



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

Annual Report 2022/23

Acacia Prison Services Agreement 2020

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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. Acacia opened in 2001, the land and buildings constituting Acacia are publicly owned.

The Acacia Prison Services Agreement 2020 (the 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), commenced on 16 May 2021. The Agreement was awarded as a five-year contract with two extension options of up to five years each.

Under the Agreement, Serco are responsible for both the operational and maintenance services.

The Agreement specifies the range of services that Serco is required to deliver which covers all facets of prison operations. The Department monitors Serco's performance against contractual requirements via performance measures, compliance reviews including external audits, stakeholder feedback and other oversight mechanisms.

2 Contract Management

2.1 Overview

The Agreement is overseen and monitored by the Private Prisons Contract Management (PPCM) branch within the Corrective Services division.

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

Contractual performance and service delivery is also overseen by the Joint Management Board. The Joint Management Board meetings, chaired by the Commissioner of Corrective Services, are attended by Serco Executive 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 Agreement.

2.2 Operational Compliance

The Department operates a team of on-site operational compliance officers through its Operational Compliance branch, who conduct compliance checks to ensure service delivery requirements are met.

Feedback from the operational compliance officers assists in assessing compliance and performance, in addition to ensuring continuous improvement by Serco. During the 2022/23 Operation Year (the Operation Year), compliance officers attended Acacia on 84 days to conduct compliance checks.

2.3 Performance Measures

The Agreement provides for a suite of eighteen (18) Performance Measures including two (2) health services and three (3) facility services measures.

5% of the monthly Operation Payments due to Serco are withheld to allow for the payment of the Performance Measures (see page 9 *Contract Payments and Associated Financial Information*).

2.4 Corrective Measures

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

- Performance Improvement Notice (PIN): 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 4 of the Agreement.
- Default Notice: A notice given by either party for any breach or default by the Contractor of the Contractor's Obligations.

3 Coronavirus Disease 2019 (COVID-19) Impacts

The safe and continuous delivery of services during COVID-19 was a priority for Acacia and the Department over the Operation Year. Contingencies were put in place to minimise the risk of infection and to ensure compliance with Government directives. Acacia implemented contingencies to manage the impact of changes in business practices, which included restrictions on social visits and an increase in eVisits and subsidised prisoner phone calls to family.

COVID-19 impacted Serco's Performance Measure achievement, recruitment and various service requirements for the Operation Year. Mitigation was reviewed for the services where applicable.

4 Prisoner Disturbance

4.1 Incident Summary

During the previous Operation Year, on 27 February 2022, there was a prisoner disturbance at Acacia which resulted in prisoners setting fire to Kilo and Romeo Blocks, causing significant damage to Acacia's infrastructure.

Due to the extensive infrastructure damage, this continued to impact the Operation Year as Kilo Block was no longer being used to accommodate prisoners. During the Operation Year, and noting the closure of Kilo Block, Acacia had an operational capacity of 1306, reduced from 1525 before the 219 Kilo beds were taken offline.

During the Operation Year, on 11 January 2023, a fire occurred in the Hotel Block Industries workshop at Acacia causing significant damage to the building. The Department of Fire and Emergency Services concluded the fire was caused by an electrical fault within a washing machine.

Further on 30 January 2023, a prisoner disturbance occurred resulting in prisoners causing damage to several cells in Mike Block, which were all repaired by Serco.

4.2 Incident Recovery Plan

Regarding the prisoner disturbance on 27 February 2022 and the Hotel Block incident on 11 January 2023, the Department lodged an insurance claim with the State's insurer, RiskCover, for damage rectification.

The Rectification Damage cost, including Kilo, Romeo and Hotel Blocks, is estimated at \$35.3* million for construction only, those costs being borne by RiskCover under the State's insurance policy. The State will consider cost recovery from Serco following a review of contractual liabilities.

Rectification works for Kilo, Romeo and Hotel Blocks will be completed concurrently and the estimated construction completion date is December 2024.

