



Government of **Western Australia**
Department of **Justice**
Corrective Services

Annual Report 2020/21

Acacia Prison Services Agreement

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1 Contract Background and History

Acacia Prison (Acacia) is a privately operated medium security facility located in Wooroloo, approximately 55km east of Perth. Opened in 2001, the land and buildings constituting Acacia are publicly owned.

The Acacia Prison Services Agreement 2006 (the 2006 Agreement), between the Director General of the Department of Justice (the Department), on behalf of the State of Western Australia (the State) and Serco Australia Pty Ltd (Serco), was executed on 6 May 2006. Serco commenced operations on 16 May 2006. The Agreement was awarded as a five-year contract with two extension options of up to five years each. The first of the two five-year extension options was exercised in May 2011. The second and final option was exercised in May 2016 which expired on 15 May 2021.

On 23 December 2019, the Minister for Corrective Services announced the continuation of private management for Acacia Prison. A Project Steering Committee comprising membership from the Department of Justice, the Department of Treasury, the State Solicitor's Office, the Department of Premier and Cabinet and Corporate Services managed the retender project.

Following the retender process, Serco were successful in being awarded an initial five-year term, commencing 16 May 2021.

2 Transition

To oversee the implementation of the new Acacia Prison Services Agreement 2020 (the 2020 Agreement), the Department initiated the Acacia Transition Project to work with Serco to achieve operational readiness prior to the planned operations commencement date of 16 May 2021, as well as ensuring all required Department activities were completed in preparation for the replacement Contract.

Operations under the 2020 Agreement commenced on 16 May 2021. At that time Serco had met 11 Transition Obligations and nine had been deferred with the approval of the Department.

The deferred obligations were transferred to the Contract Management team who continued to work with Serco to ensure obligations were met within the deferred time frame. As of 20 August 2021, there were four remaining deferred obligations.

3 Acacia Prison Services Agreement 2020

Under the 2020 Agreement, Serco are responsible for both the prison services and maintenance which is a more effective arrangement for the State.

New performance measures have been added to the 2020 Agreement relating to maintenance and health services and the levels of performance required by Serco to receive performance linked payments have been increased.

In addition, there are areas within the service requirement where requirements have been strengthened including the increase in the number of criminogenic program hours to be delivered by Serco from 4200 to 6000 hours.

Also included in the 2020 Agreement are a number of initiatives relating to Aboriginal services including the appointment of staff who are culturally competent and appropriate to Aboriginal prisoners, and the delivery of activities, rehabilitation and reintegration services for Aboriginal prisoners in a culturally safe and therapeutic environment.

The annual contract value is estimated at \$89m in the 2021/22 financial year. The average cost per prisoner per day is estimated to be approximately \$160.

4 Contract Management

4.1 Overview

The Acacia Agreement is overseen and monitored by the Private Prison Contracts Management (PPCM) branch within the Corrective Services.

Contractual performance and service delivery is assessed and managed by a contract management meeting, held monthly, with the Contract Manager, the Contractor Representative/Superintendent and other Departmental and Serco representatives. This includes reviewing Performance Measures, Performance Improvement Requests (PIRs), Specified Events and other contract management oversight mechanisms. It also provides a forum to discuss operational matters affecting Acacia.

Contractual performance and service delivery is overseen by the Joint Management Board. The Joint Management Board meetings, chaired by the Commissioner of Corrective Services, are attended by the Contractor Representative and other senior staff from the Department and Serco. The Contract Manager reports on Serco's performance at this meeting, held quarterly, which is also used to provide direction and advice on strategic and policy issues affecting the provision of services under the 2006 Agreement.

The Acacia Risk Group (ARG) was established in August 2020 to oversee key services areas, including assaults and self harms and commenced in the 2020/21 Operation Year. The ARG remains in place and will remain until further decision by the Department.

4.2 Operational Compliance

Corrective Services operates a team of on-site Compliance Officers through its Operational Compliance branch, who conduct compliance checks to ensure service delivery requirements are met.

Feedback from the Compliance Officers assists in assessing compliance and performance, in addition to ensuring continuous improvement by Serco.

4.3 Performance Measures

The 2006 Agreement provided for a suite of thirteen (13) Performance Measures and two (2) non-financially incentivised Performance Indicators that enable the State to assess compliance with service delivery requirements within the Agreement.

