problems onwards, the changes, variations and failures to implement aspects of the contract documented in the Auditor's Report began. They were, in fact, necessary to allow the AMEP to continue to function, as we will document below.

In regard to the forthcoming transition, the Auditor's Report states:

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<sup>14</sup> para. 2.53, p. 37.

<sup>15</sup> **Recommendation 5.** The Department of Home Affairs improve its transition planning for the Adult Migrant English Program by:

- finalising the transition out plan for the current contracts and, for future contracts, preparing the transition out plan early in the new contract period; and
- aligning the development of the transition in plan for the replacement contracts with the preparation of the approach to market documentation.

<sup>16</sup> ANOA's 2001 recommendation was:

that DIMA improve strategic management and coordination for the AMEP to more effectively manage contracts, administration and outputs by:

- systematic planning for contract succession to ensure that there is a smooth, efficient and effective transition at the end of the contract for either an extension of the existing contract with any revised service levels, or for selection of a new provider.

The Auditor-General (2001). *Management of the Adult Migrant English Program Contracts*. Audit Report No.40 2000–2001, Performance Audit. Australian National Audit Office 2001, recommendation 2, p. 28.



*As of December 2023, the department had not finalised and approved a transition out plan for the existing contracts, notwithstanding that those contracts were originally due to expire in June 2023 (they are now due to expire on 30 June 2024, with work orders under the contracts due to expire on 31 December 2024). Further, the draft transition in plan is substantively incomplete, reflecting the uncertainty about the future contractual arrangements (the tender process for replacement contracts has been subject to delays). (p. 36)*

We suggest that a well-known maxim applies, viz. that repeatedly doing the same thing and expecting different results is not rational. Applied to AMEP transition arrangements since 1999, it is worth finding out why the same problems have occurred with every new contract. In section 5, we argue that these continually failing transitions are just one symptom of the unsuitability of short-term competitive contracting in funding the AMEP. In section 6, we propose an alternative that would substantively mitigate this problem.

### **4.3 Inability to respond to policy changes**

The policy developments impacting on the AMEP contract and subsequent extensions from 2022 onwards are described in the Auditor's Report (paras. 1.3 – 1.8, pp. 18-20).

ACTA offers additional perspectives on this account and chronology in **Appendix C**.

The Report appears to us to underestimate the effect of substantive policy shifts and reversals on the administration of the 2017 AMEP contract.

By late 2019, following the AMEP's relocation to DoHA, the policy focus on reforming the AMEP included reversing those aspects of the 2017 contract that were clearly dysfunctional and had lost credibility. These developments necessitated post-2019 variations criticised in the Auditor's Report. In 2020, the then-Immigration Minister announced that the AMEP would be reformed, using the misplaced criticisms of an earlier report to which the Auditor refers (para. 1.3, p. 18): see **Appendix C** and **Exhibit 3: Minister's announcements on reform of the AMEP**. Further administrative changes occurred with the change of government in May 2022 when reform directions changed again, including in *New Adult Migrant English Program (AMEP) Business Model*.

The Auditor's Report is critical of the delay in the Request for Tender (henceforth RTF). We submit that, to avoid the problems of the 2017 contract, these delays should be tolerated. Learning from the problems in the 2017 contract required in-depth thought and in-depth consultations with providers and other stakeholders by Departmental officials. While the policies governing the AMEP were/are in flux, a new RTF would repeat the mistakes of 2017. The delay may be administratively untidy but pragmatically it has done little, if any, harm to the delivery of English tuition in the AMEP. Rather, it has allowed the Program to stabilise after a period of turmoil.

However, we are worried that the following information in the in the Auditor's Report indicates that further significant changes may be in process, about which there has been no consultation, viz.:

*In February 2024, (22 months after the request for tender was to have been released) the department advised the ANAO that advice to the minister and a new policy proposal were in development and the release date of the request for tender is dependent on government agreement to a new model and implementation date. (para. 1.8, pp. 19-20)*

Our recommendation based on the above as follows.

## **RECOMMENDATION 4**

**This Inquiry should include analysis of, and recommendations in regard to, how contracts can balance the need for consistency in the management of a given program *vis à vis* the impact of legitimate policy changes, and arbitrary or undue political interference, on governance, record-keeping and performance measures.**

### **4.4 Contract Design Flaws**

The two main components of an AMEP contract should describe requirements for:

- i. **what is delivered**, viz. English language tuition to adult migrant English language learners
- ii. **accountability** for what is spent on delivering this tuition.

**Delivering English language tuition** requires:

- i. teachers
- ii. a curriculum and supporting pedagogic resources
- iii. teaching
- iv. students in class groups
- v. site facilities (venues, equipment etc).

**Accountability** rests on:

- i. reporting
- ii. infrastructure for reporting.

The 2017 contract explicitly addressed **curriculum** and **reporting**. **Reporting** was implemented through four KPIs headed *Participation, Attainment, Data Timeliness, Accurate Assessment*.

Regarding **teachers**, the focus was confined to qualifications. **Class sizes** and one aspect of **class formation** were specified. The QA provider contract initially included verifying site facilities, but this was deleted in August 2018.<sup>17</sup>

The **infrastructure for reporting** relied on data management systems.

In what follows, we consider:

- curriculum
- the impact of the *Attainment* and *Accurate Assessment* KPIs on teachers, teaching and students
- class groupings
- site facilities.

The Auditor's Report has covered data management in some depth.<sup>18</sup> We will refer to it incidentally as it relates to the other issues we discuss.

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<sup>17</sup> Table 4.4, p. 64; see also para. 4.42, dot point 1.

<sup>18</sup> The Auditor reported that:

The department's contract management plan states that 'KPI 3 was never used under this contract as it was reliant on a new system which was never developed'. There was no alternative KPI employed to address the timeliness of service provider provision of data to the department. (p. 44)

The 2019 Social Compass AMEP Evaluation reported:

The existing AMEP Reporting and Management System (ARMS) was unable to accommodate new elements and reporting requirements of the program. Currently, providers continue to use ARMS, but must enter extra program data, including student attendance, student progress, child care attendance, and tuition streams into spreadsheets that must be submitted to the department. (p. 72)



Re teaching qualifications, please see sections 4.4.6 and 4.5.3.

#### 4.4.1 Curriculum

The most consequential design flaw in the 2017 AMEP contract was the discontinuation of the AMEP's common curriculum, the *Certificates in Spoken and Written English* (henceforth the CSWE), which had been the mandated AMEP curriculum from 1998 onwards. Its four competency-based courses (Certificates I, II, III, IV) were developed and periodically refined for use specifically by the AMEP. Reporting on student attainment was based on the CSWE's assessment system. The CSWE is accredited by the Australian Skills Quality Authority (ASQA).

The 2017 contract gave curriculum choice to provider managements.<sup>19</sup> The only requirement was that curriculum should be ASQA accredited. Advice from the Department was that "the reason for allowing the use of other curricula [than the CSWE] was to provide service providers with flexibility."<sup>20</sup>

Copyright for the CSWE lies with TAFE NSW, to whom licences to deliver the CSWE must be paid.<sup>21</sup> An advantage of curriculum choice from DET's perspective was that curriculum-associated costs were now a provider responsibility.

Dispensing with the common curriculum meant that the CSWE assessment system no longer provided a common basis for reporting on student attainment. The *Australian Core Skills Framework* (henceforth the ACSF) was mandated to fulfil this role. This mandate also brought the AMEP in line with the SEE Program, where reporting against ACSF was also required (see section 4.1).

The design flaw lay in the fact that the ACSF was unsuitable for use in the AMEP because:

- i. it was designed for English mother tongue speakers<sup>22</sup>

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<sup>19</sup> Teachers and frontline Centre managers had no say in the choice of curriculum.

<sup>20</sup> AMEP Curricula and Teacher and Assessor Qualifications Guide. Dept. of Education & Training SQ18-000100, Senator Doug Cameron Question on Notice, Supplementary Budget Estimates 2018-2019. p. 63.

<sup>21</sup> Although CSWE licences are a revenue source for the copyright holder, the CSWE's development and extensive resources depended on Commonwealth funding, initially through the AMEP Research Centre from 1989 (then as the National Centre for English Language Teaching and Research /NCELTR) until 2009 when its contract was not renewed. An AMEP provider, AMES NSW, was the CSWE's initial owner and developer. We understand that the decision to discontinue the CSWE as the national curriculum was a major factor in bankrupting AMES NSW and the licence was handed over to TAFE NSW.

<sup>22</sup> From the 2019 ACTA online survey –

##### Unsuitability for English language learners:

- *I started with a new class today. Their initial ACSF assessment showed them as being at an extremely low level and I prepared accordingly. In fact, most of them are completely literate in their other language and some are very well educated. But the ACSF can't show this because if they have no English, they must be illiterate.*
- *A student of mine in CSWE III was almost declared ineligible for a SLPET course (which she was very keen to do), because she was assessed as having a lower ACSF score than the others in the class. I had recommended her on the basis of her CSWE assessment tasks which she did well in and her overall performance in class.*
- *Questions to meet ACSF requirements are suspect as they are often testing cognitive strategies. Students don't understand the question and need to be coached through it. But this is not permitted at level 3, which specifies no support to be given*
- *Teachers are now coaching students to achieve indicators that do not relate to how the English language is learned*
- *Please abandon the ACSF! I can't imagine how it would help for any context but definitely not for language learners!*
- *Whoever decided that this is a suitable assessment framework for the AMEP has not had enough experience dealing with the settlement and language needs of newly arrived migrants.*
- *Every single teacher I have talked to hates the ACSF with a vengeance as it is so vague and each teacher can interpret in their own way. What are basic tenses? What is the vocabulary that distinguishes the levels? Why do I feel that .03 and .05 are not testing students' proficiency but are testing the tests themselves? The ACSF is bizarre, ambiguous, nonsensical and unlike any textbooks or curriculum I've ever encountered in my whole life*

- ii. it did not cater for those at lower English proficiency levels, who were the bulk of AMEP students<sup>23</sup>
- iii. it had not been developed as an assessment tool and had few, if any, assessment tasks to support its use<sup>24</sup>
- iv. it was unwieldy, misdirected and excessively complex to both administer and report against<sup>25</sup>
- v. it had no supporting data management infrastructure<sup>26</sup>
- vi. AMEP teachers had no experience in using it (see section 4.2 above).

The consequences of mandating this common assessment framework were profound and clearly underestimated by DET.

#### 4.4.2 KPIs: *Attainment and Accurate Assessment*

The ACSF was central to the targets set in two KPIs: *Attainment* and *Accurate Assessment*. The accuracy of ACSF assessments was evaluated through file verifications. These two KPIs created the following problems.

- i. Provider assessment and reporting requirements doubled. Teachers were now required to assess and report on student attainment (i) in the provider's chosen ASQA accredited curriculum and (ii) using the ACSF to meet the *Attainment* KPI<sup>27</sup>

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*as a language learner myself (for 10 years studying the language intensively) and then as a teacher of the language for 16 years now. I am a practitioner, not a researcher; therefore I am not equipped with the skills to support my claims with solid evidence. However, I can state that there is something seriously wrong with the Framework, and when it is a unanimous opinion it is to be reckoned with.*

<sup>23</sup> **Low-proficiency English language learners:**

- *Some of the ACSF inspired questions are ridiculous for ISLPR 0 and 0+ clients.*
- *In my opinion, the ACSF is not suitable for clients with non-English speaking backgrounds who learn English as their main goal. Its indicators cover a wide range of performance features which students cannot perform in the assessment tasks. The more we learn about ACSF, the more I wish we could stop using it and focus on a curriculum. How can we "tailor to individual needs" when we have a group of multi-level students with spikey profiles and start at different times? One trainer to 20 students? Many if them are illiterate, and cannot even write the words on a straight line. Another big lie! Sorry!*

<sup>24</sup> This was a source of constant complaint from teachers delivering the SEE Program.

<sup>25</sup> **Complex, unwieldy and unnecessary reporting:**

- *Aspects of using the ACSF that are proving to be difficult, time-consuming, and unreliable include: writing down observations of learners while they are reading aloud and silently, interpreting if strategies in each learning area are being used, interpretation of body language, etc.*
- *When following a curriculum like CSWE, and completing learning outcomes, the evidence, the test is there, no extra work required and the result is great, we know their level by how many outcomes they have completed, no ACSF required.*
- *It provides a picture that can be obtained more easily and more quickly by simpler means. It is overly complex and long, and so mostly unnecessary.*

<sup>26</sup> As reported in Exhibit 2, p. 3:

Providers are now sending literally thousands and thousands of Excel sheets to DET, which lacks capacity to process them.

<sup>27</sup> **Workloads:**

- *To report against one indicator for one student could take up to 6 hours, depending on the type of evidence. All speaking tests must be transcribed and reported on. All writing tests must be marked for 80% of the performance features. It's impossible. If each teacher had to provide evidence, do the assessor analysis and report writing for all the students coming up to their 200 and 400 hour attendance level, there are not enough hours in the day.*
- *As each student needs to complete different ACSF indicators and these may involve doing 7 different ones for a class, it's very difficult to juggle all this. Then on top, we have CSL curriculum to test them with as well as the more important settlement issues to deal with, then personal, emotional side of students' lives in the new country i.e. getting around using Go-cards, banking, renting, culture etc.*

- ii. Attainment against an ACSF “indicator” was required for every 200-hours an individual attended class. Because the AMEP allows for continuous student enrolment, administering these individualised assessments disrupted teaching.<sup>28</sup>
- iii. The centrality of the ACSF in two KPIs, and the time entailed in using it, made it the *de facto* AMEP curriculum.
- iv. Teaching was reduced to coaching students for assessment tasks.<sup>29</sup>

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- *Assessment tasks that used to be one and two pages long are now double or triple the size. I have to complete an incredible amount of paperwork when doing an assessment. Also because of Immigration policy there are an inordinate number of 6 and 12 month extensions - a waste of time for all.*
  - *The initial interviews for AMEP students merely to enter a class have increased by at least an hour. There is also endless paperwork and forms even if the student speaks little or no English! SEE interviews also average 2 hours. On a 0.6 contract, prior to June, I spent a maximum of 2-3 hours a month on interviews. Now I am given 1 per week totalling approximately 8 hours per month with the excess paperwork. I teach for 10 hours per week and co-ordinate a full-time course. As a teacher with 37 years' experience, I expect to take some work home but now, like my colleagues, I find I am often doing administration, answering email as well as doing some of my preparation at home. My levels of anxiety and frustration have increased.*
  - *I refuse to take excessive amounts of work home, but unfortunately that has meant that under the new contract that it is impossible to meet all of the work requirements for teachers. The excessive amount of report writing that goes with assessments is just not doable, especially in a multilevel, multi funded classroom where students are not doing the same assessments. We have rolling intakes, and such a variety of learners that all non-teaching time is consumed with preparation for class as we are preparing lesson plans x3 or 4 for each class x3 sessions per day. We cannot follow any one book and the ridiculous decision to put SEE and AMEP together using the same assessments has been a nightmare. All SEE materials were written for native speakers and often assume cultural information. The idea that we can contextualise for each student is academic arrogance - no teacher on the front line has time to contextualise for each, nor should it be necessary. As a teaching group we were conned into teaching longer hours on the agreement that we would have more admin support. The only problem was that under the new contract our teaching and assessment duties actually increase exponentially and because of our agreement we then had less time to do more work. The contract was costed to win not to deliver and the cost to front line teachers has been disgraceful. All the talk about work life balance and wellness etc is just hot air, my colleagues have been dropping like flies. In my 8 years at TAFE working under the last 3 contracts this has been the worst I have ever experienced. I only wish I could do something else in this regional area, I would leave in a heartbeat.*