5 2022/23 Key Issues

5.1 Individual Management Plans (IMPs)

The Department has been experiencing a steady increase in the backlog of initial IMPs due to a number of factors including increasing prisoner numbers. In accordance with Departmental policies, an initial IMP is required to be developed within six weeks of sentencing and is reviewed every six to 12 months depending on total length of sentence. The Hakea Prison assessments team ordinarily complete the initial IMPs of adult male prisoners in the metropolitan area.

To assist with the backlog of initial IMPs, between 24 June 2019 and 15 May 2022, the Department entered into Variation Notices and Agreement for Serco to carry out the development and completion of initial IMPs including treatment and education assessments. On 18 January 2022, the Department issued to Serco a Notice to Cease effective 16 May 2022, resulting in the Department resuming responsibility for the development and completion of initial IMPs in accordance with Departmental policies.

*Calculations and performance measure achievement are a close estimate at the time of compiling this report.

5.2 Offender Programs

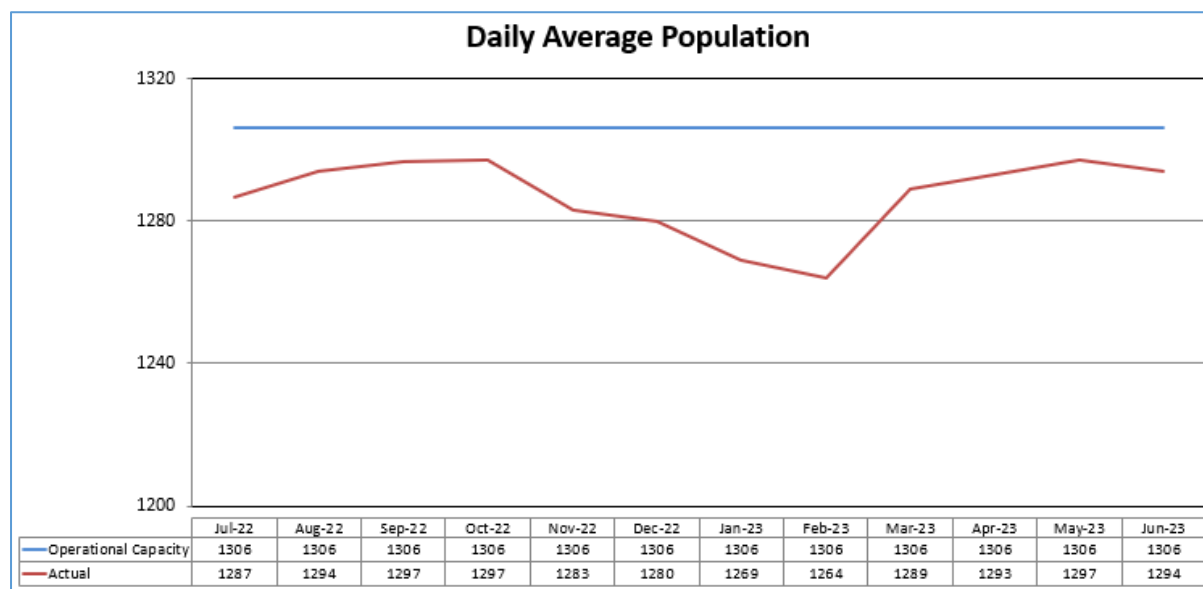
In accordance with the Agreement, Serco is required to deliver a minimum of 6000 criminogenic program hours for programs conducted in groups each calendar year. For the 2022 calendar year, following Mitigation review to each of the programs not commenced, the Department determined there was no failure with its Contractor's Obligations. The Department notes there are outstanding criminogenic program hours not delivered by Serco from previous financial years which the Department will incorporate into the 2024 calendar year for Serco to deliver.

6 Prison Population

At the commencement of the Operation Year, Acacia had an operational capacity of 1306 beds. This included 388 general purpose beds, 362 self-care beds, 303 protection beds, 220 comprised of young adult and Induction 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 Department seeks to operate Acacia as near as possible to its operational capacity. During the Operation Year, Acacia operated a lower prisoner population due to a significant incident that reduced the physical accommodation of the prison and maximum population capacity from 1525 to 1306.

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



7 Contractual Performance

7.1 Performance Measures and Performance Linked Fee (PLF)

The PPCM branch reviews contractual performance monthly over the Operation Year.

