



information  
and privacy  
commission  
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# Universities' Compliance with the GIPA Act: Audit Report 2016

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# Universities' Compliance with GIPA Act: Audit Report 2016

## Executive summary

In April 2015, the Information Commissioner conducted the first audit of New South Wales universities' compliance with Part 3 Division 5 of the *Government Information (Public Access) Act 2009* (GIPA Act) which deals with mandatory disclosure of government contracts with the private sector. The results were published in the *Universities Compliance with the GIPA Act: Audit Report 2015* (the 2015 audit report).

The 2015 compliance audit highlighted that universities could achieve higher levels of compliance through improved systems, policies and processes to ensure that contract register design infrastructure captures all the requirements of the GIPA Act, and that policies and procedures adequately document and describe how the university will achieve compliance with contract register compliance requirements. A recommendation of the 2015 audit report was that the Information and Privacy Commission (IPC) conduct a further audit of the university sector after 12 months to enable the Information Commissioner to evaluate any change in compliance levels resulting from the 2015 compliance audit, and from IPC regulatory guidance and collaboration.

In June 2016, the IPC reapplied the 2015 process and methodology to conduct a follow-up compliance audit. This report sets out the findings on universities' current compliance with Part 3 Division 5 of the GIPA Act.

As a result of ongoing engagement the IPC recognises that over the last 12 months the university sector has made efforts to elevate compliance with the contract register requirements of the GIPA Act. This is reflected in this year's compliance audit results. The IPC acknowledges each universities' efforts, commitment and willingness to collaborate with the IPC and each other in improving overall compliance.

Our primary findings from the 2016 follow-up audit are that:

- the university sector has demonstrated marked improvements in compliance with the contract register requirements;
- universities' contract register designs have improved allowing for an ability to capture more information relating to class 2 and class 3 contracts – 80% of universities now capture more than 50% of required obligations for class 2 contracts and more than 25% of the required obligations for class 3 contracts; and
- some universities need to continue to develop their operational maturity in managing compliance with the contract register obligations.

Universities' compliance with the contract register provisions of the GIPA Act has matured significantly since the 2015 compliance audit. Contract registers across the university sector can now capture on average 21% more obligations than in 2015 and the information contained on these contract registers are on average 17% more complete than in 2015.

The mandatory public release of open access information under the GIPA Act promotes consistent and transparent information sharing across NSW agencies, as well as providing members of the public with an immediate right of access to important government information. Consistent with the objects of the GIPA Act (section 3), the mandatory release of contract information helps to foster responsible and representative government that is open, accountable, fair and effective.

It is important that all agencies, including universities, meet their obligation to publish a register of contracts an agency has with private sector entities for a value of \$150,000 and continue to promote open access to government information.

## Audit context

The role of the Information Commissioner includes promoting public awareness and understanding of the right to access government information in NSW, and providing information, support, advice, assistance and training to agencies and the general public. The Information Commissioner also monitors agencies' functions including reviewing decisions of agencies pursuant to Part 5 of the GIPA Act, reports to Parliament on the operation of the GIPA Act, and reports to the Attorney General about proposals for legislative or administrative change.

In the 2015 audit report, the Information Commissioner made recommendations that each university:

1. conduct an annual register review;
2. consider an annual compliance attestation by Vice Chancellors;
3. clearly define and communicate contracts register roles and responsibilities to all staff;
4. ensure that register obligations are embedded into its policies and procedures; and
5. conduct quality assurance reviews of the contracts register.

The Information Commissioner also made recommendations that the IPC:

1. develop guidance material for contract register obligations;
2. conduct a future review of universities' contracts register compliance after 12 months; and
3. review contracts register compliance in other sectors of the regulated population within 18 months.

## Universities' responses to recommendations from the 2015 report

The 2015 audit report made five recommendations to universities crafted to promote compliance through a more robust governance framework to support the operationalisation of contract register legislative requirements under the Act.

After the compliance audit, we requested that universities advise us of actions taken in response to our recommendations.

The general response from universities has been positive with many universities progressing our recommendations and incorporating them into ongoing review work to improve compliance. Many universities endorsed the recommendation to conduct regular reviews of the contract

register but resiled from the recommendation that Vice Chancellors attest to universities' level of contract register compliance. This was broadly on the basis that the attestation would be considered as part of a greater program for review.

We have summarised the general response to our recommendations in Table 1 below.

The recommendations made in the 2015 audit report derive from the mandatory legislative requirements contained in Division 5, Part 3 of the GIPA Act. The adoption of robust governance and embedded procedures regarding contract registers enables universities to effectively comply with those mandatory provisions to drive positive compliance behaviour.