<sup>28</sup> **Undertaking assessments:**

- *This contract demands progressive “assessments” every 200 hours for each student, plus paperwork. Given that we have continuous enrolment, this means students often have to be tested individually as they complete their hours at different times. This does not mean delivering one test but at least two per student, while somehow teaching a class of sometimes up to 20 students. We can deliver these tasks to the whole class, but often the tasks do not fit in with what we are delivering at the time.*
- *The ACSF, with the idea of individualized assessment, is very impractical and unfeasible in the current context where there are two assessment systems in place (ASCF and CSWE at my workplace) with totally different criteria and requirements. On top of that, there is the KPI of 80% of one indicator up after 200 hours in the ACSF, multi-level class, poor attendance, doing coversheets, no clear instructions on what is considered verified by auditors, that add to the craziness of teachers having to make sure their students have achieved the ASCF indicators, the administration related to keeping track of who has achieved what, of grabbing a low-attending but the due-ACSF-assessment client the moment they come to class to give a test before touchdown of 200 or 400 hours while juggling with teaching the other students (and couple that up with a class of two [part-time] co-teachers).*

<sup>29</sup> **Effect on teaching.**

- *It's supposed to give the teacher and student a clearer understanding of student progress, but it's so lengthy and the answers required are so long, that by the time it's completed and all the paperwork has been done, there's no time to actually come back to it and discuss the student outcomes with them. There is no time in class to really discuss the assessment outcomes. Also, because there are always new students arriving, we have to move on to the next thing and get the new students started on their assessments, otherwise they won't have time to completed all the tasks and achieve the certificate.*
- *It's really a huge impediment to getting on with needs-based teaching and there is NO value in it whatsoever for teachers or for students. If more PD is required, let's target it to teaching a settlement curriculum and effective ways to deliver, NOT focus all this energy on proficiency assessment and documentation. Such a huge focus on proficiency levels is pointless and unnecessary at these levels and with this client group... we need to focus much more energy on teaching!*

- v. Because CSWE Assessment Task Bank (ATB) could no longer be used for KPI reporting purposes,<sup>30</sup> developing ACSF assessment tasks added further to teacher workloads.
- vi. There was no ACSF baseline data for continuing students in July 2017 from which their attainment could be calculated.
- vii. File verifications destroyed teachers' and managers' commitment to QA.<sup>31</sup>
- viii. The reliability of assessment and reporting in the AMEP could no longer be assured, because:
  - teachers were developing their own assessment tasks
  - ACSF assessments did not reflect students' actual English language proficiency
  - the lack of credibility, complexity and rigidity in the ACSF incentivised teachers to fabricate both assessments and reports.<sup>32</sup>

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<sup>30</sup> The 2015 ACIL Allen Evaluation of the AMEP under the previous contract stated:

The ATB is an online resource of assessment tasks for teachers employed by AMEP service providers. It is a collection of tasks held in a secure location to be used for assessment under the CSWE framework. Representatives from all AMEP service providers comprise the National Working Group (NWG), which is continually developing and testing new tasks for the ATB. The NWG liaise and meet regularly to assess, modify, validate and pilot assessment tasks for the ATB. The ATB is designed to facilitate a national programme that is consistent and enables the learning outcomes of AMEP participants to be measured in a consistent way across the country (NEAS, 2015). While it is not mandatory, consultations indicated that AMEP service providers value the ATB highly and consider the assessments well designed and easy to use. The ATB reduces complexity for AMEP service providers and the Department of Education and Training by providing standardised assessments, as opposed to each provider developing assessments which would then need to be audited.

Its Key Finding 23 was:

The Assessment Task Bank is highly valued by AMEP service providers for helping to improve the efficiency of AMEP delivery through standardising assessments.

Under the 2017 contract, the QA provider was required to develop assessment tasks as follows:

At a minimum 50 new Assessment Tasks created, verified and uploaded to the Assessment Task Bank each financial year.

Reports to ACTA were that these were not available initially and, as they became available, there were not enough.

<sup>31</sup> **Verifications:**

- *Both AMEP and SEE programs hold "Verifications" or audits, the SEE one to be held next week and the following. For this, staff are expected to attend a 2 hour preparation meeting and then write up a report on 2 initial interviews! Another time-wasting, self-serving, tick box activity which does not assist students or contribute to teaching and learning in any way. No-one comes into the classroom any more to see what we are actually doing or observe the kind of students we are teaching – many of whom are refugees. Our PDs and staff meetings are dominated by either meetings with HQ on how to fill in forms or how to "deliver" the new AMEP. There is no time for real discussion on teaching and learning or sharing of materials.*

<sup>32</sup> **Cheating:**

- *Evidence gathering for the oral communication learning area (speaking: .07) is particularly painstaking and problematic. Teachers are required to record and then transcribe their conversations with each learner, so that parts of these conversations can be used as evidence for a range of performance features. As an example, at 3.07 level (for students studying in CSWE 3), there are 14 performance features requiring specific evidence, that is, words, phrases and sentences containing a variety of linguistic features from the conversation, including notes on nonverbal feedback. Such evidence gathering is impossible with a classroom of 15-20 students. So teachers have reported that they resort to writing up whole or parts of conversations that actually didn't take place, just to be able to provide evidence. This 'evidence' is a fiction. Also, manufacturing of evidence often happens because, having done the hard work of transcribing, the teacher may discover that the learner has not in fact met 80% of the performance features, perhaps because they didn't use any idioms in their conversation, so they cannot meet that indicator. So the teacher cannot use any of that transcription for reporting unless they invent something. Because there is no time to collect and transcribe more evidence, the teacher may decide to invent evidence, even if it is just for one or two performance indicators. So the teacher writes that the learner said, for example, 'I was flat out last weekend', even if he/she didn't say that, just to tick the box for 'uses some common idioms'.*
- *At times I feel remorse that I have to develop contrived evidence gathering. Fudging lab reports at Uni doesn't come close.*
- *I cheated as much as I could possibly get away with.*
- *I have been advised by teachers to simply write answers to ACSF tasks on board and have students copy answers, as the tasks are unrelated to what students have been learning.*



#### 4.4.3 Forming classes for teaching (1): Streaming

The 2017 contract mandated two streams of classes entitled *Pre-employment* and *Social English*. The stated rationale was increased student choice.

Both streams were based on false premises and effectively misled students.

The false assumptions underlying the Social English stream confused the different interests and needs of low English proficiency students. Some seek to join relaxed, informal conversation classes which often occur in community settings and are not tied to assessments. Other low proficiency students seek intensive structured tuition from well qualified and experienced teachers as their first step along an English learning pathway.<sup>33</sup> The real benefit from creating this stream was cost savings.

The Pre-employment stream implied that a pathway to employment but, since AMEP tuition was restricted to those with less than functional English, exiting students had insufficient English for all but the most menial jobs.

The effects of the requirement to form streamed classes were as follows.

- i. Centres lost the flexibility to form classes to meet the different and changing needs of local student cohorts.<sup>34</sup>
- ii. Centre, provider and Departmental administration and reporting increased and became more complex.
- iii. Students overwhelmingly opted for the pre-employment stream if given an informed choice.
- iv. Consequently Centres struggled to fill single purpose Social English classes, especially smaller Centres.
- v. The cost of forming Social English classes with small numbers led Centres to combine students from the two streams in the one class, defeating the rationale for dividing students into streams.

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- *The so-called testing must show progression, so we often see ourselves supplying answers (or “giving support”) which is totally unethical as well as being self-serving and time-wasting.*
  - *The new system is a license to cheat.*
  - *This problem will allow providers to report false gains against learning KPIs. 20 takes huge amounts of time to transcribe and label speaking and writing samples. Then there is the contrived questioning and reporting now required.*

<sup>33</sup> ACTA believes there is a role for conversation classes. However, their inclusion in a Program that was governed by rigid ASQA requirements and the AMEP KPIs was inappropriate. The Social English stream was another reflection of DET’s lack of expertise in designing the AMEP contract.

<sup>34</sup> A Discussion Paper by the Multicultural Youth Advocacy Network (MYAN) reported:

A key challenge to the expansion of youth-specific classes has been in obtaining sufficient minimum numbers to run youth-specific classes. Under the current funding criterion, AMEP providers require a minimum of 16 participants for classes to remain viable. Providers spoke of the need to explore a different funding model so each site can sustain a youth class that is able to respond to enrolment peaks and troughs. It is important to keep these smaller classes viable to maintain established stakeholder relationships, and ensure consistency for students. (p. 20 [amep\\_discussion\\_paper\\_10.pdf\(myan.org.au\)](#))

The Settlement Council of Australia (henceforth SCoA) reported:

The two streams of AMEP are not working well. There is misunderstanding amongst learners about this, and many of the funding constraints mentioned elsewhere mean that providers are unable to offer both streams because numbers in the “social” stream are too low. (p. 4 [Maximising AMEP and English Language Learning Consultation Report - Settlement Council of Australia \(scoa.org.au\)](#))

#### 4.4.4 Forming classes for teaching (2): the provider payment system

Providers were paid, in large part, according to hourly student attendance. Many AMEP students attend class irregularly for multiple reasons.<sup>35</sup>

To ensure their financial viability, providers:

- i. over-enrolled classes<sup>36</sup>
- ii. combined students with widely varying English proficiency in the same class
- iii. collapsed and re-combined classes if numbers dropped.<sup>37</sup>

Effective and targeted teaching was impossible in large multi-level classes. Unstable classes and changes of teacher alienated students and caused them to disengage from the AMEP. These were clearly undesirable outcomes.

Reporting was required on:

- i. rolls marked for student attendance every 15 minutes.<sup>38</sup>
- ii. documenting a required number of phone calls to absent students.<sup>39</sup>

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<sup>35</sup> Reasons for non-attendance include initial settlement issues (finding accommodation, schools for children), medical appointments, effects of torture and trauma, caring responsibilities, mutual obligation requirements and non-negotiable requirements to attend Centrelink/job provider meetings.

<sup>36</sup> ACTA received reports of classes on some days being in excess of 30 and sometimes 40 students.

<sup>37</sup> A teacher wrote to ACTA:

*The situation at Navitas has become intolerable. My Level II/III class of 14 students (deemed too small), more than doubled overnight to a multi-level class of 30 on the roll (and, so far, between 24-27 students in actual attendance). This was brought about because of small numbers in the two highest level classes and then the resignation of one of the teachers of the other class. The co-teacher of that class immediately lost two days of work a week. Of course, all the students were extremely upset about the change (as were the teachers), and I spent a couple of days just trying to manage the fallout as best as I could (with a great deal of help from my manager).*

SCoA reported:

The income streams under the 'actual hours' funding model are unpredictable and inconsistent. Classes become unviable when student numbers drop below a certain level. This forces AMEP providers to merge classes, and to put learners with different levels of English, different learning needs etc into the same class. The funding model does not give providers the confidence to invest in a diverse course offering, or for teachers to plan a tailored and flexible course. In addition, teachers are spending too much time monitoring attendance. Because of this situation:

- classes are often too large;
- the range of English competency in each class is often too great for learners to progress;
- the learning environment of a large class is not welcoming for some learners.

This is particularly an issue in regional areas, where overall student numbers are lower and there is less opportunity for providers to be flexible in their AMEP offerings. In some places, such as Tasmania, AMEP students are placed in classes with fee-paying international students, despite very different learning needs. Given issues of scale, some providers can't offer the range of class options that students require (e.g. evening classes, classes for youth, classes tailored for certain occupations or desired outcomes etc.). Therefore, the ability to cross-refer between providers would be useful. Though this is currently possible, the current funding model doesn't incentivise this practice. (p. 3, [Maximising AMEP and English Language Learning Consultation Report - Settlement Council of Australia \(scoa.org.au\)](#))

<sup>38</sup> Students absent from class for more than 13 minutes were counted as absent for that hour.

**Survey comments on recording attendance:**

- *I have to say 20-25 [on one roll]. BUT "One class roll" is deceptive as more students are entered on one roll per curriculum level and then an additional and separate roll for students who have childcare. Some teachers have had 6 rolls for one class. The total between these is usually 26 so that the attendance will be at least 20 average each week. The total number of students seen by one teacher on the rollover a term will be much higher with continuous enrolment. It could be as high as 40. Maybe higher.*

<sup>39</sup> Teachers were required to phone students absent from class and to record the outcome of conversations. Unanswered calls had to be repeated.

Together with individualised assessments, documenting student attendance made teaching coherent lessons impossible.

Phone calls to students were time-consuming and often fruitless.

#### 4.4.5 Site facilities

Responses to the 2019 ACTA survey included multiple reports of unsatisfactory and sometimes unsafe premises, for example:

*The building we occupy consists of concrete blocks built in the 60s. There are holes in the staff room ceiling and when it rains we have water fountains flowing down the stairs from the 3rd to the 1st floor. The lift is ancient and staff and students have been trapped in there. It has been repaired but obtaining parts proved difficult. Air-con often cuts out and the wifi etc is unreliable.*

For detailed teacher reports on sites facilities, see Exhibit 4.

See also footnote 67 for the Department’s responses to reports of unsatisfactory venues.

#### 4.4.6 The effect on those delivering the Program

It is reasonable to observe that the contractual requirements just described entailed abuse of AMEP teachers and frontline managers at least in regard to unpaid work and excessive stress.

The 2019 ACTA survey yielded the following data on unpaid hours.

**Table 1: Unpaid hours worked per week (averaged over past 10 weeks)**

Unpaid Hours Worked per week (averaged over past 10 weeks)	No. Respondents	% Respondents
0	33	9.71%
1-4	74	21.76%
5-8	85	25.00%
9-16	96	28.24%
17-24	21	6.18%
more than 24	31	9.12%
<b>TOTAL</b>	<b>340</b>	<b>100</b>
<i>Skipped this question</i>	82	

Teacher comments from the ACTA survey provide clear evidence of the stress induced in teachers and managers, not only regarding workloads but, more profoundly, the violation of their identity as committed professionals. The greatest single cause of extreme stress reported in the ACTA survey was audit requirements, i.e. file verifications (58.67%), as shown in Table 2.

**Table 2: Sources of Stress for AMEP managers**

	Not unduly stressful		Moderately stressful		Extremely stressful		Total
<b>Audit requirements</b>	9	12.00%	22	29.33%	44	58.67%	75
<b>Student welfare</b>	29	38.67%	35	46.67%	11	14.67%	75
<b>Staff well-being</b>	20	26.67%	30	40.00%	25	33.33%	75
<b>IT systems</b>	21	28.00%	27	36.00%	27	36.00%	75

<b>Interaction with DET</b>	34	45.33%	32	42.67%	9	12.00%	75
						<b>Answered</b>	<b>75</b>

Aside from being undesirable and in violation of industrial law, unpaid hours and the effect on teacher well-being arguably motivated the cheating documented above, and teachers’ and managers’ disengagement from compliance with KPIs.

