



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

Annual Report 2021/22

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. 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's Corrective Services Division monitors Serco's performance against contractual requirements via performance measures:

The annual contract value was estimated at \$88 million for the 2021/22 financial year. Environmental factors influencing the contract value included:

- effects of COVID-19; and
- a reduced Daily Average Population caused by a significant incident that reduced the physical accommodation of the prison and maximum bed capacity from 1525 to 1306.

2 Contract Management

2.1 Overview

The Agreement is overseen and monitored by the Private Prison Contracts 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 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 also overseen by the Joint Management Board. The Joint Management Board meetings, chaired by the Commissioner of Corrective Services, are attended by the 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

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.

On-site attendance was reduced during 2021/22 due to the impacts of COVID. During the operating year, the compliance officers attended 37 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 (*refer to section 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 one of the major priorities for Acacia and Corrective Services during the 2021/2022 Operation Year. Contingencies were put in place to minimise the risk of infection and to ensure compliance with Government directives. Contingencies were also implemented at Acacia to manage the impact of changes in business practices. This included restrictions on social visits and an increase in eVisits and subsidised prisoner phone calls to family.

COVID-19 has impacted Serco's performance measures, recruitment and various service requirements in accordance with the Agreement for the 2021/2022 Operation Year.

4 Prisoner Disturbance

4.1 Incident Summary

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. Acacia sought urgent assistance from the Department's Special Operations Group, the Western Australia Police Force (WAPF), the Department of Fire and Emergency Services and St John Ambulance.

Due to the extensive infrastructure damage, Kilo Block is no longer being used to accommodate prisoners. Due to the closure of Kilo Block, Acacia is now operating with an operational capacity of 1306, reduced from 1525 before the 219 Kilo beds were taken offline.

The WAPF have charged 16 prisoners with Rioters Causing Damage by Fire and two prisoners with assault on Acacia Custodial Officers. The prisoner disturbance was classified as a Loss of Control which is a Specified Event in accordance with the Agreement and an Abatement amount of \$252,375.00 was issued to Serco on 9 March 2022 (*refer to section 8.2.2 Abatement Amounts*).

4.2 Incident Recovery Plan

The State has progressed a claim for the damage repair via their insurer, RiskCover. The estimated value of the damage has not yet been formally assessed.

The Department's Infrastructure Services is overseeing the infrastructure repairs. Infrastructure Services have engaged the Department of Finance who have commenced developing a Project Definition Plan, engage consultants to assess the damage, and provide a scope of works for rectification along with estimated costs to RiskCover for approval. A Project Manager has been assigned and joint site visits by Infrastructure Services, Department of Finance and contractors have commenced.

5 2021/22 Key Issues

5.1 Individual Management Plans

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. Under Corrective Services policy an initial IMP is required to be developed within six weeks 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 the previous Agreement (2006).

Under the current Agreement, the State exercised the option to have Serco continue responsibility for the development and completion of initial IMPs for prisoners received at Acacia post 16 May 2021. The State issued to Serco a Notice to Cease the development and completion of initial IMPs from 16 May 2022 at which time Corrective Services will resume responsibility.

5.2 Offender Programs

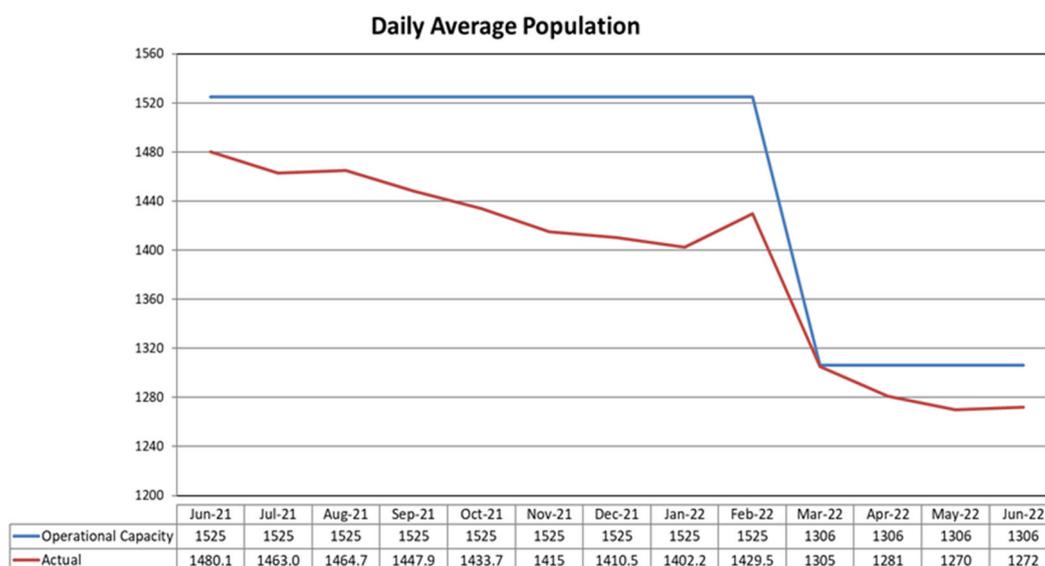
In accordance with the Agreement, Serco is required to deliver 6000 criminogenic program hours for programs conducted in groups each calendar year. For the 2021 calendar year Serco failed to fulfil its contractual obligations, and the remaining hours have been incorporated into the 2022 calendar year. The State notes that the ability for Serco to fulfil its Contractual Obligations relating to the delivery of criminogenic program hours may be impacted by COVID-19.