During the Operation Year, Serco achieved full payment for six of the eighteen (18) Performance Measures and a partial payment for the remaining twelve (12). At the time this report was compiled, the percentage achievement was calculated at 86.58%* which equates to approximately \$3,592,032.70* of the total available PLF \$4,149,041.52* to be paid to Serco (see 9 *Contract Payments and Associated Financial Information*) compared to 88.71% in the previous Operation Year under the previous Agreement.

Compared to the previous Operation Year, improvements were made in a number of Performance Measures. There was an increase in the completion of incident reports from 81% to 87% and a significant increase in all measures attributed to the Facility Maintenance tasks.

There was a decrease in Serco's benchmark for the engagement of substance use support and treatment plans due to prisoner disturbance incidents, prisoners refusing to engage and COVID-19 impacts. There was also a minor increase in serious assaults from 6 to 8* (*noting of two of the eight remain under review at the time of compiling this document) and a minor decrease in self-harms from 9 to 8 this Operating Year, although noting both Performance Measures achieved a 100% annual achievement for the Operation Year. All other Performance Measure achievements were steady when compared to the previous Operation Year.

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

7.2 Corrective Measures Applied

Where service delivery is determined not to meet contractual requirements, the Agreement provides for several contractual provisions that may be applied (See 3.4 *Corrective Measures*). The following corrective measures were applied during the Operation Year:

7.2.1 Performance Improvement Notice (PIN)

During the Operation Year there were two PINs issued.

In December 2022, a PIN was issued to Serco relating to the securing of prisoners. The failure related to a cell being found to be unsecured whilst occupied by a prisoner during lockdown hours.

In December 2022, a further PIN was issued to Serco relating to the management and accountability of security equipment. The failures related to staff removing security equipment from Acacia and misplacing security equipment onsite at Acacia.

*Calculations and performance measure achievement are a close estimate at the time of compiling this report.

7.2.2 Abatement Amounts

During the Operation Year, there were three abatements issued to Serco with a total amount of \$62,274, broken down as follows:

Issue date	Reason for abatement	Amount
24/02/2023	Failure to Comply with a PIN – Securing of Prisoners	\$31,137
24/02/2023	Failure to Comply with a PIN – Management and Accountability of Security Equipment	\$20,758
24/02/2023	Unlawful Detention of a Prisoner	\$10,379

7.2.3 Default Notices

During the Operation Year there were no Default Notices issued.

8 External Oversight

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

8.1 Office of Inspector of Custodial Services (OICS) Inspection

OICS last carried out an inspection of Acacia during the previous Operation Year between 10 and 19 November 2021. The report was tabled on 3 November 2022 and OICS made 12 recommendations with eight of those supported for action. All recommendations were actioned and closed by July 2023.

8.2 Independent Visitors Service (IVS)

The IVS is managed by OICS, 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 Operation Year, the IVS undertook 11 visits at Acacia. Issues raised by prisoners included property, food, medical, sentence management, telephone and mail communication, recreation, COVID-19 isolation, maintenance and prison transfer. Each complaint was responded to by Serco and responses were overseen by the Department.

8.3 Deaths in Custody

During the Operation Year, there were four deaths in custody. These appeared to be due to natural causes and were reportable under the *Coroner's Act 1996 (WA)* and are currently awaiting inquests.

9 Contract Payments to Serco

The annual contract value for the Operation Year was estimated at \$89 million. Factors influencing the contract value included:

- a sustained reduced Daily Average Population caused by a significant incident in February 2022 that reduced the physical accommodation of the prison and bed capacity from 1525 to 1306, and;
- Maintenance works delayed due to operational reasons.

The costs paid to Serco for services associated with the Agreement for the Operation Year are (rounded to the nearest dollar):

Operation Year payments (excl. GST)	2022/2023
Monthly Services Payments (excluding 5% PLF withholding)	\$78,845,161
Performance Linked Fee (PLF) estimates	\$3,592,033*
Grand Total:	\$82,437,194

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.

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.

Balance of the PWTF account on 1 July 2022 totalled \$107,653.78. Payments made to the PWTF for the Operation Year totalled \$72,327.06.