A direct effect was resignations by experienced and well-qualified teachers. The Auditor’s Report refers to the engagement of teachers who lacked the qualifications specified in the contract (para. 2.24, p. 30). When questioned by ACTA on this matter, the Department explained it was necessary because of the shortage of qualified teachers. The prime cause of this shortage was, arguably, teacher resignations, as is reflected in Table 3.<sup>40</sup> As one survey respondent wrote:

*All the talk about work life balance and wellness etc is just hot air; my colleagues have been dropping like flies. In my 8 years at TAFE working under the last 3 contracts this has been the worst I have ever experienced. I only wish I could do something else in this regional area, I would leave in a heartbeat.*

**Table 3: Actual and contemplated resignations**

<b>Have you considered leaving your employment in the AMEP/SEE Program since 1st July 2017?</b>	<b>No.</b>	<b>%</b>
Yes, I have already left the AMEP/SEE Program since 1st July 2017	14	4.88%
Yes, I am actively looking for another job	30	10.42%
Yes, I am seriously considering looking for another job or even quitting work altogether	65	22.57%
I'm not sure at the moment	80	27.78%
No, I haven't considered looking for another job	99	34.38%
<b>Total</b>	<b>288</b>	<b>100</b>

When questioned on teacher resignations in Senate Estimates, it was said to be a provider issue.<sup>41</sup> To ACTA’s knowledge, no data is kept on teacher resignations, allowing this issue to evade scrutiny. (See section 5.2.1 below).

#### 4.4.6 Effect on students

AMEP students can be relied upon to express their gratitude for the AMEP. The 2019 Social Compass AMEP Evaluation reports from focus group discussions that:

<sup>40</sup> Responding to a further question, 94 people said they knew 2-4 colleagues who had resigned, and 82 said they knew more than 4 people who had resigned.

From the ACTA survey:

- *Every day I have to think about whether to continue to stay in this job or not. The workload is insane, and no matter how much time you put into it, it is never enough. Much of the blame is on introducing the ACSF to the AMEP. It increases the workload multifold. It was bearable when CSWE was the single curriculum required. Additionally, there is very little support from employers. The only things they do are chucking requirements on you, then letting you swim or sink on your own.*
- *I ended up having a minor panic attack one evening over the current state of affairs and, as a result, have finally decided to quit AMEP altogether. Next week will be my last. I am very upset about this, as teaching in AMEP was once my dream career. However, as it is now, there is no future in it, and as I absolutely despise Navitas, I can't continue to support them as an organisation. I've consoled myself with the thought that I can always do volunteer teaching for MARRS or the ASRC at some point later. In the meantime, I've applied for a few non-teaching jobs, and have an interview for one next week. ... [name] has also resigned from her position as Academic Team Leader and several of the other really good teachers have stated that they are leaving, too. It feels like the whole place is falling apart.*

<sup>41</sup> See footnote 67.



*AMEP students frequently expressed their gratitude to the Australian Government for providing them with the opportunity to learn and improve their English language skills. They spoke of the positive outcomes they achieved as a result of their participation in the AMEP—improvements in their English proficiency, increased self-confidence and independence in daily life, and establishing social connections.<sup>42</sup> (p. 21)*

The stress just reported would appear to have been masked by teachers' professionalism:

*Students in all focus groups described the ways in which teachers built strong and supportive relationships with students. This helped foster student confidence both in terms of their English language ability and wider social engagement.*

*The main factors that are helping in our journey are the good teachers – we have excellent teachers and the ability to speak with the teacher and converse with teachers in English. — AMEP student (p. 19)*

Nevertheless, independent reports have documented student dissatisfaction with the narrowing of the curriculum and the preoccupation with assessment.<sup>43</sup>

Teachers also reported on student reactions.<sup>44</sup>

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<sup>42</sup> Social Compass. 2019. *Evaluation of the Adult Migrant English Program New Business Model*.

<sup>43</sup> SCoA included the following under the heading “areas that are not working or need improvement”:

- An over-emphasis on assessment under the Australian Core Skills Framework (ACSF) model - many participants stated that this is in not a suitable approach to gauge language learning. The overemphasis on assessment has inhibited learning, making it more academic, and less focused on effective settlement. Much of the class time is spent preparing for and conducting assessments, at the expense of actually teaching English. AMEP outcomes could be better measured using a broader set of social and economic participation indicators, including the social benefits of belonging to a language learning community - such as building networks and social capital.
- Furthermore, ACSF reporting is restricting the ability of teachers, administrative staff and management to offer a flexible AMEP program which is responsive to clients' settlement needs. ACSF reporting is a significant burden for teachers, and results in:
  - too much focus on assessment;
  - client outcomes implicitly defined by an academic understanding of English, not one contextualised by individual learner goals, and;
  - not enough time leftover for teachers to focus on their core role of teaching English to help learners achieve settlement success. (p. 3, [Maximising AMEP and English Language Learning Consultation Report - Settlement Council of Australia \(scoa.org.au\)](#))

MYAN reported:

The AMEP program is very assessment driven. The introduction of the Australian Core Skills Framework (ACSF) has resulted in increased workloads and less time to prepare lessons for some providers. The assessment requirement for every 200 hours is reportedly stressful on both students and teachers, because the assessment tasks are not always aligned with curriculum. The lack of flexibility to choose units and assessment tasks means that these are not always appropriate for young people's needs and prioritise academic rather than settlement outcomes. (p. 21 [amep\\_discussion\\_paper\\_10.pdf \(myan.org.au\)](#))

It would appear that these problems persist. From Australian Government 2024. *Towards Fairness: A Multicultural Australia*:

A community-based agency supporting migrants and refugees continues to receive feedback from individuals taking part in AMEP that the English taught is too formal and difficult to apply to real-life scenarios, class sizes are too big, the program does not cater well to people with low literacy, and materials provided are difficult to understand. (p. 80, [Towards fairness: A multicultural Australia for all \(homeaffairs.gov.au\)](#))

<sup>44</sup> **Effect of the ACSF on students.**

- *What does it give? Students can't understand it. It's just a reporting tool - it's been unsatisfactory as a placement tool as far as I can see (lots of odd placements) (and a source of tediously long assessments... which students HATE!)*
- *The ACSF has caused a great deal of anger and angst among teachers, not just because of the huge workload increase but because it has absolutely no value as an indicator of progress. The workload increase is exacerbated by the students' resentment at having to do MORE tests, and by the fact that it takes them away from their learning. The workload is doubled by having to find time to test as well as having to prepare the tests, annotate them and then write a report (originally 2 reports.) Our requirement has recently been reduced but it has still has a huge impact on our daily workload and stress.*



#### 4.4.7 Design Flaws in the 2017 AMEP Contract: Conclusions

The Auditor's Report states that:

- none of the four KPIs were applied for the first 12 months of the contract term
- the KPI relating to data timeliness has not been applied at all
- the target addressing the KPI relating to the accuracy of service provider assessments of client learning outcomes was first reduced and was later paused in November 2021 for the remaining term of the contracts; and
- the English attainment progress KPI has been removed.<sup>45</sup>

From the above, the reasons should be clear. Rather than promoting their stated goals, the performance measures underpinning these KPIs undermined the conditions necessary to achieve them. The KPIs deflected teachers, managers and Departmental officials from actually delivering the AMEP. Rather, achieving performance targets became ends in themselves. As one teacher reported:

*It has taken my attention from increasing quality teaching in the classroom to attending to files to ensure that student ID numbers, names of tasks, identified units of study, boxes to identify region and program type are correct. I spend hours double-checking performance features from work that meets an ACSF level when the student has progressed beyond this, but the ACSF requirements for continuous and non-continuous/active and passive tasks at the level of the claim - not beyond the level of difficulty - mean that the true ability of the student cannot be claimed, as the evidence level does not meet their requirements. Teacher's professional judgement is not trusted, and students are doing tasks to satisfy nothing but a system that was never designed for ESL learners. (emphasis added)*

The pausing of KPIs relating to English attainment and accurate assessments marked a welcome end to use of the ACSF for assessing progress. It is now used for placement purposes only.<sup>46</sup>

The Auditor's Report criticises the variations to the contract that sought to mitigate these problems:

*records of decisions to vary the contracts do not address value for money considerations and therefore do not demonstrate that each of the variations has been appropriate. (p. 24).*

However, ACTA asks: **what were the "value for money" justifications for the contract itself?**

We cannot see how this contract constituted "value for money". It discarded purpose-made teaching and assessment resources that had been developed at considerable expense for more than twenty years.<sup>47</sup> It wasted and duplicated teacher time – and later QA provider time – in developing new resources. It reduced teaching to test preparation and made it impossible for teachers to deliver

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<sup>45</sup> para. 19, p. 10.

<sup>46</sup> Footnote 62 in the Auditor's Report states:

In February 2024, the department advised the ANAO that: 'While there is no longer any formal KPI to measure attainment, there is now an alternate and improved arrangement to demonstrate client progression. The department paused KPI 2 (attainment) in the early stages of the COVID-19 Pandemic in 2020 in response to restrictions and to allow service providers to focus on client retention and engagement. During the KPI 2 pause, the department trialled the usage of Australian Vocational Education and Training Management Information Statistical Standard (AVETMISS) unit completion data. Data was mapped to the Australian Core Skills Framework (ACSF) to report on client outcomes and reduce assessment duplication. The trial was positively received by stakeholders as there had been significant administrative burden with 200 hour progressive ACSF assessments under KPI 2....The department is monitoring general service providers who fall below the benchmark. It has commenced sharing KPI2 data with service providers to support them to identify barriers affecting their performance'. Notwithstanding this, the contracts have not been varied to include a replacement KPI within the service provider contracts.

<sup>47</sup> SCoA noted:

An AMEP Research Centre with a mass of resources has now been made redundant by the current assessment system. Professional Development is needed for teachers, as are teaching resources. (p. 3, [Maximising AMEP and English Language Learning Consultation Report - Settlement Council of Australia \(scoa.org.au\)](#))

coherent lessons. It incentivised cheating and gaming the system, and lowered the standard of English language assessment and reporting to meaninglessness. It created chaos in reporting. It generated extreme teacher, frontline manager and student dissatisfaction.

ACTA's recommendations are as follows.

### **RECOMMENDATION 5**

**The Inquiry should give in-depth attention to the question of what should be done when it becomes clear that all or part of a contract is problematic, dysfunctional or damaging to the program it governs.**

### **RECOMMENDATION 6**

**The requirement to offer streamed AMEP pre-employment and social English classes should be discontinued in order to give providers genuine flexibility in forming classes according to learner English language levels and the specific needs of local cohorts.**

## **4.5 Quality Assurance services**

The Auditor's Report documents that QA services for the AMEP changed "from the intended purpose of the quality assurance role" to professional development and "program delivery documents" (para. 24, p. 11). The reasons for this change should be apparent from what is already presented. When the contract began on 1 July 2017, the resources and skills to implement the two KPIs dependent on ACSF assessments did not exist. Professional development was needed to train teachers in complying with the ACSF. The ACSF could not be operationalised without "program delivery documents." Both were essential to ensure the AMEP's continued operation.

The Auditor's Report states that:

*The ANAO did not audit the procurement processes for establishing the AMEP contracts. (para. 1.14, p. 20)*

In excluding this issue, the Auditor's Report fails to identify two serious questions regarding, first, the choice of provider to deliver QA services and, second, the conflict of interest embedded in combining QA provision with professional development.

### ***4.5.1 Choice of QA provider: how did "value for money" criteria apply?***

As with the changes to curriculum and assessment, the award of the 2017 contract for QA services requires justification in regard to "value for money."

Prior to the 2017 contract, QA services were delivered to the AMEP by the National ELT Accreditation Scheme (henceforth NEAS).<sup>48</sup> NEAS conducted an annual desk audit of submitted information and documentation, as well as an annual on-site assessment of each AMEP service provider. Evaluations were referenced to the 2009 NEAS *AMEP Standards Manual*, a 27-page detailed set of specifications for seven Standards.<sup>49</sup> The Manual was recognised by reputable providers and TESOL experts as a high-quality contribution to QA in the adult English field. It is included as Exhibit 5.

From all reports, ACTA understands that QA provided by NEAS had the confidence of Immigration contract managers, providers and teachers. The 2015 ACIL Allen Evaluation of the AMEP in the previous contract stated:

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<sup>48</sup> National ELT Accreditation Scheme [NEAS – QUALITY ASSURANCE IN EDUCATION AND TRAINING](#)

<sup>49</sup> The headings for Standards are: Premises, Professional & Administrative Staff, Educational Resources, Program Delivery, Support Services, Program Evaluation, Program Promotion.

*The quality assurance processes offered by NEAS are in place to ensure that the services delivered by AMEP service providers, with respect to resources, facilities and processes, are maintained at an appropriate standard, and that a beneficial and positive learning experience will be achieved by clients whilst undertaking the programme. Through ongoing quality monitoring, NEAS checks that only providers offering high standards of English instruction and administrative practice continue to be authorised providers within the AMEP (NEAS, 2011).*

*Consultations indicate that most AMEP service providers are satisfied with the role and professionalism of NEAS. The NEAS audits are undertaken in an effective and collaborative manner which helps improve the operations of providers.*

ACIL Allen’s Key Finding 27 was:

*The role of NEAS is valued, with its audits undertaken in an effective and collaborative manner that help improve the operations of AMEP service providers.<sup>50</sup>*

Despite this endorsement, we understand that NEAS did not tender for QA services in the 2017 contract. Their reasons are not known to ACTA but it is reasonable to speculate that requirements in the RTF for QA provision did not accord with their professional understandings of appropriate Quality Assurance for the AMEP.

The 2017 AMEP QA contract was awarded to Linda Wyse and Associates (henceforth LWA).

Given ACIL Allen’s endorsement of the previous QA provider, and the investment made in developing the *AMEP Standards Manual*, the following questions seem reasonable:

- i. What was gained in terms of responsible use of existing resources, efficiency and effectiveness in dispensing with the previous QA provider and the taxpayer funded 2009 NEAS *AMEP Standards Manual*, which was recognised and respected by AMEP teachers, managers and the wider profession, as contributing to quality provision in the AMEP?
- ii. What superior value did the new QA provider bring to QA assurance in the AMEP?
- iii. How did the cost of using LWA as QA provider compare with the cost of previous services from NEAS?<sup>51</sup>

The Auditor’s Report states that:

*The contractual arrangements in place to not allow an evidence-based assessment of whether the work of the quality assurance provider has improved the performance of the general service providers. (p. 77)*

Hence ACTA’s questions cannot be answered.

#### **4.5.2 Choice of QA provider: probity questions**

As we have documented, abandoning the AMEP’s common curriculum necessitated finding a common English language assessment tool, the ACSF.

<sup>50</sup> [amep-evaluation-report.pdf \(homeaffairs.gov.au p.81](http://amep-evaluation-report.pdf(homeaffairs.gov.au.p.81)

<sup>51</sup> The reply to Senates Estimates Question on Notice No. 2281 (Senator Kristina Keneally to the Minister representing the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, 6 November 2020) regarding total expenditure on AMEP Quality Assurance Services was:

13.

Table 12: Total expenditure on AMEP Quality Assurance Services

Financial Year	2016-17	2017-18 GST Excl.	2018-19 GST Excl.	2019-20 GST Excl.	TOTAL
Expenditure \$000s	371	1,191	1,153	1,139	3,854

As we have also shown, instituting the ACSF increased teacher, frontline manager and departmental workloads and stress exponentially. It was not supported by data management infrastructure. It caused students to complain and some to withdraw from the AMEP.

Mandating the ACSF and the choice of QA provider were two sides of the same coin, as follows.