5% of the monthly Operation Payments due to Serco are withheld to allow for the payment of the Performance Measures (see *7 Contract Payments and Associated Financial Information*).

The 2020 Agreement provides for a suite of eighteen (18) Performance Measures, including two (2) health services and three (3) facility services measures. These measures will be reported on in the 2021/22 Annual Report.

4.4 Corrective Measures

In addition to the payment incentives described above, the 2006 and 2020 Agreements provide for several contractual sanctions that would be applied in the event of non-compliance with service delivery requirements. These corrective measures comprise the following:

- Performance Improvement Request (PIR): A written notice by the State requiring Serco to improve performance of the Contractor Services.
- Abatement Amount: An amount required to be paid as a result of a Specified Event as listed in Schedule 1 of the 2006 Agreement.
- Default Notice: A notice given by either party for any breach or default by the Contractor of the Contractor's Obligations.

5 2020/21 Key Projects and Initiatives

5.1 Individual Management Plan Contract Variation

Corrective Services has been experiencing a steady increase in the backlog of Individual Management Plans (IMPs) due to a number of factors including increasing prisoner numbers. An initial IMP is required to be developed within 28 days of sentencing and is reviewed every six to 12 months depending on total sentence length. The Hakea Prison assessments team ordinarily complete the initial IMPs of adult male prisoners in the metropolitan area.

On 24 June 2019 the State entered into a Variation Notice and Agreement for Serco to carry out IMP services including initial IMPs, treatment assessments and education assessments for an initial six month period with one extension option for a further six months at the State's discretion. The six-month extension option was exercised and the Variation Agreement expired on 23 June 2020.

On 24 June 2020 the State entered into a Variation Notice and Agreement for Serco to continue to carry out IMP services with an extension option of a further six months exercised on 24 December 2020 until 15 May 2021 in line with the terms of 2006 Agreement.

Under the 2020 Agreement, the State exercised the option to have Contractor assume responsibility for development and completion of initial IMPs. Serco is now responsible for performing initial IMPs for prisoners received at Acacia post 16 May 2021 with Corrective Services completing the backlog of IMPs concurrently. The State in its discretion at any point in time, by written notice to Serco, may require Serco to cease responsibility for the development and completion of initial IMPs.

5.2 Virtual Visits

Following the suspension of social visits on 23 March 2020 due to Coronavirus Disease 2019 (COVID-19), Serco implemented virtual visits through an online telecommunications application, using tablets for prisoners and their immediate family allowing them to maintain contact during COVID-19. The use of virtual sessions continued and helped prisoners maintain social connections during further lockdowns in 2020/2021.

5.3 Communications Suite

Following the implementation and success of virtual visits, Serco implemented the use of virtual visits to provide increased communication options for prisoner's professional appointments. Funding for a Communication Suite was approved in the 2019/20 operation year with works completed on 7 August 2020 and the opening of the Communication Suite on 18 August 2020.