6 Prison Population

At the commencement of the 2021/2022 Operation Year, Acacia had an operational capacity of 1525 prisoners. This included 607 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 State seeks to operate Acacia as near as possible to its operational capacity. During the 2021/2022 Operation Year, Acacia operated a lower prisoner population due to a significant incident that reduced the physical accommodation of the prison and maximum population achievable from 1525 to 1306.

The below graph shows the Daily Average Population (DAP) at Acacia over the course of the 2021/2022 Operation Year.



7 Contractual Performance

7.1 Performance Measures

In accordance with the Agreement, the first Operation Year (ending 30 June 2021) and the second Operation Year (ending 30 June 2022), "Operation Year", is combined for the purpose of calculating the Performance Linked Fee (PLF).

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

During the first Operation Year, Serco achieved full payment for seven of the 18 Performance Measures, a partial payment for nine and nil payment for two. 88.71% of the available PLF (\$4,232,886.79) was paid to Serco (*refer to section 10 Contract Payments and Associated Financial Information*) compared to 81.5% in the previous Operation Year under the previous Agreement.

There were improvements in a number of Key Performance Measures compared to the previous Operation Year including serious assaults (six compared to 20 in the previous year) and serious self-harm and attempted suicides (nine compared to 11 in the previous year).

Two percent (2%) of random drug tests returned positive results, compared to 0.8% in the previous Operation Year.

Despite the improvements, Serco is yet to achieve the required benchmark for two maintenance performance measures.

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

During this Operation Year, there were three 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.

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 (*refer to section 3.4 Corrective Measures*). The following corrective measures were applied in the first Operation Year:

7.2.1 Performance Improvement Notice (PIN)

In the first Operation Year there was one PIN issued.

In September 2021, a PIN was issued to Serco relating to evidence handling procedures and the management and accountability of security equipment. The failures related to staff failing to appropriately store evidence and the removal of security equipment from the prison.

7.2.2 Abatement Amounts

During the first Operation Year, there were four abatements issued to Serco with a total amount of \$310,926.00, broken down as follows:

Issue date	Reason for abatement	Amount
9 September 2021	Unlawful Detention of a prisoner	\$10,095.00
9 March 2022	Loss of Control on 27 February 2022	\$252,375.00
28 March 2022	Failure to Report	\$30,285.00
6 April 2022	Unlawful Detention of a prisoner	\$18,171.00

7.2.3 Default Notices

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 first Operation Year, reviews and final response to reviews included:

8.1 Office of Inspector of Custodial Services (OICS) Inspection

Between 10 and 19 November 2021, OICS carried out an inspection of Acacia. A draft copy of the report was provided to the Department on 24 June 2022. The Department has reviewed the draft report and provided feedback to OICS, including a preliminary response to the recommendations.

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 first operation Year, the IVS undertook 11 visits at Acacia. Issues raised by prisoners included property, 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 Corrective Services.

9 Contract Payments and Associated Financial Information

The costs associated with the Agreement for the Operation Year are below (rounded to the nearest dollar).

Services Payment	2021/22
Operation Payments (excluding 5% PLF withholding)	\$79,906,550
Telecommunication Payments	\$407,237
Performance Linked Fee (PLF)	\$4,232,887
Enabling Works – Woodlots replanting stage 1	\$124,160
Maintenance above Cap	\$45,135
Estimated COVID-19 Cost Recovery	\$300,000
Gross Total:	\$85,015,969

10.1 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.