- i. The ACSF and its predecessor the *National Reporting System* (henceforth NRS) was developed under DET auspices and used as a Language, Literacy and Numeracy (LLN) reference point in training packages, the SEE Program and the like.<sup>52</sup>
- ii. LWA had a close professional association and history with the NRS developers, and were involved in the NRS re-development as the 2008 ACSF. The ACSF was their “baby”.<sup>53</sup>
- iii. ACTA understands that LWA had a long-standing relationship with DET as the QA provider for the SEE Program and its predecessors.
- iv. LWA had clear vested interest in adopting the ACSF for use in the AMEP. The ACSF was a “framework”, not an assessment tool.<sup>54</sup> Despite claims for its widespread use, its operationalisation as a tool for assessing learner attainment required the development of assessment tasks, their validation and ensuring their reliability.<sup>55</sup> This development had hitherto been lacking, despite its use in the SEE Program. Investment in this work was necessitated by the two KPIs that rested on the ACSF. This work was funded through the AMEP, done by AMEP teachers, and managed by LWA.
- v. As QA provider, LWA were also responsible for compliance in using the ACSF. Provider managers were seriously constrained in criticising its suitability or feasibility in assessing AMEP students because their performance assessment depended on its use.

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<sup>52</sup> From [Review of the Australian Core Skills Framework and Digital Literacy Skills Framework and relevant assessment tools Final Report - Department of Employment and Workplace Relations, Australian Government \(dewr.gov.au\)](#):

The NRS (Coates et al., 1995) was developed as a mechanism for reporting the outcomes of adult English language, literacy and numeracy provision. It was used in Australian government-funded programs, such as the Workplace English Language and Literacy Programme, to report the outcomes of training delivery, and to inform the built in not bolted on approach to representing language, literacy and numeracy (LLN) demands in the early development of training packages. (p. 4).

The difficulties faced by AMEP teachers in using the ACSF as the basis for assessment makes it difficult to accept the claims in this Review that it is used as an actual assessment tool in other spheres.

ACTA does not support ACSF use with English language learners: [ACTA-Feedback-on-the-ACER-Review-of-the-ACSF-and-DLSF-and-relevant-assessment-tools.pdf \(tesol.org.au\)](#)

<sup>53</sup> The LWA website describes the organisation’s history as follows:

Linda Wyse & Associates, trading as LWA, is a Registered Training Organisation formed in Victoria in 1990 with expertise in foundation English language, literacy, numeracy, digital literacy and employability context ...

The ACSF 2012 edition lists the project team as: Philippa McLean Consulting (lead agent): Philippa McLean; Kulu Adventures in Management: Kate Perkins; Australian Council for Educational Research: Dave Tout; Linda Wyse & Associates: Kath Brewer, Linda Wyse.

<sup>54</sup> Under the ACSF Introduction heading “What is the ACSF?” is stated:

The Australian Core Skills Framework (ACSF) provides a rich, detailed picture of real life performance in the five core skills of: – Learning – Reading – Writing – Oral Communication – Numeracy.

Its uses are described under the following headings:

- Benchmarking an individual's core skills performance
- Mapping core skills requirements in education and training
- Tailoring approaches to teaching and learning
- Describing core skills relevant to the workplace and employment
- Informing decisions regarding funding and referrals

<sup>55</sup> The Review cited in footnote 43 above states that “Trialling and validation of the draft ACSF were conducted in diverse contexts, including community and workplace-based training, senior secondary, VET, and higher education.” Given the claims regarding consultation with ACTA, we have little faith what this trialling and validation entailed.



- vi. LWA had a financial interest in undertaking as many file verifications as possible, and requiring revisions, since they were paid per file audited.<sup>56</sup>

The choice of QA provider was clearly not unrelated to the prior relationship between LWA and DET. We believe it merits examination as a case of “provider capture”.

The choice of QA provider aligned perfectly with DET’s agenda of aligning the AMEP with the SEE Program.

We ask: ***who benefitted from the changes to the AMEP curriculum, the adoption of the ACSF and the change of QA provider?***

As we have documented, these changes clearly did not benefit AMEP students or those delivering this Program.

#### ***4.5.3 Dual role of QA provider***

We agree with the Auditor’s Report that the failure to allow consideration of alternative professional providers of professional development was problematic (3<sup>rd</sup> dot point, para. 4.10, 57).

In fact, the variations to the QA provider’s contract to include professional development also raise probity issues.

These variations gave the QA provider a dual role. The responsibility for both ACSF file verifications and professional development for teachers in using the ACSF, created an inherent abuse of power. It inhibited criticism and adverse feedback from teachers in professional development sessions on the ACSF.<sup>57</sup>

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<sup>56</sup> Reply to Senate Estimates Question SE19/326 (21 October 2019)

Linda Wyse & Associates (LWA) is paid on a fee for service basis, per file. LWA conduct file verifications and Quality Assurance (QA) Assessments both onsite and offsite and include assessment of teacher qualifications, assessment of curriculum and resources, client file verifications and work experience records. Reports are provided to the Department of Home Affairs within 15 business days of conducting the assessment issues identified in the assessments are then raised with the provider under normal contract provisions. The outcomes from both monitoring and QA assessments forms part of the Department’s assessment of the service providers performance against Key Performance Indicators.

Regarding The Auditor’s Report’s documentation of the failure to meet file verification plans (para. 24, p. 11), a plausible reason for this is that the projected numbers were not feasible. These verifications were a source of aggravation for teachers and frontline managers, seen as a waste of both time and taxpayer dollars, and generated damaging antagonism against the QA provider and the Department.

<sup>57</sup> This issue was exemplified in the following comments from the ACTA survey and emails to ACTA:

- *The attitude of LWA at the start of the contract was disparaging of CSWE and settlement and of the processes we used to assess and judge performance. Particular staff at LWA saw themselves as kings and queens and us as their subjects and expected us to treat and follow them as they demanded.*
- *At a PD session run by LWA, they introduced a term - "non-continuous text". None of the 100- plus lecturers present had ever heard of it, but LWA stressed its importance. I stood up and asked them to define/clarify it - I was rebuffed with the contemptible and contemptuous answer: "It's implicit." This meant that the woman herself didn't know but was unwilling to admit the fact; it is not insignificant that she is one of the people who bought the whole thing from Linda Wise [I can't remember her name - I only remember her appalling attitude*
- *I have just come back from a day doing the initial assessor training. I can now say with authority that it's horrendous. Believe me, there was enough criticism of the assessment process today to fill 100 pages. Everybody has had enough.*
- *Because of the need to gather ACSF evidence to meet the indicators and performance features, it is essential to have contrived assessment practices, it is essential that when doing an assessment you want to claim indicators for; that everyone pass and everyone be coached thru the answers; if one didn't do this, you would never have enough evidence; contrived practices also include observing 'each' student in the class when they read in order to write down an individualised observation. Can one do this? I don't think so, especially when you don't think it is giving worthwhile evidence. None of this will appear on a Facebook post because no provider would dare talk about dodgy practices that are essential. The oft heard remark 'you didn't hear me say that'.*

Until the AMEP returned to the Immigration portfolio, the problems we have documented were cemented by the vicious cycle of providers' dependence on meeting audit requirements and by the QA provider's interest in promoting the ACSF.

Included in QA services was auditing teacher qualifications. Notes from an ACTA Forum conducted in Sydney in March 2019 indicate that LWA lacked the necessary expertise to assess TESOL qualifications:

*Qualification auditing by LWA and others is problematic because some auditors don't have an understanding of relevant qualifications in TESOL. NEAS's loss of the QA contract has had an adverse impact on recognition of teachers' qualifications. LWA's list only includes current qualifications. But over time universities have changed the names and structure of their qualifications. Auditors need to understand the actual content of qualifications. Some highly experienced teachers with good qualifications from years past are being told their qualifications aren't recognised. This is incredibly stressful.*<sup>58</sup>

In short, under the 2017 contract, QA provision in the AMEP moved from using substantive, professionally recognised, evidence-based Standards. Compliance was monitored by a reputable, independent, specialist TESOL QA provider with long-standing expertise in the field, including the AMEP, and the confidence of those delivering the Program and the wider profession. After 2017, compliance was directed to inappropriate, dysfunctional KPIs, two of which rested on file verifications of invalid, unreliable, time-consuming English language assessments, which served the interests of the QA provider and DET's agenda of aligning the AMEP and SEE Program. As stated by a respondent to the 2019 ACT survey:

*Quality teaching has been attacked and hijacked from both ends - the new contract requirements including ACSF and LWA's priorities has completely demoralised lecturing staff as it is so pointless and bureaucratic. There is NO student quality consideration here in that it detracts so much from the energy and time we have to be quality teachers.*

We note that the latest version of the AMEP New Business Model potentially addresses this problem by separating the planned AMEP Academy from the Performance Management Framework, a change we warmly welcome.<sup>59</sup>

#### **4.6 Changing assessments of the QA provider's performance**

The Auditor's Report asks the question:

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<sup>58</sup> A document tabled at this forum elaborated:

Qualification requirements have proved difficult to implement, to monitor and to audit. The current QA process is simplistic, ad hoc and ill-informed in relation to teacher qualifications, often relying on the name of the qualification itself to inform the auditor of whether or not a person is qualified. This misses the fact that many TESOL qualifications, particularly older qualifications or those gained overseas, often do not have TESOL or adult education in the qualification name – e.g. Master of Education, Master of Educational Studies, Master of Letters, Master of Arts. The Department now recognises this and has started to build a list of suitable qualifications but it is incomplete. Transcripts of study are not examined and they should be. There are no guidelines as to what the essential components of TESOL study should be. There has been no consultation of relevant TESOL academic experts, e.g. ACTA, to ascertain the essential areas of study in a TESOL qualification. Qualifications need to be sufficiently rigorous to ensure that teachers on the program are properly trained so as to deliver the best for the students. But the qualifications requirements cannot be too onerous so as to exclude capable teachers, particularly for rural and remote areas where the program still must be delivered, or for people who have taught on the program for a long time already.

LWA were later commissioned to prepare a report on qualifications: *AMEP Curricula and Teacher and Assessor Qualifications Guide*. Dept. of Education & Training SQ18-000100, Senator Doug Cameron Question on Notice, Supplementary Budget Estimates 2018-2019.

<sup>59</sup> [New Adult Migrant English Program \(AMEP\) Business Model \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au)



*Has the AMEP service provider performance been improved through the work of the quality assurance provider? (p. 77)*

As already noted, nothing is in place that allows an evidence-based answer to this question. However, ACTA understands that teacher and frontline managers' dissatisfaction with LWA's performance gradually decreased after the AMEP returned to the Immigration portfolio, the reduced focus on file verifications and the discontinuation of the ACSF as the basis for measuring student attainment. Frontline managers and teachers saw – and still see – file verifications as time-wasting, irrelevant and an incitement to gaming (see Exhibit 6: Continuing issues regarding file verifications).

The Auditor's Report states:

*The work of the quality assurance provider, as tasked by the department, has deviated from providing primarily quality assurance activities to the provision of professional development workshops, program delivery documents and an online platform for e-learning. (para. 4.75, p. 77).*

In the consultations supporting this submission, we were asked to make clear that this work has been welcomed by teachers as relevant, helpful and good quality. The on-line platform is a high-quality and useful addition to AMEP outreach. The "suite of resources" to support mixed mode delivery of the AMEP is a welcome, high quality on-line resource that extends the reach and participation of adult migrants in English language learning.<sup>60</sup> To our knowledge, it is the first investment in quality teaching and learning resources since the AMEP Research Centre was wound down in 2009 and its rich trove of excellent resources vanished into cyberspace.

See also Appendix B for our response to Recommendation 10 in the Auditor's Report.

ACTA's recommendations based on the evidence just presented are as follows.

### **RECOMMENDATION 7**

**The forthcoming AMEP contract should direct the AMEP's goals, intended outcomes, management, Quality Assurance, curriculum, assessment and teaching methodologies towards the Program's distinctive role in integrating tuition in English as a second/additional language with broad settlement objectives and the AMEP's unique contribution to building social cohesion in Australia.**

### **RECOMMENDATION 8**

**The forthcoming AMEP contract for Quality Assurance services should ensure that these services are delivered by a provider who is not also tasked with delivering professional development.**

### **RECOMMENDATION 9**

**The forthcoming AMEP contract for Quality Assurance services should include evidence-based criteria for assessing the Quality Assurance provider's performance. The KPIs for this provider should rest mainly on qualitative data, should not include meeting quantified targets, and should include a survey of opinions on QA provision from general service provider frontline managers and teachers.**

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<sup>60</sup> [AMEPOnline \(homeaffairs.gov.au\)](http://ameponline.homeaffairs.gov.au)

## **RECOMMENDATION 10**

**In considering the Auditor’s Report, the Committee should identify the failings that are attributable to the poor design and implementation of the 2017 AMEP contract by the Department of Education and Training. The Committee should find that this Department was derelict in its design of and planning for the implementation of the 2017 AMEP contract. The Committee should recognise that the variations made after 2019 by the Department of Home Affairs were necessitated by the serious problems the 2017 contract had created, by policy changes required by Ministers and by the effects of the COVID pandemic on the delivery of tuition in the AMEP.**

### **5. Is short-term competitive contracting appropriate for the AMEP?**

#### **5.1 Is this question permissible?**

The Inquiry question is directed to what should “ensure project delivery.” In these final two sections, we invite the Committee to look beyond the conditions for ensuring that a given project *is delivered* and to take this opportunity to consider the other side of this coin – that is, to ask how contracting for the AMEP can maximise efficiency, effectiveness and high standards in *what* this Program delivers.

The current model of short-term competitive contracting for the AMEP was announced in 1991. Since then, ACTA has argued that this model is antithetical to the way teachers think and work, and equally to the principles that should govern the delivery of educational programs, including the teaching of English to adult migrants.<sup>61</sup> That is, short-term competitive contracting is not fit for purpose for the AMEP and similar Commonwealth-funded educational programs such as the SEE Program and Foundation Studies.

Our argument is never considered. It is liable to be disregarded again in this Inquiry, because it falls outside the circular and self-referential logic governing the Auditor’s Report and authorised by Commonwealth Procurement Rules.

Nevertheless, we hope the Committee might see the aims of the new Commonwealth Evaluation Policy as informing its Inquiry, viz.:

*to embed good evaluation principles and practices across government and foster an evaluative culture that supports continuous learning about **what works, why, and for whom**<sup>62</sup> (our emphasis)*

We submit that the stated mission of the Australian Centre for Evaluation applies to contracting for the AMEP:

*The Australian Centre for Evaluation (ACE) was established to help put evaluation evidence at the heart of policy design and decision-making.*

*We seek to improve the volume, quality, and use of evaluation evidence to support better policy and programs that improve the lives of Australians.<sup>63</sup>*

To our knowledge, there has been no assessment of the effectiveness of short-term competitive contracting for the AMEP. In regard to costs only, the 2001 ANAO report found that no appreciable

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<sup>61</sup> For more recent submissions, go to: [Advocacy – Australian Council of TESOL Associations](#)

Aside from governing the design of contracts, this model mandated the shift in language that made AMEP students “clients”, the AMEP a “deliverable”, the organisations delivering the AMEP a “market”, and more recently the design of the AMEP a “new business model”.

<sup>62</sup> [Australian Centre for Evaluation | evaluation.treasury.gov.au](#)

<sup>63</sup> [Australian Centre for Evaluation | evaluation.treasury.gov.au](#)

savings had followed from the move to competitive contracting.<sup>64</sup> Since then, at least in the public domain, silence.