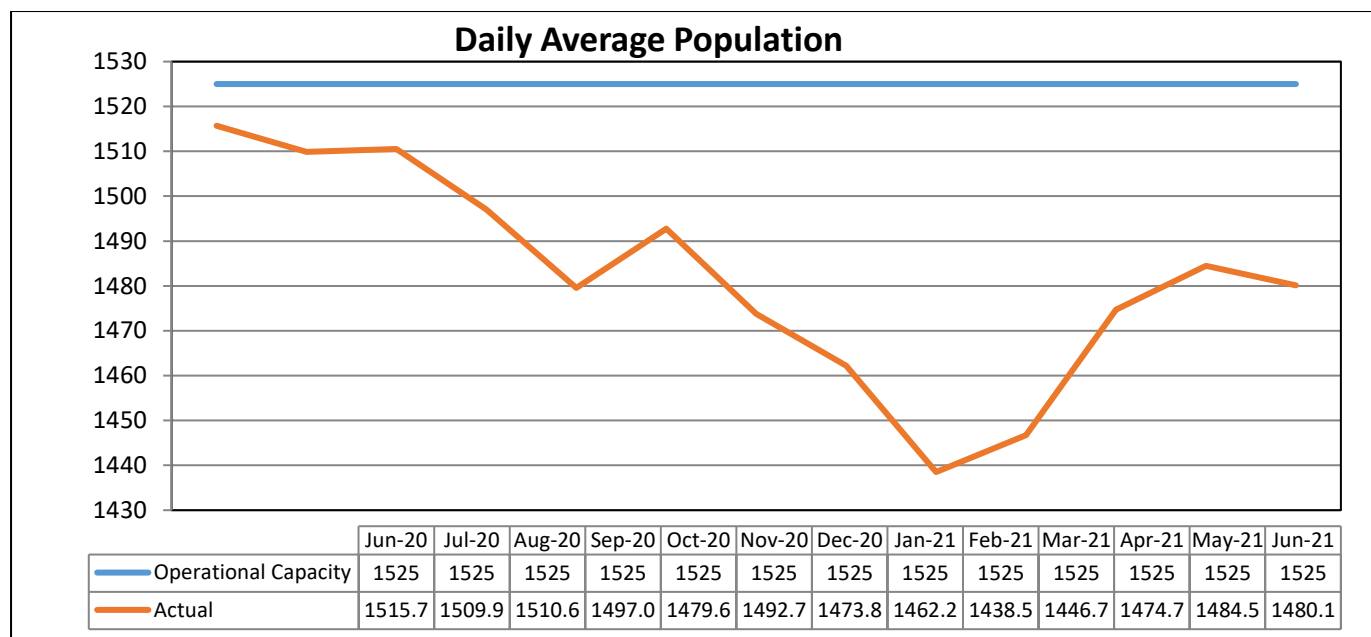
In addition to enabling virtual visits to continue to operate, offering services between prisoners and their families in a social capacity, the Communication Suite when necessary, provides a space for prisoners to communicate with Official Visitors and Government agencies including Centrelink, Medicare, Department of Child Protection as well as their lawyers.

6 Prison Population

At the conclusion of the 2020/2021 Operation Year, Acacia had an operational capacity of 1525 prisoners. This included 607 general purpose beds, 362 self-care beds, 303 protection beds, 220 young adult beds and 33 assisted care beds.

To fully optimise the utilisation of beds across Western Australia, and to ensure maximum value for money from the Agreement, the State seeks to operate Acacia as near as possible to its operational capacity. During the 2020/21 Operation Year Acacia operated with a lower than usual population due to there being fewer medium security male prisoners in the prison estate.

The below graph shows the Daily Average Population (DAP) at Acacia over the course of the 2020/2021 Operation Year.



7 Contractual Performance

7.1 Performance Measures

The PPCM branch reviews contractual performance monthly.

During the 2020/2021 Operation Year Serco's performance against the Performance Measures was less than satisfactory. There were 20 serious assaults recorded during the 2020/2021 operation year, nine physical and 11 alleged sexual assaults. Of the 11, only four were supported by evidence hence included in the overall count of 13 serious assaults. The Western Australian Police Force (WAPF) have charged two perpetrators of alleged sexual assaults with aggravated indecent assault.

The total serious assaults during 2020/2021 was only one less than the 2019/20 Operation Year of 14. There were 11 serious self-harm incidents, compared to 14 in the 2019/20 Operation Year.

Only 0.8% of random drug tests returned positive results, compared to 0.99% in the 2019/2020 Operation Year.

Serco achieved full payment for eight of the 13 Performance Measures, a partial payment for four and nil payment for one. 81.5% of the available PLF (\$2,643,136.31) was paid to Serco (see 7 Contract Payments and Associated Financial Information) compared to 83.3% in the 2019/20 Operation Year.

Serco's achievement was substantially impacted by the high number of serious assaults and self-harm incidents in the July to December 2020 period.

In the 2020/21 operation year there were two deaths in custody. Both deaths appeared to be other than natural causes and were reportable under the *Coroner's Act 1996 (WA)* and are currently awaiting inquests.

The results of Serco's performance against each performance measure for the 2020/2021 Operation Year is shown in the attached Performance Measure Dashboard at *Attachment A*.

Since the 2006 Agreement ended on 15 May 2021, the performance measures and payments were calculated based on ten and a half (10.5) months. The first Operation Year of the 2020 Agreement (ending 30 June 2021) will be combined with the second operation year (ending 30 June 2022) for the purpose of calculating and payment of the Performance Linked Fee.