9.2 Prison Industries

Serco engages with external agencies and contractors to assist in provision of training under industries 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. However, prison industries were impacted during the year due to the loss of Romeo and Hotel Blocks.

Attachments:

Attachment A – Performance Measure Dashboard 2022/2023.

ACACIA PRISON SERVICES AGREEMENT - (Apr - Jun) 2022/23 QUARTER 4 DASHBOARD

Performance Measures		2022/23 Quarter 1			2022/23 Quarter 2			2022/23 Quarter 3			2022/23 Quarter 4			2022/23 YTD	
		Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23		
1	Serious Assaults	<9	1	0	0	1	1	1	1	1	0	1 *	0	1 *	8 *
2	Serious Self-Harm / Attempted Suicide	<9	0	0	0	0	1	0	0	0	2	1	4	0	8
3	ARMS	≥97%	92.3%	95%	97.3%	97.6%	97.1%	94.3%	96.9%	90.7%	100%	97.4%	100%	94.3%	96.1%
4	Random Urine Tests	≤3%	4.7%	4.7%	4.7%	0.0%	0.0%	1.5%	3.1%	0%	1.6%	0%	0%	3.1%	1.9%
5	Sentence Management	≥97%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
6	Education, Training & Employment	≥95%	96.9%	93.0%	93.1%	92.8%	94.8%	94.6%	93.7%	86%	89.4%	95.3%	94.2%	96.5%	93.4%
7	Clinical Programs - Delivery	≥95%	N/A	N/A	100%	N/A	N/A	100%	N/A	N/A	100%	N/A	N/A	100%	100%
8	Clinical Programs - Treatment Reports	≥95%	N/A	N/A	92%	N/A	N/A	79.4%	N/A	N/A	96.6%	N/A	N/A	100%	92%
9	Substance Use Support & Treatment Plan	≥95%	100%	100%	100%	100%	100%	90%	85.7%	100%	100%	100%	100%	100%	98%
10	Substance Use Support & Treatment Plan	≥60%	N/A	N/A	50%	N/A	N/A	87.5%	N/A	N/A	0%	N/A	N/A	50%	47%
11	Adult Basic Education	≥95%	N/A	N/A	99.0%	N/A	N/A	100%	N/A	N/A	97.5%	N/A	N/A	100%	99%
12	Individual Operational Readiness	100%	N/A	N/A	100%	N/A	N/A	92.6%	N/A	N/A	85.7%	N/A	N/A	100%	95%
13	Incident Reporting	≥95%	86%	84%	84%	92%	80%	90%	90%	74%	88%	88%	94%	88%	86.5%
14	Medical Records Assessments	≥97%	98.6%	100%	96.4%	99.2%	98.3%	99.2%	96.5%	100%	100%	98.6%	99.3%	98.6%	98.7%
15	Annual Health Reviews	≥97%	89.8% *	88.4% *	88.3% *	90.0% *	100%	100%	100%	100%	100%	100%	100%	100%	96.4%*
16	Failure Completion Time - priority 0 & 1	100%	42.9%	82.1%	64.7%	69.4%	96.1%	100%	100%	100%	100%	97.8%	94.9%	97.7%	87.1%
17	Failure Completion Time - priority 2 & 3	≥90%	75.8%	71.4%	82.8%	90.2%	95.2%	99.3%	100%	97%	100%	96.2%	97%	98.9%	92.0%
18	Preventative Maintenance	≥90%	N/A	N/A	86.8%	N/A	N/A	99.2%	N/A	N/A	99.6%	N/A	N/A	90.8%	94.1%
Specified Events															
A	Escape		0	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	0
C	Death in Custody (Unnatural Causes)		0	0	0	0	0	0	0	0	0	0	0	0	0
D	Unlawful release of prisoner		0	0	0	0	0	0	0	0	0	0	0	0	0
E	Unlawful detention of prisoner		0	0	0	0	0	0	0	1	0	0	0	0	1
F	Failure to Provide Information		0	0	0	0	0	0	0	0	0	0	0	0	0
G	Failure to Comply with a PIR		0	0	0	0	0	0	0	2	0	0	0	0	2
Performance Improvement Noitce (PIN)															
	Performance Improvement Notice		0	0	0	0	0	2	0	0	0	0	0	0	2