A further justification for considering our question comes from the recent report *Towards fairness: A multicultural Australia for all*, published under DoHA auspices. Regarding “sustainable funding”, it says:

*Sustainable funding is more than just an add-on to policy development; it is the lifeblood of effective implementation. Without it, even the most visionary initiatives risk falling short, lacking the resources to deliver lasting results.*

Its Recommendation 26 includes the following:

*The minister responsible for multicultural affairs, along with the Minister for Finance and respective departments, oversees a reshape of multicultural grants and funding to improve existing grant programs administered by the Department of Home Affairs and other related grants. This should include analysis of funding models and a proposed new funding model, to be co-designed through consultation with state and territory and local governments and community stakeholders.<sup>65</sup>*

We endorse this recommendation. Our AMEP-specific recommendation is as follows.

### **RECOMMENDATION 11**

**The Committee should recommend that an independent, expert inquiry that includes co-design processes be established to investigate how Commonwealth contracting for the AMEP can be made fit-for-purpose, efficient and effective in resourcing, supporting, enhancing, regulating and evaluating the performance of this Program.**

We suggest that an appropriate body to auspice this inquiry is the Department of Home Affairs Migrant English and Language Services Branch.

The criteria selected to determine what constitutes *fit for purpose, value for money, efficiency, effectiveness, evidence, standards and quality* will determine the evidence and arguments that are admitted or excluded. To ensure that these concepts encompass the experience of those who deliver the AMEP, the inquiry should adopt collaborative, co-design principles. That is, terms of reference and procedures should be developed collaboratively with stakeholders, their representatives and others with knowledge and AMEP experience, notably AMEP students, teachers and frontline managers; experts teaching English to adult migrants, and representatives of advocacy groups, notably ACTA and the Settlement Council of Australia.

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<sup>64</sup> The ANAO report states:

**1.44** DIMA undertook baseline costing for AMEP prior to contracting out, costing the program at \$98.565 million in 1996–97.<sup>15</sup> At that time there were 40 366 AMEP clients in the program, representing a cost of \$2531 per participant at 1999–2000 prices.

**1.44** DIMA undertook baseline costing for AMEP prior to contracting out, costing the program at \$98.565 million in 1996–97.<sup>15</sup> At that time there were 40 366 AMEP clients in the program, representing a cost of \$2531 per participant at 1999–2000 prices.

**1.45** In 1999–2000 the total program cost was \$93.858 million including departmental costs, but excluding the cost of the Special Preparatory Program and the Home Tutor Scheme Enhancement Program.<sup>17</sup> This was an average cost of \$2612 for the 34 969 AMEP clients.

**1.46** Thus, the per capita cost of the contracted out arrangements is similar to those they replaced.

The Auditor-General (2001). *Management of the Adult Migrant English Program Contracts*. Audit Report No.40 2000–2001, Performance Audit. Australian National Audit Office 2001, pp. 44–45.

<sup>65</sup> Pp. 118, 120. [Towards fairness: A multicultural Australia for all \(homeaffairs.gov.au\)](http://www.homeaffairs.gov.au)

In short, the knowledge, experience and commitment of these genuine stakeholders should be recognised and constitutive of this inquiry. In this we are supported by the multiculturalism report Recommendation 26 just cited, which proposes that the review of funding models should:

*incorporate a diverse range of stakeholders, including grassroots-level organisations, youth services, and peak bodies, into the review and evaluation processes to ensure the co-design of grant programs, fostering flexibility and embedding impact assessment frameworks.* (p. 120)

The silence regarding the effectiveness of the current AMEP funding model means that support for ACTA's argument must rely on anecdotal reports from teachers and frontline managers, and various reports, mostly from advocacy groups. We submit that the volume and content of this evidence should at least provide grounds for admitting ACTA's question to this Inquiry and for the Inquiry to set a process in train that allows it to be systematically and comprehensively investigated.

In the following section, we summarise the case that the current AMEP funding model is not fit for purpose.

## **5.2 Why short-term competitive contracting is not fit for purpose in delivering the AMEP**

On the evidence available to ACTA over almost thirty years, it is clear that short-term competitive contracting does not maximise efficiency, effectiveness and high standards in the AMEP.

In this section, we present evidence that this funding model for the AMEP has:

- corroded accountability
- prioritised cost saving rather than “value for money”
- adversely affected participation
- been wasteful
- allowed its real costs to be disguised and shifted
- promoted short-term thinking and undermined any capacity for continuous improvement
- installed compliance mechanisms in place of the collaboration and trust essential to productive relationships in educational programs.

### **5.2.1 Accountability: secrecy and lack of transparency**

#### **EVIDENCE TO THIS INQUIRY**

Of great concern to this Committee should be that the current contracting model will prevent the Committee from receiving evidence that could assist its Inquiry. Those employed to deliver the AMEP will be reluctant to come forward. They risk disciplinary action and dismissal on the grounds violating their employment conditions, and “commercial in confidence” and other requirements that forbid them from revealing anything that might jeopardise their organisation's capacity to gain further contracts.

These constraints have been in place for so long that they are now internalised to the point where most AMEP teachers and frontline managers believe them to be part of their professional culture.

Members of the ACTA Adult ESOL Consultancy Group have declined to give evidence to this Inquiry for these reasons. Their requests to their organisations to make submissions have been refused.

Departmental officials are likewise constrained. We note the muted, compliant, largely non-explanatory and self-justifying responses by Home Affairs and LWA to the Auditor's Report.

## **CRITERIA USED TO AWARD CONTRACTS**

Secrecy also surrounds the actual criteria (as distinct from any publicly stated criteria) used to determine the award of contracts. This information is privileged as “commercial in confidence.”

We submit that Recommendation 2 in the Auditor’s Report should apply equally to the award of contracts.<sup>66</sup> This information should be accessible in the public domain alongside the announcement of successful tenders. The award of contracts should also be open to appeal.

Secrecy also attaches to *who* determines successful tenderers. We understand that they are officials unconnected to the AMEP and that, in the interests of impartiality, know little about it. We submit that this view confuses impartiality with ignorance, and that the award of contracts should be informed by knowledge and expertise in English language tuition and the AMEP itself.

## **RECOMMENDATION 12**

**The value for money assessment that underpins procurement decision-making prior to the award of AMEP contracts should be made public when the successful tenderers are announced.**

## **RECOMMENDATION 13**

**The initial award of AMEP contracts should be open to appeal.**

## **RECOMMENDATION 14**

**The expertise of those determining the award of AMEP contracts should be made public when contracts are awarded.**

## **ACCOUNTABILITY AND TRANSPARENCY**

The current contracting model allows the Department to absolve itself from matters that are critical to the effectiveness and standard of AMEP provision. Answers to questions in Senate Estimates exemplify how responsibility can be deflected to providers and even individual employees for curriculum resources, teachers’ employment and working conditions, qualifications, morale, resignations, industrial action, and unacceptable site conditions.<sup>67</sup>

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<sup>66</sup> **Recommendation 2:** When considering potential contract variations for the Adult Migrant English Program, the Department of Home Affairs make a decision-making record that addresses whether the proposed changes represent value for money, including by reference to the value for money assessment that underpinned the procurement decision-making prior to the contract being awarded.

<sup>67</sup> For example, see Senate Estimates Question on notice no. 329 (Senator Kristina Keneally to the Department of Home Affairs, 21 October 2019):

1. What responsibility does the Department take for setting suitable standards for AMEP classes and ensuring that teaching venues meet these standards, specifically standards for: a) the size of classrooms, number of chairs and tables vis à vis number of students in classes b) ventilation in classrooms c) heating in classrooms d) sound proofing in classrooms e) teaching materials and equipment (e.g. books, hand-outs, whiteboards) f) access to fire escapes g) toilet facilities h) student access to computers & library facilities?

**Answer:**

The service providers, as registered training organisations are regulated by the Australian Skills Quality Authority. All providers must comply with Workplace Health and Safety laws. A new compliance and assurance framework for the Australian Migrant English Program is under development and is expected to be in place by 1 July 2020

In response to a similar question (SE19/363; 21 October 2019), the answer was:

Allegations that providers are not creating a safe work place or are otherwise breaking contractual requirements should be brought forward directly to the Department of Home Affairs. Clients or other stakeholders can do this through the complaints and feedback mechanisms of the Department.

To a question regarding industrial action by TAFE Queensland AMEP teachers regarding their workload in developing resources for the Core Skills for Learning curriculum (SE 19/400; 21 October, 2019), the answer was:



## INDEPENDENT SCRUTINY AND ADVICE

The competitive contracting model is incompatible with on-going scrutiny of the AMEP's performance and access to expert advice.

The need for independent expert advice was noted in the most recent AMEP evaluation. Commenting on the problems resulting from the 2017 contract, the report stated:

*The process of implementing the NBM [New Business Model] has met with strategic, structural and operational challenges. With better expert advisory structures, some major challenges and unintended consequences of implementation may have been avoided. Organisational change literature argues that effective program redesign requires the active engagement of the staff who deliver the program. In the context of the AMEP, strategies for continuous improvement should draw on the expertise of those at the forefront of program delivery: the AMEP teachers and service providers. ... This Advisory Committee should also include representatives from organisations and government departments that support migrant settlement in Australia. (p. 22)<sup>68</sup>*

Its Recommendation 7 was:

*The department should establish an AMEP Advisory Committee, representing all key stakeholders, to oversee change, innovation and continuous improvement in the AMEP. (p. xiv)*

ACTA has also advocated for such a body: see **Exhibit 7: Proposal for an AMEP Advisory Body**.

In the consultation phase leading to the first iteration of the AMEP "New Business Model", in late 2020 the then-Co-ordinator General of Migrant Services chaired an Advisory Committee of six academic experts, including the principal author of this paper. It met twice, provided written advice to the DoHA for another two months, and was then disbanded. For further details, see Appendix C.

The AMEP "New Business Model" makes no mention of any advisory body.<sup>69</sup>

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The management of enterprise bargaining and industrial issues is a matter for the Queensland government and TAFE Queensland.

To questions about responsibility for developing resources to support the different curricula chosen by providers (SE 19/408; 21 October 2019), and a provider requiring its teachers to meet quotas for developing assessment tasks, the answers were:

- i) each service provider is responsible for developing the teaching resources to deliver English language tuition. The Commonwealth provides service providers access to the Assessment Task Bank to assist with assessment tasks and practices, and classroom teaching and learning.
2. The Department is not aware of service providers setting teaching and assessment quotas. Consistent with contract requirements, service providers must ensure they have sufficient resources to deliver English language tuition to improve AMEP clients' English acquisition.

To questions regarding teacher employment conditions (Senator Mehreen Faruqi Question on notice no. 225 Portfolio question number: SQ18-00092; 25 October 2018), the answer was:

The department does not collect data on teacher's wages or employment conditions. AMEP service providers are required to comply with Commonwealth policies on the engagement of workers, including the Fair Work Act 2009, and the same standards and obligations that are imposed on Commonwealth Personnel under the relevant state and Commonwealth Work Health Safety Act.

To a question asking for the number of teachers on short-term contracts (Senator Mehreen Faruqi Question on notice no. 227 Portfolio question number: SQ18-000929; 25 October 2018), the answer was:

The Department of Education and Training does not collect data on the number of AMEP teaching staff, or their employment conditions. AMEP teachers are employed and managed by AMEP service providers.

To a question regarding unpaid hours (Senator Jacinta Collins, Question on notice no. 273 Portfolio question number: SQ18-00056, 13 June 2018), the answer was:

The current AMEP reporting and processing procedures do not collect data on paid and/or unpaid overtime for provider managers or teachers. Teacher workloads and responsibilities are a matter for their employers, AMEP service providers.

<sup>68</sup> [Evaluation of the Adult Migrant English Program New Business Model \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/evaluation-of-the-adult-migrant-english-program-new-business-model)

<sup>69</sup> [New Adult Migrant English Program \(AMEP\) Business Model \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/new-adult-migrant-english-program-amep-business-model)

The competitive dynamic inherent in the current funding model presents difficulties in implementing Recommendation 7 above. Probity requirements are cited as preventing the Department from advantaging existing or potential providers directly or via other parties. It seems that it is no longer considered possible for one or more provider representatives to speak on behalf of fellow providers. That makes membership problematic because all providers would need to be represented. Provider senior administrators would claim membership in preference to those closer to Program delivery, in order to advance their organisations' interests, lessening the body's effectiveness. Provider representatives are also reluctant to share information and ideas with other providers (see also 5.2.3 below).

Recruiting independent outside experts to such a committee would also be difficult. Their numbers have gradually diminished with retirements, the shift to in-house compliance-focussed professional development for AMEP teachers, the close of the AMEP Research Centre, the secrecy that permeates AMEP culture, and the loss of teacher education programs offering specialist TESOL qualifications relevant to the Australian context.<sup>70</sup>

Despite these constraints, our recommendation is as follows.

### **RECOMMENDATION 15**

**The Department of Home Affairs should, as soon as possible, set up an independent AMEP Advisory Committee that includes representation from providers, including teachers, and advocacy groups such as ACTA and the Settlement Council of Australia, and external experts in teaching English as an additional language.**

#### **5.2.2 “Value for money”**

Although the criteria by which contracts are awarded cannot be scrutinised, indirect evidence is that competitive contracting prioritises cost saving ahead of “value”, that is, if value is interpreted with reference to program quality, outcomes, participation, quality staffing, use of existing infrastructure and preserving institutional knowledge. It seems to us that quality performance is irrelevant to how contracts are awarded or retained. Evidence to the contrary is unavailable because of the secrecy just described in section 5.2.1.

It appears to us that sharing “the market” between public, private not-for-profit and for-profit providers plays a role in the award of contracts.

Competition between public and for-profit providers has forced public providers to reduce the quality of their offerings.

Examination of each contract round would, we suggest, offer examples of unsuitable providers gaining contracts and reputable providers tendering unsuccessfully. Contracts have also been awarded to providers who subsequently withdrew from delivering the AMEP.

A notable example of an unsuitable provider from the 2016-17 contract round is Max Solutions, which gained the AMEP contract in Launceston. This organisation had no track record in delivering English language tuition and was clearly ill-equipped to deliver the Program.<sup>71</sup> ACTA is aware of continued criticism of this provider and of the other for-profit provider, Navitas.

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<sup>70</sup> State and Territory education systems no longer require or seek out teachers with specialist TESOL qualifications. Teacher education faculties have switched to meeting the lucrative overseas market.