7.2 Corrective Measures Applied

Where service delivery is determined not to meet contractual requirements, the 2006 and 2020 Agreements provide for several contractual provisions that may be applied (See 2.4 *Corrective Measures*). The following corrective measures were applied in the 2020/21 Operation Year:

7.2.1 Performance Improvement Requests (PIRs)

In the 2020/21 Operation Year there were two PIRs issued.

In August 2020 a PIR was issued to Serco for failure to maintain accurate health records of a prisoner. The failure related to information contained in the report of the medical examination of a prisoner on 22 June 2020 as sparse, incomplete and inadequate.

In September 2020 a PIR was issued to Serco relating to the Management of At-Risk Prisoners and self-harm incidents. The failure related to 12 incidents since January 2020 of prisoners at Acacia self-harming by swallowing foreign objects. Due to this, the state considered these incidents demonstrate Serco's failure to adequately ensure the welfare and safety of prisoners at Acacia.

7.2.2 Abatement Amounts

During the 2020/2021 Operation Year, there were five abatements issued to Serco with a total amount of \$490,001.07, broken down as follows:

Issue date	Reason for abatement	Amount
14/07/2020	Death in Custody	\$211,755.00
7/10/2020	Failure to Comply with a PIR	\$38,257.07
6/01/2021	Incorrect Reporting	\$14,117.00
19/01/2021	Death in Custody	\$211,755.00
16/02/2021	Failure to Report	\$14,117.00

7.2.3 Default Notices

In the 2020/2021 Operation Year there were no Default Notices issued by the State.

8 External Oversight

Serco's operations at Acacia are subject to a range of reviews by external bodies. During the 2020/21 Operation Year, reviews and final response to reviews included:

8.1 Office of Inspector of Custodial Services (OICS) Inspection

From 21 to 29 November 2018, the Office of the Inspector of Custodial Services carried out an inspection of Acacia Prison. A draft copy of the report was provided to the Department on 13 June 2019.

The Department has responded to all ten recommendations contained within the report. During the 2019/20 Operation Year the Department closed five recommendations. During the 2020/21 Operation Year the Department closed the remaining five recommendations.

OICS have announced the inspection of Acacia Prison to commence on 10 November 2021. An outcome of this inspection will be addressed in the 2021/22 Operation Year.

8.2 Independent Visitors Service (IVS)

The IVS is managed by the Office of the Inspector of Custodial Services, utilising persons appointed by the Minister for Corrective Services. It is an independent form of external scrutiny that monitors and inspects prisons across Western Australia.

During the 2020/21 operation Year, the IVS undertook 11 visits at Acacia. It is noted visits ceased for the month of February 2021 due to COVID-19. Issues raised by prisoners included property, medical and sentence management. Each complaint was responded to by Serco and responses were overseen by Corrective Services.

9 Contract Payments and Associated Financial Information

The costs associated with the 2006 and 2020 Agreements for the 2020/21 Operation Year are below (rounded to the nearest dollar).

Services Payment	APSA 2006	APSA 2020
Operation Payments (excluding 5% PLF withholding)	\$61,595,874	\$10,233,673
Performance Linked Fee (PLF)	\$2,643,136	N/A
Wages Adjustment (including the estimated value of the balance payment amount not yet paid)	\$4,022,355	N/A
Pharmacotherapy Reimbursement	\$278,714	N/A
Hospital Sits Reimbursement	\$70,349	N/A
Utilities Reimbursement	\$541,492	N/A
IMP Contract Variation	\$414,301	N/A

Gross Total:

\$69,566,221

\$10,233,673

9.1 Prisoner Welfare Trust Fund (PWTF)

Serco operates a canteen service which offers snacks, confectionary, non-alcoholic drinks, toiletries, magazines, books, stationery and any other items as specified to prisoners. Under the Agreement, Serco is required to make payment into the Prisoner Welfare Trust Fund an amount equal to two percent (2%) of Gross Canteen Sales in respect of the previous month.

In addition, Serco contributed 50% of gross sales from the visitor's canteen into the trust fund. Expenditure from this fund is approved by the Department where submissions from Serco demonstrate that the funds will be used for the welfare of prisoners at Acacia.