Payments made to the PWTF in the first Operation Year totalled \$107,653.78.

Serco have requested a review of cost impacts for the first Operation Year as a result of COVID-19, which are currently being assessed by the PPCM team.

10.2 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.

Attachments:

Attachment A – Performance Measure Dashboard 2021/22.

ACACIA PRISON SERVICES AGREEMENT - 2021/22 QUARTER 4 DASHBOARD

Performance Measures		2021/22 Quarter 4														2021/22 YTD	
		2020/21 Quarter 4		2021/22 Quarter 1			2021/22 Quarter 2			2021/22 Quarter 3			2021/22 Quarter 4				
		May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22		
1	Serious Assaults	<10	0	0	1	0	0	1	0	2	0	1	0	1	0	0	6
2	Serious Self-Harm / Attempted Suicide	<10	3	1	1	0	0	0	0	1	1	0	0	0	1	1	9
3	ARMS	≥97%	100%	100%	94.4%	92.3%	94%	91.7%	100%	93.6%	90%	100%	96.3%	96.7%	90.9%	95.7%	95%
4	Random Urine Tests	≤3%	0%	1.3%	2.6%	4%	5.3%	2.6%	0%	2.6%	2.6%	1.3%	2.6%	0%	1.6%	1.6%	2%
5	Sentence Management	≥97%	100%	100%	100%	100%	100%	100%	100%	98.3%	100%	100%	100%	98.3%	98.3%	100%	100%
6	Education, Training & Employment	≥95%	100%	100%	100%	99.8%	99.1%	96.2%	92.8%	96.4%	95.6%	98.1%	99.2%	100%	100%	99.6%	98%
7	Clinical Programs - Delivery	≥95%	N/A	100%	N/A	N/A	100%	100%									
8	Clinical Programs - Treatment Reports	≥95%	N/A	87.2%	N/A	N/A	100%	N/A	N/A	100%	N/A	N/A	100%	N/A	N/A	100%	97%
9	Substance Use Support & Treatment Plans	≥95%	100%	100%	100%	100%	100%	100%	97.4%	98.6%	100%	100%	100%	100%	100%	100%	99%
10	Substance Use Support & Treatment Plans	≥60%	N/A	83.3%	N/A	N/A	60%	N/A	N/A	77.8%	N/A	N/A	77.8%	N/A	N/A	100%	80%
11	Adult Basic Education	≥95%	N/A	100%	N/A	N/A	96.2%	N/A	N/A	100%	N/A	N/A	99.1%	N/A	N/A	95.2%	98%
12	Individual Operational Readiness	100%	N/A	100%	N/A	N/A	96.7%	99%									
13	Incident Reporting	≥95%	88%	78%	78%	80%	78%	86%	78%	70%	80%	82%	68%	88%	88%	94%	81%
14	Medical Records Assessments	≥97%	96%	95.7%	99.5%	100%	100%	97.5%	100%	97.9%	98.5%	99.4%	100%	99.2%	100%	100%	99%
15	Annual Health Reviews	≥97%	100%	100%	100%	94.8%	100%	100%	97.8%	98.9%	98.9%	74.7%	100%	98.4%	100%	100%	97%
16	Failure Completion Time - priority 0 & 1	100%	66%	46.3%	61.7%	88.2%	84.6%	87%	87%	76.2%	81.4%	84.9%	75%	85%	71.0%	73.9%	76%
17	Failure Completion Time - priority 2 & 3	≥90%	51.2%	49.0%	58.1%	62.1%	80.5%	84.5%	81%	67.3%	71.6%	67.4%	58.4%	54%	42.2%	64.5%	64%
18	Preventative Maintenance	≥90%	N/A	82.1%	N/A	N/A	94.7%	N/A	N/A	96.5%	N/A	N/A	89.5%	N/A	N/A	90.6%	91%
Specified Events																	
A	Escape		0	0	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	1	0	0	0	0	1
C	Death in Custody (Unnatural Causes)		0	0	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	0	0
E	Unlawful detention of prisoner		0	0	0	0	1	0	0	0	0	0	0	1	0	0	2
F	Failure to Provide Information		0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
G	Failure to Comply with a PIR		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Performance Improvement Notice (PIN)																	
	Performance Improvement Notice		0	0	0	0	1	0	0	0	0	0	0	0	0	0	1