<sup>71</sup> From the 2018 AMEP survey:

- *I was completely dissatisfied while at Max Solutions - facilities, workload, stress, all compounded by completely ineffective management. I found the lack of care given to students to be extremely upsetting, they were treated as*

Other contracts were awarded to providers who lacked the requisite accommodation and infrastructure.<sup>72</sup>

Conversely, the failure of AMES Australia to continue as a Melbourne provider in 2017 seemed to ACTA and others an egregious example of the disregard for the values just listed. Among other things, it meant the termination of an exemplary special-purpose program for refugee youth. Please see **Exhibit 8: Loss of an exemplary program.**

### 5.2.3 Effectiveness and Efficiency

#### PARTICIPATION IN THE AMEP IS DISRUPTED WITH EACH NEW CONTRACT

The ANOA 2001 audit documents that the AMEP was accessed by 40,366 clients in 1996-97, prior to the current model. In the first full year of the current model (1999-2000), the numbers were 34,969.<sup>73</sup>

In April-June 2017 before the 2017 contract commenced, participation stood at 35,495. In April-June 2018, the figure was 29,324.<sup>74</sup>

The 2019 Social Compass Evaluation investigated the transition between contracts and found that it adversely affects participation in the AMEP, at least in the year transitions occur. Their data on pre-2017 contracts indicates that approximately 38 per cent of students are regularly lost in this transition. The transition to the 2017 contract saw 46 per cent of students discontinue.<sup>75</sup>

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*a nuisance rather than as clients with special needs. Extremely toxic work environment that I am glad to be out of.*

- *Max Solutions took over the contract in Launceston in July 2017 and was wholly unprepared. The time I spent there was largely 'putting out fires' - bringing compliance documents up to standard, ensuring buildings and classrooms were fit for purpose, ensuring that teachers had documented that they had the relevant qualifications etc. There was no staff room so teachers were bombarded with student enquiries and administrative tasks during break times (no student counsellor to handle students who were agitated at the lack of facilities). No dedicated workspace or bank of computers for teachers to use. There was one office with two computer terminals that were constantly in use by others. Teachers were allowed to use Google Chromebooks but these did not have a printing function, so the most efficient way for me to do class prep was to save lesson plans, handouts etc to Google Drive and then print them from home, then bring them back the next day to photocopy. We were expected to do AMEP assessments of up to two hours, several times a week on top of a 25 hour per week teaching load and staff meetings, leaving virtually no time for lesson planning and preparation on-site. I was constantly stressed, management were panicky about not being compliant, and it was overall quite a toxic environment. Colleagues and collegiate support were great, but that's because we were all suffering together. Eventually Max Solutions had some things in place, but on the first day there were no toilets/kitchen available for students to use and they were told to go across a busy road and use the public library across the street. There was nothing in the way of recreational facilities for students but by about Week 6 they had an open area upstairs for students to use during break time. Staff facilities were shared with general Max Employment staff and I think some staff were a bit put out at having their space invaded. Classrooms had to be built during the first few weeks which meant many students had to suspend their studies while construction was going on. The classroom I taught in was pretty cramped for the 20-25 youth students I had. There were banks of Chromebooks available for use in class but I had to negotiate with other class teachers to use them but there was no booking system so it was essentially first in best dressed. No smartboards, had to haul in a projector and set it up in a cramped classroom. Admin was essentially a single desk in the foyer. No staff room and no place to get away from students, and admin staff would try and 'catch' me during lunch break to answer questions. I would literally dash out the door during my lunch break so that I could just be alone and in a quiet place for 30 minutes.*

<sup>72</sup> From the 2018 AMEP survey:

- *Added to our woes was the fact the internet was barely functional. Not even the Navitas phones were working, as they are connected to the internet.*

<sup>73</sup> The Auditor-General (2001). *Management of the Adult Migrant English Program Contracts*. Audit Report No.40 2000–2001, Performance Audit. Australian National Audit Office 2001, pp.44-45. See also footnote 64 above.

<sup>74</sup> Dept. Education & Training SQ18-000616, Senator Doug Cameron provided in writing, Supplementary Budget Estimates 2018-2019.

<sup>75</sup> Social Compass. 2019. *Evaluation of the Adult Migrant English Program New Business Model*, p. 12.



Anecdotal evidence in Notes from the 2019 ACTA Sydney forum explain why students give up in the transition between contracts:

It's a problem when students move from one provider to another when a tender is lost or gained. Students get very stressed about the disruptions, going to a new place, etc. etc. Some drop out. They have already experienced major disruptions in their lives and so the impact can be large.

Students from trauma backgrounds experience disruption and uncertainty – just getting comfortable in one place and then everything changes and they have to go to the new places. They suffer again. The disruption has far-reaching consequences for students, for example with child-care arrangements.

ACTA submits that this data should be collected and available with every evaluation of the AMEP.

## **RECOMMENDATION 16**

**Evaluations of the AMEP should routinely include data on student retention from one contract to the next.**

### **THE MODEL ENCOURAGES WASTEFULNESS**

**Time and salaries.** Providers report that at least one senior person works for between a year and eighteen months (or the equivalent) in anticipating and preparing tenders for forthcoming contracts. This use of time does not contribute to the provider's performance and, if the tender is unsuccessful, it is time wasted. "Commercial-in-confidence" protections hide this time allocation and salary costs: see section 5.2.1 above.

**Wasted assets.** ACTA has been consistently informed in regard to all AMEP contracts since 1997-98 of materials in skips, and computers and books given to students when existing providers fail to gain a new contract.<sup>76</sup>

Notes from the 2019 ACTA Sydney forum state:

Change-overs give rise to massive waste e.g. dumping of resources, computers given away, new venues hired or built, dumped providers hire their rooms to new providers at higher cost.

### **THE MODEL INCENTIVISES SHIFTING AND DISGUIISING COSTS**

As already described re the preparation and assessment of tenders, these costs are absorbed and never recorded.

An example already described is introduction of curriculum choice in 2017. Licence fee costs were shifted to the providers who chose to continue with the CSWE. The cost of TAFE Queensland's decision to develop a new curriculum and associated assessment tasks was borne by its teachers with unpaid working hours.

Another example of cost shifting comes from the notes from the 2019 ACTA Sydney forum:

Student services such as counselling, disability and library access, amongst others are offered to AMEP students (as TAFE Students), although not costed or required by the AMEP contract. While not required by the contract, these services have been essential in supporting the students with their settlement, particularly counselling and disability services.

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<sup>76</sup> From the 2018 ACTA survey:

*It is an immense waste when all the resources are discarded after a cycle of three to six years when another provider wins the contract.*

## THE MODEL'S INHERENT INSTABILITY UNDERMINES EFFECTIVENESS

As one of its “*key messages from this audit for all Australian Government entities*”, the Auditor’s report states:

*Continuity in contract management staff, who are appropriately experienced and trained, along with clear lines of responsibility within an organisation, contributes to effective contract management. (p.15)*

The current model of contracting for the AMEP is directly contrary to this message. ACTA asks: ***why can this message not be applied to the delivery of the AMEP itself?***

The insecurity inherent in short-term competitive contracting promotes short-term thinking and risk aversion. It disallows long-term planning, investing in infrastructure and resources, and building organisational strength. Security and stability are the preconditions for flexibility, innovation, confidence in responding to challenges, and continuous improvement.

The insecurity that is the prime rationale for short-term competitive contracting has meant that many of the AMEP workforce is on short-term contracts or casuals. Secure employment stimulates professional commitment and pride, and fosters professional leadership through career pathways. The predominance of casualisation and short-term contracts in the AMEP has meant that:

- a single class can be taught by two or more teachers working in shifts
- a single teacher may work shifts in different teaching venues
- the lack of security and career paths does not attract well-qualified teachers, and does not incentivise the existing teaching force to improve their qualifications or seek out professional development opportunities
- the AMEP teaching force is aging and is not being refreshed by quality teachers
- teachers’ loyalty to their employer is diminished because they know they can be discarded at any time
- institutional memory has been eroded.

Notes from the 2019 ACTA forum in Sydney record that:

**Constant competition/tendering doesn’t work for anyone, the teachers included.** Teachers moving from one provider to another following the contracts is incredibly difficult because they have to learn a new working environment, administration and culture. It’s a different situation with each provider. It impacts on the quality of program delivery, skills, resources, systems, facilities are lost. Getting student records across to a new contract holder is a major headache.

The current contracting model allows these trends to go unnoticed because responsibility for charting them is deflected (see section 5.2.1 and footnote 67).

## THE MODEL DESTROYS TRUST

At the heart of the current contracting model is teachers’ fear that they will lose their jobs. As one teacher said, “We are always thinking about the next contract round.”

The insecurity and fear inherent in the current contracting model undermine trust. Lack of trust inhibits robust communication between teachers and their managers, and AMEP managers and the Department. Open communication about how the AMEP is functioning at the grass roots is essential to efficiency, effectiveness and working collaboratively to resolve problems.

The report *Towards fairness: A multicultural Australia for all* includes the following feedback from consultations:

*The competitive nature of the grants environment discourages collaboration between service providers. This fragmentation hinders the ability to comprehensively address community needs and limits long-term planning. Encouraging collaborative partnerships and funding models that support joint initiatives would facilitate a more holistic and sustainable approach to service delivery.<sup>77</sup>*

Under the heading “Areas that are not working or need improvement”, the Settlement Council of Australia’s AMEP Consultation report raised the same issue:

*Participants suggested that, due to the funding environment, some providers are protective of their expertise and access to clients, volunteers etc. The Department should put less emphasis on competition within AMEP, adopting the recommendation from the Social Compass evaluation to encourage consortia of diverse providers, and co-develop a funding model that incentivises finding the right providers for learners.<sup>78</sup>*

Competition for AMEP contracts stifles collaboration between providers in serving students’ best interests. Student referrals between providers is rare if non-existent. Providers no longer share resources and ideas. We understand that the results of innovative project grants were not made available to other providers (see Appendix B, ACTA Response to Recommendation 3) and wonder if this follows from “commercial in confidence” concerns.

“As long as people compete, they will cheat”. This maxim is now repeated on ABC Radio regarding drug testing and the Para-Olympics. The assumption that the delivery of the AMEP must be regulated by principles governing a competitive marketplace has profoundly altered relationships between the Department and AMEP frontline managers, and between managers and teachers. What was formerly governed as a collaborative culture committed to a common purpose is now regulated on the assumption that those delivering the Program are potential cheats. Compliance with increasingly detailed contractual specifications and reporting on ever-narrowly defined performance targets – not collaboration and trust – are relied on to “ensure project delivery.” The assumption that teachers cannot be trusted is self-fulfilling. It has created, and legitimised at the grass roots, precisely what it seeks to prevent, viz. cheating and gaming the system.

## **6. Evaluating the performance of the AMEP**

The AMEP is tasked to deliver English language tuition to adult migrants as a key contributor to their successful settlement in Australia.

The AMEP does not – and cannot – deliver *learning* outcomes, for example, English language gains, or indeed any other outcomes directly, for example, employment. These outcomes are beyond the control of AMEP providers because they are dependent on many other external and individual variables, all of which have been explained in the extensive literature and research on English language learning, including by migrants to Australia.<sup>79</sup>

This is *not* to say that the AMEP does not, and should not, contribute to these outcomes. ACTA strongly supports monitoring these outcomes in relation to adult migrants’ participation in the AMEP.

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<sup>77</sup> p. 118.

<sup>78</sup> p. 3, [Maximising AMEP and English Language Learning Consultation Report - Settlement Council of Australia \(scoa.org.au\)](https://scoa.org.au)

<sup>79</sup> For example, the literature is extensive on the variables affecting the time required to gain proficiency in English. For a useful summary of issues, see [How long does it take to learn a language? | Open Universities Australia](#). See also: [How many hours does it take to be fluent in English? - BBC News](#)  
[Taking limited English proficient adults with a high school degree or higher into account in the formula for WIA title ii: selected key points \(migrationpolicy.org\)](#)

In evaluating the AMEP's performance, a distinction should be made between assessing the performance of the AMEP overall as a Commonwealth-funded program and that of individual providers.

Evaluations of the Program overall should include independent investigations into English language gains and various settlement outcomes, including employment.<sup>80</sup>

The Department's yet-to-be published new Performance Management Framework will provide the framework against which individual provider performance is assessed. This should focus what the AMEP is tasked and equipped to *deliver*, as distinct from the broader outcomes to which it contributes.

## **6.1 The AMEP as a Commonwealth-funded program**

The most recent AMEP Evaluation in 2019 documents four previous evaluations of the AMEP.<sup>81</sup> Each has focussed on different aspects of the Program. In addition, other commissioned research has occurred from time to time.

From AMEP-specific reviews, it is impossible to assess whether and how the Program has performed over time and from one contract to the next. This evidence vacuum leaves the Program vulnerable to the misplaced criticism that occurred in 2019-2020?<sup>82</sup>

ACTA proposes that the terms of reference of AMEP reviews should include consistent attention to the important outcomes to which the AMEP contributes. In this context, and together with other commissioned research, it should seek to establish a framework for understanding the factors that impact on these outcomes. The aim should be, first, to produce valid and reliable evidence on AMEP outcomes, and, second, to develop evidence-based benchmarks by which the AMEP overall and eventually individual provider performance can be evaluated.

The following recommendation proposes a method of evaluating the AMEP's performance over time.

### **RECOMMENDATION 17**

**The performance of the AMEP overall from one contract to the next should be regularly and systematically evaluated through independent research commissioned under the auspices of the Immigration portfolio and conducted by appropriate experts to investigate:**

- i. participation and retention**
- ii. English language attainment**
- iii. program quality (from data based on relevant Standards)**
- iv. student satisfaction**
- v. settlement outcomes, not only but including employment**
- vi. the quality of the evidence base relating to the AMEP.**

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<sup>80</sup> See, for example, [Research: Benefits of study with AMEP \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/research/benefits-of-study-with-amep)

<sup>81</sup> *Migrant services and programs: report of the Review of Post-arrival Programs and Services for Migrants*, May 1978 (the Galbally Review)

The AIMA review, 1981.

*The Report of the Committee of Review of the Adult Migrant Education Program* 1985 (The Campbell review)

The ACIL Allen AMEP Evaluation 2015. [amep-evaluation-report.pdf \(homeaffairs.gov.au p.81\)](https://www.homeaffairs.gov.au/amep-evaluation-report.pdf).

ACTA is aware of a further review that was part of the Dept. of Immigration and Multicultural and Indigenous Affairs report. c.2003. [Report of the review of settlement services for migrants and humanitarian entrants / DIMIA - Catalogue | National Library of Australia \(nla.gov.au\)](https://nla.gov.au/nla:gov.au/Report-of-the-review-of-settlement-services-for-migrants-and-humanitarian-entrants-DIMIA-Catalogue)

<sup>82</sup> We refer to the then-Immigration Minister's criticism of the AMEP media interviews in 2020 that accompanied the Government's response to the 2019 Shergold report. Both the report and the Minister's criticisms were based on incorrect information about the AMEP. See Appendix C and **Exhibit 3: Minister's announcements regarding reform of the AMEP.**

## 6.2 Individual provider performance

The experience gained from the 2017 contract demonstrates that narrow quantitative KPI targets do not reflect individual provider performance in any valid or reliable way. They incentivise gaming and undermine teacher investment in and commitment to genuine Quality Assurance.

Previous AMEP evaluations have found fault with KPIs in other contracts. Hence KPIs have varied from one contract to another, undermining the possibility of consistent evaluation of the Program as a whole or of the effectiveness of each contract (see above).

ACTA submits that evaluating provider performance should target the elements that demonstrably constitute quality English language tuition. This evaluation should be rigorous. It should reward quality performance, ensure that it continues, and have significant consequences for poor performance.