As at 1 July 2020 the PWTF had an opening balance of \$142,369.13.

Payments made to the PWTF in the 2020/21 Operation Year until 15 May 2021 totalled \$77,177.53

There was nil expenditure requested by Serco in the 2020/21 Operation Year due to COVID-19.

The PWTF had a closing balance of \$222,708.81 at the end of the 2020/21 Financial Year. Closing balance at the end of the Operation Year (end of Agreement) as at 15 May 2021 was \$219,546.65.

9.2 Prison Industries

Serco engages with external agencies and contractors to provide training which allows prisoners to undergo and complete trade-related and employment-specific skills. These include metal workshops, woodwork shops and leather work producing a wide variety of items.

Under clause 8.2 of the 2006 Agreement, Serco is required to pay the State an amount equal to ten percent (10%) of the Gross Prison Industry Revenue. In the 2020/21 Operation Year \$56,916.06 was paid to the State.

The following expenditure was approved by the Department in the 2020/21 Operation Year:

- Communication Suite: \$47,881.88.

Expenditure approved this financial year and to be incurred in the next financial year is the Video Conference Room with an amount of \$33,377.99.

Attachments:

Attachment A – Performance Measure Dashboard 2020/21.

ACACIA PRISON SERVICES AGREEMENT - 2020/21 QUARTER 4 DASHBOARD

			2020/21 Quarter 1			2020/21 Quarter 2			2020/21 Quarter 3			2020/21 Quarter 4		2020/21 YTD
			Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	
Performance Measures														
1	Serious Assaults	<8	1	3	1	1	4	2	0	0	1	0	0	13
2	Serious Self-Harm / Attempted Suicide	<8	3	1	2	1	1	0	1	0	0	1	1	11
3	ARMS	≥97%	98.1%	93.9%	94.7%	97.9%	100%	100%	100%	100%	95.7%	97.9%	94.4%	97.5%
4	Random Urine Tests	<6%	0%	0%	0%	0%	1.3%	0%	0%	1.3%	2.6%	4.0%	0.0%	0.8%
5	Sentence Management	≥97%	100%	99.2%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99.9%
6	Education, Training & Employment	≥90%	97.1%	100%	99.9%	99.5%	100%	98.8%	98.3%	100%	100%	100%	100%	99.3%
7	Clinical Programs - Delivery	≥95%	N/A	N/A	100%	N/A	N/A	100%	N/A	N/A	100%	N/A	100%	100%
8	Clinical Programs - Treatment Reports	≥95%	N/A	N/A	98.7%	N/A	N/A	100%	N/A	N/A	100%	N/A	100%	99.8%
9 a)	Substance Use Support & Treatment Plans	>90%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
9 b)	Substance Use Support & Treatment Plans	>50%	N/A	N/A	78.6%	N/A	N/A	100%	N/A	N/A	100%	N/A	100%	94.7%
10	Adult Basic Education	>75%	N/A	N/A	94.6%	N/A	N/A	98.3%	N/A	N/A	100%	N/A	100%	98.2%
11	Throughcare Planning	>90%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
12	Individual Operational Readiness	100%	N/A	N/A	100%	N/A	N/A	96.7%	N/A	N/A	100%	N/A	93.3%	97.5%
13	Incident Reporting	≥95%	86.0%	72.0%	62.0%	82.0%	90.0%	90.0%	82.0%	80.0%	86.0%	72.0%	84.0%	80.5%
Performance Indicator														
1	Searching	>5%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
2	Emergency Management	>6	1	1	1	1	1	0	2	2	1	0	1	11
Specified Events														
A	Escape		0	0	0	0	0	0	0	0	0	0	0	0
B	Loss of Control		0	0	0	0	0	0	0	0	0	0	0	0
C	Death in Custody (Unnatural Causes)		1	0	0	0	0	0	1	0	0	0	0	2
D	Failure to Provide Information		0	0	0	0	0	0	1	1	0	0	0	2
E	Failure to Comply with a PIR		0	0	0	1	0	0	0	0	0	0	0	1
Performance Improvement Requests (PIR)														
	Performance Improvement Request		0	1	1	0	0	0	0	0	0	0	0	2