### **RECOMMENDATION 18**

**The award and monitoring of contracts for the AMEP and SEE Program should be streamlined and modernised on risk-based principles as follows:**

- 7) **Individual provider performance should be Standards-based along the lines of the 2009 NEAS *AMEP Standards Manual*.**
- 8) **Individual provider performance should be evaluated annually and rigorously by independent assessors with recognised TESOL expertise on a 5-point performance ranking scale, viz.:**
  - A = outstanding performance**
  - B = good performance**
  - C = satisfactory performance**
  - D = somewhat unsatisfactory performance**
  - E = unsatisfactory performance.**
- 9) **Providers scoring C or below more than once in any 3-year period should be asked to show cause as to why their contract should not be re-opened for tendering.**
- 10) **Providers who consistently score A or B should not be required to compete for new contracts until a new 10-12 year cycle.**
- 11) **New tenders for all provision should be called every 10-12 years.**
- 12) **Provider assessments should be undertaken by an independent, expert body with no other role in AMEP provision. The assessment team should include experts in TESOL and one in public administration. Assessments should include classroom observations and interviews with students, teachers and front-line managers.**

## 7. Conclusion

While the Auditor's Report is accurate in documenting administrative failings in the execution of the 2017 AMEP contract, it does not examine the cause of most of these failings, namely the contract itself. Its diagnosis of problems and recommendations are circular and self-referential. They accord with Commonwealth Procurement Rules but not with what is known about delivering successful English language tuition. Its recommendations are, therefore, open to repeating previous mistakes and, depending on how they are interpreted, liable to continue destabilising the AMEP.

The following can be learned from the failings documented in the Auditor's Report.

- 1) The forthcoming AMEP contract must be designed to directly and demonstrably support quality English language tuition appropriate to the learning and settlement needs and aspirations of adult migrants in Australia.
- 2) It should be designed and administered by departmental officials with demonstrable expertise in, and a commitment to, quality English language tuition for adult migrant English language learners.
- 3) In order to forestall problems and the need for contract variations, a draft Request for Tender should be circulated to stakeholders for feedback, which should inform the final RTF.
- 4) The Performance Management Framework specifications should have as their centrepiece recognised and credible Standards, not quantitative performance measures. Provider performance against these Standards should be qualitatively assessed by experts in English language tuition for adult learners and mapped to a five-point scale.
- 5) The basis for the award of AMEP contracts to individual providers should be transparent in relation to “value for money” interpreted with reference to the constituent elements of quality English language provision. The “value for money” criteria should be published and open to feedback from stakeholders. The process by which contracts are awarded should also be transparent and ensure that expertise in delivery of the AMEP has a role.
- 6) The contract should be designed to allow for variations where these can be justified as offering “value for money”, when “value” is interpreted with reference to the constituent elements of quality English language provision.
- 7) To avoid a conflict of interest and optimise communication between teachers and the provider(s) responsible for professional development, this/these provider(s) should be different from the Quality Assurance provider.
- 8) The Inquiry should recommend a further in-depth review to determine the most effective, efficient, appropriate, accountable, transparent and stable model of contracting for and administering high quality English language tuition through the AMEP.

The 2017 contract was designed to achieve bureaucratic goals. The forthcoming contract must be designed in the light of a clear and explicit statement of its goals as a national English language program for adult migrants. The last such statement was in the 2015 ACIL Allen Report:

*The AMEP aims to promote and support the acquisition of English language skills by all eligible adult migrants and humanitarian entrants, through the provision of timely and quality English language services. Through language tuition, the programme aims to produce outcomes in relation to social participation, economic wellbeing, independence, personal wellbeing, all contributing to settlement within, and integration into, the broader Australian community.*

*Specifically, the AMEP is intended to assist eligible migrants and humanitarian entrants in the development of English language skills that are needed to access services in the general community, provide a pathway to employment, undertake further study or training and participate in other government programmes. (p. ix)<sup>83</sup>*

In place of this clarity, a “business model” is currently on offer, whose vaguely stated purpose is “improving English language and settlement outcomes for AMEP clients”.<sup>84</sup> Collaborative discussion with providers and other stakeholders is needed to re-establish consensus on the national goals served

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<sup>83</sup> [amep-evaluation-report.pdf \(homeaffairs.gov.au\)](#)

<sup>84</sup> [New Adult Migrant English Program \(AMEP\) Business Model \(homeaffairs.gov.au\)](#)



by the AMEP, how these goals can be translated into outcomes that are appropriate and specific to the AMEP, how these outcomes should be validly, reliably and fairly assessed and measured, and how the AMEP's contribution to national goals and its specific outcomes can be supported and promoted.

Rather than pursuing a contractual model that relies on methods of enforcing compliance, it should be recognised that ANAO is not alone in its commitment to the efficient and effective use of taxpayer dollars in delivering the AMEP. Teachers, frontline managers and advocacy groups share this commitment. It follows from their broader commitment to the Program, its students and our national well-being.

AMEP teachers and frontline managers have weathered a major storm since 2017. ACTA hopes that this Inquiry will recognise the difficulties they faced and will lay the ground for a new approach to contracting for the AMEP that supports and builds on its strengths.

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### **About the principal author**

Dr Helen Moore AM has been a leading advocate for the AMEP and its teachers and students, beginning as a Lecturer in Education at La Trobe University with a submission to the 1978 Galbally Inquiry.<sup>85</sup> She was involved as a consultant regarding the AMEP on at least three occasions. She developed and taught in the TESOL teacher education program (pre-service to doctoral levels) at La Trobe University from 1975 to 1993. As Acting Director of the La Trobe University Language Centre from December 1991 to July 1993, she managed the Centre's AMEP contract. She has published a variety of articles on the AMEP, especially on the transition to short-term-competitive contracting in the mid-1990s. Throughout her career, she has had a close association with and held Executive positions in both the Australian Council of TESOL Associations and the Applied Linguistics Association (ALAA). She is currently ACTA Vice-President, convenor of the ACTA Adult ESOL Consultancy Group, and has been the principal author of numerous ACTA submissions and other advocacy papers on the AMEP. Her Order of Australia was awarded for services to language education and music in the community.

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<sup>85</sup> [Migrant services and programs : report of the Review of Post-arrival Programs and Services for... - Catalogue | National Library of Australia \(nla.gov.au\)](#)

## APPENDIX A: Comments from two external experts



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21 August 2024  
Helen Moore  
Vice-President  
Australian Council of TESOL Associations (ACTA)

Dear Helen,

Thank you for sending me a pre-final draft of the submission from the Australian Council of TESOL Associations (ACTA) to the *Parliamentary Inquiry into The Contract Management Frameworks Operated by Commonwealth Entities*.

I believe I am well-placed to comment on how the AMEP has changed over the years both prior and subsequent to the introduction of short-term competitive contracting. As you know, for most of my professional life, I have worked in the field of English as an additional language or dialect education, and hold a Masters degree and PhD in this field. I was employed for ten years (1990 - 2000) by the NSW Adult Migrant English Service as a classroom teacher, and curriculum support and senior education officer. I contributed to the development of the *Certificates in Spoken and Written English (CSWE)* and items for the CSWE Assessment Task Bank. I have also lectured in TESOL and authored and co-authored several publications for use in the AMEP, including *Text-based Syllabus Design* (1998). From 2008 until I retired in 2020, I was lecturer, senior lecturer and associate professor at the University of New England, which included developing, coordinating and delivering the TESOL programs there. In 2012, I chaired the national panel of English language education, accreditation and quality assurance providers, who reviewed the *CSWE (Certificates I-IV)* for re-accreditation.

It has been deeply shocking to me to observe the dismantling of the AMEP as described in the draft ACTA submission. I witnessed this slow process that occurred before the contract under discussion. What is described in this submission is tragic.

The AMEP had its origins in English classes on the migrant ships bringing people displaced by WWII to Australia. Its history and heritage are as a settlement program. The CSWE curriculum framework, based on Australian scholarship in the fields of linguistics and pedagogy in the 1990s and 2000s, was recognised as a leading model in the world for migrant education and settlement, exemplified, for example, in the Canadian Language Benchmarks, which took the CSWE as its model.

The AMEP makes a unique and valuable contribution to Australia's cohesive and vibrant multicultural society. I deplore what is documented in the draft ACTA submission and hope that the evidence presented there will assist in restoring the Program to its exemplary role in supporting the successful settlement of adult migrants to Australia.

Your sincerely,

  
Dr Susan Feez  
Adjunct Associate Professor  
Faculty of Humanities, Arts, Social Sciences and Education  
University of New England  
Armidale NSW 2351 Australia  
Email 

MONASH University

Arts



28 August 2024

Dear Helen,

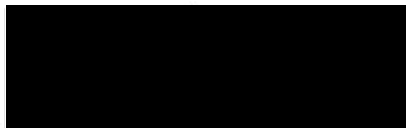
Thank you for sending me a pre-final draft of the submission from the Australian Council of TESOL Associations (ACTA) to the Parliamentary Inquiry into The Contract Management Frameworks Operated by Commonwealth Entities.

As you know, I have spent the past 15 years training current and prospective TESOL teachers in the Monash Masters of Applied Linguistics. I have also been Vice President of the Applied Linguistics Association of Australia (2020-22), in which role I represented the society in various consultations around the future direction and structure of the AMEP.

Through these experiences I can safely say that your submission rings true in the many and varied problems that befall the AMEP under the current system. Current contracting practices have seen the AMEP decimated from a world-leading initiative to help integrate new migrants into Australian society into a box-ticking compliance exercise. I could not agree more with ACTA's conclusion that *the current model of short-term competitive contracting is not appropriate, efficient or effective for non-recurrently funded Commonwealth educational programs, such as the AMEP, and that a separate, non-Parliamentary investigation should be set up to review the current model and recommend on an improved model that will maximise student participation and promote stability and quality in English language provision for adult migrants.*

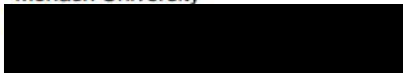
I do hope that common sense will prevail, and the government will commit to properly funding the AMEP to allow highly-qualified teachers to find stable employment offering quality education programs that are responsive to the needs of our diverse cohort of migrant English language learners.

With best wishes



Associate Professor Louisa Willoughby  
Deputy Director, Monash Assistive Technology and Society Centre  
ARC Mid-Career Industry Fellow - Melbourne Polytechnic Auslan Program and the Victorian Deaf Education Institute

School of Languages, Literatures, Cultures and Linguistics  
Monash University



## **APPENDIX B:**

### **ACTA responses to the Auditor General's recommendations**

#### **Auditor Recommendation no. 1 (para. 2.18)**

*To meet its record keeping obligations and ensure appropriate performance management of contracts, the Department of Home Affairs develop a complete record of all contract variations, including those variations agreed through correspondence, together with a master version of the contracts that incorporates all variations.*

#### **ACTA RESPONSE**

Supported.

ACTA agrees with the Auditor's conclusion that the 2017 AMEP contracts "did not provide an adequate basis for the management and delivery of the Program" (para. 2.17, p. 28). The responsibility for this lies squarely with the then-Department of Education and Training.

#### **Auditor Recommendation no. 2 (para. 2.31)**

*When considering potential contract variations for the Adult Migrant English Program, the Department of Home Affairs make a decision-making record that addresses whether the proposed changes represent value for money, including by reference to the value for money assessment that underpinned the procurement decision-making prior to the contract being awarded.*

#### **ACTA RESPONSE**

The meaning of "value for money" should not be assumed. In The Auditor's Report, it is not defined and its meaning taken for granted.

If a contract itself is unsound, as was the 2017 AMEP contract, a "value for money" assessment will also be unsound.

ACTA supports the maintenance of a decision-making record that includes "value for money" assessments, conditional on referencing "value for money" in relation to the national goals served by the AMEP (viz. provision of English language tuition directed to supporting migrant settlement) and the standards that should apply to an efficient and effective quality English language program.

#### **Auditor Recommendation no. 3 (para. 2.43)**

*The Department of Home Affairs introduce stronger governance arrangements over the process by which it engages service providers under the Adult Migrant English Program to identify areas that could benefit from adaptation of new ideas and innovative service delivery to enhance client outcomes including opportunities to offer these opportunities to open competition.*

#### **ACTA RESPONSE**

ACTA is concerned that this Recommendation could be interpreted to allow contracts for innovative projects to be awarded to providers who do not hold contracts to deliver the AMEP. That would betray the intention of these grants as cited in the Auditor's Report (para. 2.35) and would be unacceptable to ACTA.

ACTA is advised that the results of the 56 projects (see para. 2.37) were not easily accessible to other providers, if at all. The contracts for innovative projects should include provision for transparent and easily accessible dissemination of results.

In regard to “contracted advisors”, the list in Appendix 4 does not include the engagement of the consultancy firm Quantum<sup>86</sup> to chair a meeting with the AMEP Advisory Committee and, as that Group were informed, as experts in “funding models”. See Appendix C.

#### **Auditor Recommendation no. 4 (para. 2.64)**

*The Department of Home Affairs develop a probity plan to govern the management of contracts for the Adult Migrant English Program.*

#### **ACTA RESPONSE**

ACTA supports the explicit statement of evaluation criteria for the award of contracts and projects and the requirement for “conflict of interest” declarations.

We have been gravely concerned regarding the inherent conflict of interest in having one provider responsible for both QA assurance with professional development. See submission section 4.4.2.

ACTA is also concerned that evaluation criteria are liable to be determined according to self-referential auditing requirements rather than reflecting or advancing the AMEP’s capacity to serve national goals (viz. English language tuition to support migrant settlement) and meet the standards that should apply to an efficient and effective English language program.

The Auditor’s Report appears to assume teachers and frontline managers do not support genuine probity. This assumption is not only false but also counter-productive because it locks out advice from stakeholders that could improve probity and compliance. Frontline managers and teachers have a significant stake in effective probity. They are frequently the victims when probity fails or when compliance measures are inappropriate. In developing its probity requirements, the Department should consult with providers and other stakeholders, notably ACTA and the Settlement Council of Australia.

We note that the Auditor’s Report states that, in May 2022, the Department adopted “a probity plan that applies to consultations with stakeholders for planned program reforms” (para. 2.49). As a stakeholder representing AMEP teachers and their students, ACTA was not informed that this plan exists, much less of its contents.

#### **Recommendation no. 5 (para 2.64)**

*The Department of Home Affairs improve its transition planning for the Adult Migrant English Program by:*

- *finalising the transition out plan for the current contracts and, for future contracts, preparing the transition out plan early in the new contract period; and*
- *aligning the development of the transition in plan for the replacement contracts with the preparation of the approach to market documentation.*

#### **ACTA RESPONSE**

ACTA warmly supports this recommendation but recommends that it go further: see (iii) below. We cannot stress too strongly the importance of Recommendation 5.

We note that Recommendation 2 in the 2001 ANOA report made essentially the same recommendation, to which the then-Department of Immigration and Multicultural Affairs agreed.<sup>87</sup>

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<sup>86</sup> [Homepage - Quantum : Quantum](#)

<sup>87</sup> From the Auditor-General Audit Report No.40 2000–2001 Performance Audit *Management of the Adult Migrant English Program Contracts Department of Immigration and Multicultural Affairs*:



We further note that:

- i. *every single AMEP transition* between contracts has violated this recommendation and agreement. See section 5.2.3 of the ACTA submission
- ii. at one point prior to the 2017 contract, providers were asked to develop their own transition-out plans, which we suggest has some merit
- iii. rather than – or at least in addition to – engaging an expensive outside consultancy service, with no expertise in educational programs,<sup>88</sup> to develop a transition-out plan, it would be more effective, efficient, cheaper (and provide better value for money) to consult with provider frontline managers and teachers in developing both transition-out and transition-in plans.

The Auditor’s Report states that Calida was engaged (at a cost of \$250,000) to prepare a transition-out plan. Nothing is said about the transition-in to the new contract. Our submission provides incontrovertible evidence of the damage done when the requirements of a new contract are not considered.

**The most effective and efficient way of assisting transition to a new contract would be to circulate a draft Request for Tender (RTF) to providers and other stakeholders.** This was arguably the only positive feature of the 2017 contract, although the Department of Education and Training largely ignored the feedback they received (see our submission section 4, and our Recommendation 1). This failure lies at the heart of many of the issues documented in the Auditor’s Report.

The Committee may wish to note that ACTA requested the Immigration Minister in 2022 to delay commencement of the new contract. Our grounds were that the mandated new curriculum would be revised for re-accreditation in 2023. Had the new contract begun before this, providers would have been forced to adopt a curriculum that immediately was out-of-date and would therefore not meet ASQA requirements. The Minister accepted this argument.

ACTA strongly supports a delay in issuing the RTF for the next tender until transition-out and -in arrangements are made clear to providers and other stakeholders: see Recommendation 1.

### **Recommendation no. 6 (para. 3.21)**

*The Department of Home Affairs establish a comprehensive suite of performance indicators and targets in the service provider contracts for the Adult Migrant English Program, require that service providers report performance against the indicators and targets and take appropriate contract management action where performance is below requirements.*

### **ACTA RESPONSE**

ACTA is pleased that the Auditor’s Report has documented the monumental and expensive failure to develop an information technology system to support efficient and effective reporting in the AMEP (paras 3.1 – 3.9). However, the Report does not sufficiently acknowledge the causes of this failure –

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The ANAO recommends that DIMA improve strategic management and coordination for the AMEP to more effectively manage contracts, administration and outputs by:

- systematic planning for contract succession to ensure that there is a smooth, efficient and effective transition at the end of the contract for either an extension of the existing contract with any revised service levels, or for selection of a new provider

...

(para. 2.31, p. 28).

<sup>88</sup> The Calida website describes the company as “a high-end retail, hospitality and commercial building and project management company ... predominantly aimed at the hospitality, retail and commercial markets” and their team as working with “some of the best known architects, designers, hoteliers, retailers and restaurateurs over a range of projects across all states of Australia.” [About - Calida](#) ACTA does not believe this expertise is relevant to transitioning between AMEP contracts.



in short, that the goal posts have constantly moved since 2017, as documented in the Auditor’s Report, and for the reasons documented in this submission, making it impossible to design any such system. It also does not acknowledge the consequences of this failure for meeting the contracted KPIs (see, for example, the highlighted box and para. 3.10 on p. 42 of the Report).

ACTA finds Recommendation 6 extremely problematic for at least the following reasons.

- i. The experience of the 2017 contracted performance indicators and measures were inappropriate and undermined their stated aims (viz. improving outcomes, student retention, accurate assessments, provision of timely information to the Department). Some were unsustainable and others, if continued, were damaging the AMEP’s capacity to deliver quality English language tuition to adult migrants. We therefore dispute the circular, self-referential assumption that contracts managed in accordance with their terms will ensure satisfactory provider performance, well-informed stakeholders and value for money (para 3.1, p. 40).
- ii. Performance indicators and quantitative targets assume that responsibility for meeting them lies solely with providers. They take no account of how external factors impact on AMEP departmental administrators and service providers and require the Program to respond, for example:
  - high or low employment rates affect enrolment and completion numbers, as do the immigration intake targets set by governments
  - wars and disruptions abroad, and the differences in source countries of humanitarian entrants, affect the characteristics of student intakes and hence class sizes, hours, tuition focus (e.g. levels of previous education may be high or low; attendance of victims of torture and trauma are lower)
  - unforeseen developments – most recently the COVID pandemic – change how English language tuition can be delivered.

A particular quality of the AMEP is (or more precisely, was) its ability to respond flexibly and quickly to developments impacting Australia’s immigration program. Performance indicators and especially targets generally do not allow for flexible and quick responses to outside developments.

- iii. Performance indicators and quantitative targets do not allow for significant policy changes. For example, the broadening of eligibility requirements has provided an opportunity for the AMEP to tackle entrenched English language and literacy problems in the adult migrant population. The contracted KPIs did not allow for the significant impact of this change on the AMEP.
- iv. Performance indicators and targets incentivise gaming the system, as the 2017 contract demonstrates. The more closely and narrowly defined the performance indicators and targets, the greater the incentive.
- v. The focus on performance indicators and targets has spawned service providers with considerable expertise in meeting set targets but delivering very little of substance (commonly referred to as “box ticking”). Most educational organisations are now expert in creating files to meet verifications requirements but are meaningless. In the AMEP’s case, they also undermined the quality of English language tuition delivered.
- vi. ACTA opposes the development of “*a comprehensive suite*” of performance indicators and measurable targets. We note that the 2015 ACIL Allen AMEP Evaluation recommended precisely against this, based on two Key Findings regarding the 2011 Contract.<sup>89</sup>

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<sup>89</sup> **Recommendation 3:** The Australian Government should reduce the administrative burden on the AMEP service providers to the extent possible by rationalising the programme’s reporting requirements. [amep-evaluation-report.pdf](https://www.homeaffairs.gov.au/amep-evaluation-report.pdf) ([homeaffairs.gov.au](https://www.homeaffairs.gov.au))

- vii. ACTA opposes any KPI that rests on assessing English language attainment because it is a clear incitement to rorting and gaming.
- viii. ACTA supports comprehensive data collection on the delivery of English language tuition in the AMEP, including English language gains, and the development of evidence-based norms and expectations that allow the performance of individual providers and the Program itself to be scrutinised. See our submission section 6.
- ix. An effective and efficient Standards-based alternative to KPIs that rest on narrow or inappropriately focussed performance measures and targets exists and should be utilised or used as a model for further development: see submission section 4.5.1, Recommendation 18, and Exhibit 5.

The specified performance indicators and targets in all AMEP contracts since the first in 1997 have attracted criticism in reviews and reports on the AMEP, and, in consequence, have been inconsistent from one contract to the next. The result is that **it is impossible to evaluate the AMEP's performance from one contract to the next**. This fact should provide grounds for re-thinking how the AMEP's performance is documented and evaluated.

Please see section 6 in our submission for our recommendation and supporting evidence.

#### **Recommendation no. 7 (para 3.35)**

*The Department of Home Affairs analyse and review complaints data from the general service providers for the Adult Migrant English Program to inform and improve service delivery to students.*

#### **ACTA RESPONSE**

ACTA supports this recommendation.

ACTA suspects that the low number of formal complaints against providers reflects the consistently high level of satisfaction that is reported through Client Satisfaction data and external reviews (see section 4.4.6).

ACTA requests the Committee to note that there is no mechanism for providers to make complaints against the Department.

#### **Recommendation no. 8 (para. 4.11)**

*The Department of Home Affairs strengthen the contractual performance management framework for the provision of quality assurance services for the Adult Migrant English Program.*

#### **ACTA RESPONSE**

ACTA supports this recommendation with reservations. We do not support quantitative performance targets for Quality Assurance. See Response to the Auditor's Recommendation 6 above and our Recommendations 11, 12 and 14.

#### **Recommendation no. 9 (para 4.28)**

*The Department of Home Affairs undertake a systematic, documented, evidence-based approach to determining and targeting quality assurance activities based on general service provider performance and other risk information known to the department.*

## ACTA RESPONSE

ACTA warmly endorses the statement in para. 4.15 that “the intent of quality assurance activity is to ensure services are being delivered to a standard that supports achievement of program outcomes” (p. 58).

ACTA supports Recommendation 9 as stated.

However, the supporting analysis in the Auditor’s Report provides *no assurance whatsoever regarding its interpretation.*

Our misgivings follow from the fact that “the information and inputs” used to conduct QA activities (para. 4.16) under the 2017 contract ran directly counter to the effective and efficient delivery of tuition in the AMEP and the “achievement of program outcomes”, as we have shown in our submission. We reject the Auditor’s Report’s assumption (para. 4.25) that any form of “quality” could be assessed using those performance indicators. **Rather than providing evidence of quality, the performance indicators, QA provision and the dual role of the QA provider masked the factors that were directly undermining the quality of English language tuition in the AMEP.**

What counts as “evidence” in the Auditor’s Report is self-referential. Evidence of what is known to support quality in the delivery of English language tuition is excluded, that is, reputable research, multiple reports and evidence-based Standards (see Exhibit 8). The Report’s use of the term “evidence-based” is an Orwellian inversion of the meaning of this term.

In regard to the risk rating element “strength of stakeholders’ relationships” (para. 4.18), the QA activities that were instituted by the 2017 contract replaced trust with antagonism between teachers, managers, provider hierarchy, the QA provider and the department. These relations improved after the changes noted in para. 4.26.

ACTA accepts that assessment of “risk” should play a role in QA but we reject the centrality given to it and its underlying assumptions in the Auditor’s Report. These assumptions preclude the possibility that a contract may contain counter-productive provisions. They disregard the conditions that are conducive to building trust between the QA provider and those responsible for the AMEP’s central “deliverable”, that is, English language teachers. The punitive and negative elements of “risk” assessment are foregrounded. Nothing is *indicated* about what motivates and supports teachers to deliver quality teaching.

### **Recommendation no. 10 (para. 4.69)**

*The Department of Home Affairs give greater emphasis to monitoring the quality of services being delivered to students by the contracted general service providers.*

## ACTA RESPONSE

ACTA endorses this recommendation, conditional on how “quality of services being delivered to students” is interpreted: see above.

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## APPENDIX C: Chronology of significant policies impacting on the AMEP contract

Date	Development	Significance
February 2019	Shergold report <sup>90</sup> (noted in The Auditor’s Report (para. 1.3, p. 18).	Highly critical of the AMEP. <sup>91</sup>
February 2019.	DET-commissioned AMEP evaluation begins; published under DHA auspices in August 2019. <sup>92</sup>	15 recommendations.
July 2019	AMEP returned to the Immigration portfolio and creation of an AMEP branch within DHA.	AMEP Branch begins substantive consideration of the problems caused by 2017 contract and engages in consultations on reforming the AMEP.
November 2019	Publication of the Government’s response to the Shergold report. <sup>93</sup>	The stimulus to Minister’s criticisms in Feb. 2020.
February 2020	Immigration Minister criticises the AMEP in the media and announces intention to reform the AMEP. <sup>94</sup>	Includes the statement that “we’re going to trial a whole bunch of different things this year in relation to English language classes.”
April 2021	Eligibility for the AMEP extended. (see the Auditor’s Report, para. 1.5, p. 18),	Universally welcomed; has major implications for Program’s delivery. Ends previous cost-shifting for English language tuition to the SEE Program (and has allowed the SEE Program to re-focus and clarify its goals). <sup>95</sup> Removes the <i>de facto</i> restraints on resourcing the AMEP.

<sup>90</sup> Australian Government, 2019. *Investing in Refugees, Investing in Australia: the findings of a review into Integration, Employment and Settlement Outcomes for Refugees and Humanitarian Entrants in Australia*, prepared by Peter Shergold, Kerrin Benson and Margaret Piper.

<sup>91</sup> The Auditor’s Report states that this report found that:

the program had unacceptably poor results due to too few participants (seven per cent) achieving functional levels of English at the conclusion of their course. The report also found a significant underutilisation of the program, with many participants not completing the hours they had available. (para. 1.3. p. 18)

The Terms of Reference for the Shergold report were issued on 3 December 2018. The report was published in February 2019. Given this timeframe, we are incredulous regarding the extensive list of those consulted and named in the reports’ Appendix A. The “unacceptably poor results” from the AMEP resulted from eligibility requirements, not program performance: (i) only participants with proficiency close to “functional English” could achieve this level within the 510 hour tuition entitlement (which had no evidential basis but had been determined by a misleading manipulation of statistics in 1991). (ii) non-completion of hours occurred when participants achieved “functional English” and were also ineligible to continue. See the Auditor’s Report, footnote 15, p. 19. Participants also exited before using their full entitlements if they gained employment. Ironically, the Shergold report and Government ministers also criticised the AMEP for being insufficiently focussed on employment outcomes.

<sup>92</sup> [Evaluation of the Adult Migrant English Program New Business Model \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/evaluation-of-the-adult-migrant-english-program-new-business-model)

<sup>93</sup> [Australian Government response to recommendations in Investing in Refugees, Investing in Australia report \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/australian-government-response-to-recommendations-in-investing-in-refugees-investing-in-australia-report)

<sup>94</sup> See Exhibit 3. The Minister was imprecise in stating the number of hours for which students were eligible and incorrect in stating that providers were “mainly private”.

<sup>95</sup> Prior to the 2020 Act, students in the SEE Program were almost entirely English language learners who were ineligible for the AMEP. After the eligibility changes took effect, the SEE Program was massively underspent.

Sept 2020 – April 2021	AMEP Advisory Committee (not mentioned in The Auditor’s Report, including no mention of use of the consulting firm Quantium.)	Six independent experts, including the author of this submission, meet twice, after which meetings were replaced by DoHA requests for written responses to three sets of questions. The most substantive recommendation made by the Committee and accepted by DoHA was to return to a common AMEP curriculum. <sup>96</sup>
May 2021	DHA consultations begin on paper <i>Reform of the Adult Migrant English Program</i>	<b>Centrepiece:</b> 63 per cent of provider payments to be tied to student completions “per unit of competency”. Prompts extensive criticism from providers, teachers and others, including 80 submissions to DHA.
November 2021	DHA paper <i>AMEP Consultation and Funding Model Comparison Report</i>	Includes a revised payment model that remains tied to student attainment. <sup>97</sup> Criticism intensifies based on arguments that it was not financially feasible for providers, entailed excessive administration, incentivised cheating and gaming the system.

<sup>96</sup> [Redacted text block containing approximately 15 lines of blacked-out content]

- <sup>97</sup> Payments as follows:
- commences and attends a class in a unit of competency (termed a unit commencement payment; 10% of the total unit price);
  - completes 50% of a unit’s nominal hours (termed a unit milestone payment and equal to 40% of the total unit price); and either
  - completes a unit of competency without meeting all criteria required to pass (termed an unsuccessful unit completion payment; 30% of the total unit price); or
  - successfully completes a unit of competency (termed a successful unit completion payment; 50% of the total unit price).

<p>June (??) 2023</p>	<p>DHA releases <i>New Adult Migrant English Program (AMEP) Business Model</i><sup>98</sup></p>	<p><i>“AMEP tuition will be funded at an hourly rate based on scheduled class attendance” plus “a one-off payment per client for registration, initial English assessment, entry interview and enrolment.”</i></p> <p>Providers, teachers and ACTA oppose this system because (i) staffing and infrastructure costs are the same, irrespective of student attendance. (ii) it incentivises over-enrolments in classes and forming classes with widely diverse English levels.</p>
<p>December 2023</p>	<p>Providers informed of further delay in Request for Tender.</p>	<p>Advice to providers and ACTA is that the delay is because the Minister requires a greater focus on employment outcomes.<sup>99</sup></p>

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<sup>98</sup> See the Auditor’s Report, footnote 16, p. 19.

<sup>99</sup> **From Summary of Service Provider Meeting 7 December 2023, Departmental updates. Tender.**

The Minister for Immigration, Citizenship and Multicultural Affairs is undertaking further review of the AMEP program [sic] settings to ensure they incentivise flexible delivery and economic participation outcomes for clients. As a result, the AMEP Request for Tender that was previously expected to be released to the market in the second quarter of 2023-2024 has been paused.