**Table 1: General responses to recommendations**

Recommendation	General response
Universities to conduct an annual register review.	Some universities have expressed a willingness to incorporate a regular review cycle into their processes and were working on implementing this recommendation. Others are considering this as part of a greater review program undertaken into contract register compliance.
Universities' Vice Chancellors to consider an annual compliance attestation.	Most universities did not support this recommendation. Some universities were considering this as part of a greater review program undertaken into contract register compliance.
Universities to clearly define and communicate contracts register roles and responsibilities to all staff.	Universities were evenly divided between those endorsing the recommendation, not endorsing it and considering it as part of a greater review program undertaken into contract register compliance.
Universities to ensure that register obligations are embedded into policies and procedures.	Most universities advised that this recommendation was already in place or it is being considered as part of a greater review program undertaken into contract register compliance.
Universities to conduct periodic quality assurance reviews of the contracts register.	Most universities were considering this recommendation as part of a greater review program or have noted and not endorsed it.

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## IPC response to recommended regulatory actions from the 2015 report

In the 2015 audit report, the Information Commissioner articulated a commitment to providing universities and the regulated population with support and guidance to assist them to comply with the contract register requirements.

Since that time, the IPC has actively taken steps to assist universities to increase their level of compliance. This included:

- post-audit engagement with each university regarding the steps taken to address the 2015 audit report recommendations;
- further individual engagement as requested;
- hosting a University Forum in March 2016 regarding contract register requirements which was attended by all universities and showcased effective operational approaches;
- updating a learning resource on contract registers; and
- developing a fact sheet on wholly-owned subsidiary entities.

The University Forum was aimed at assisting universities to understand and meet GIPA Act contract register responsibilities. Each university was represented at the forum and all contributed to discussions about their experiences and approaches to compliance. The forum delivered fresh ideas and shared solutions that universities can take forward to assist their individual efforts towards compliance.

We welcome the university sector's collaborative approach to compliance and encourage continuing discussions to inform further positive outcomes. The IPC will continue to actively engage with the university sector to ensure that sufficient support and guidance is provided to support compliance with the contract register requirements.

The IPC has commenced work to scope a broader audit or proactive regulatory initiative as recommended in the 2015 report. This initiative will be informed by the regulatory work of the IPC and other regulators. We expect to see this take place in the latter half of 2016.

## Audit methodology

We undertook a desktop audit of universities' contract registers, which we used to assess the level of compliance with Part 3 Division 5 of the GIPA Act. The process and methodology used in this follow-up compliance audit is identical to that used during the 2015 compliance audit.

## Compliance audit process

In summary, our audit process involved:

- notifying universities of our intention to perform the compliance audit;
- taking a snapshot of universities' contract registers and choosing a sample of contracts for the compliance audit;
- assessing the sample of entries against the prescribed assessment criteria and collating the results;
- providing a copy of the draft report to all universities for provision of any comments and feedback for two weeks;
- considering feedback received from universities in preparing the final report. We made no amendments to this report following consultation;
- presenting the report to each university and to the Attorney-General of New South Wales as the Minister who has oversight of the GIPA Act; and
- publishing this report on the IPC's website.

## Audit sampling

We tested a sample of three contracts contained in each university's contract registers during June 2016. We endeavoured to test the newest contracts in the register and at least one class 2 and one class 3 contract. If we could not locate a class 2 or class 3 contract, we tested class 1 contracts instead.

The sample size is representative of the university sector's performance and the observations and findings made in this report are applicable to the university sector as a whole. Where we identify specific findings relating to individual universities we will separately engage with those universities at the conclusion of the compliance audit process.

The compliance audit results reflect the contracts that were tested and we recognise that it may not reflect the circumstance in every contract included in the registers.

## Assessment criteria

The criteria used to assess universities' compliance reflect the legislative requirements contained in Part 3, Division 5 of the GIPA Act relating to class 1, class 2 and class 3 contracts.

Our review of universities' compliance assessed the effectiveness of the design infrastructure of each contracts register and the effectiveness of its operation.

In **design effectiveness**, we analysed how well each university's design infrastructure meets each of the legislative requirements and facilitates the university's compliance. A contract register that contains relevant fields which facilitate compliance with all the requirements would achieve a favourable score. This score reflects the university's potential ability to comply with its legislative requirements.

In **operating effectiveness**, we analysed how well each university implements its design infrastructure to meet the requirements. A contract register that contains adequate and meaningful information to demonstrate how it meets, or is not required to meet, its legislative requirements would achieve a favourable score. This score reflects the university's actual compliance with its legislative requirements.

A university's operating effectiveness score cannot be higher than its design effectiveness score.

## Audit testing

Our compliance audit testing methodology was unchanged from 2015. We applied the assessment criteria to the sample of contracts identified within the contract register of each university to determine the score relevant to class 1, 2 and 3 reporting requirements.

This year universities began to operationalise their contract registers to comply with class 3 reporting requirements. In order to understand the class 3 operating effectiveness scores, it is important to understand how class 3 reporting is structured.

There are two sets of requirements for class 3 contract reporting:

- Placing a copy of the contract on the contract register (section 31); and
- Providing further information if an agency decides not to place a copy of the contract on the contract register, or if provisions within the copy of the contract have been withheld (section 32).

For the purpose of this compliance audit we have considered both sets of requirements within the class 3 score.

Where a university has placed a copy of the contract onto its contract register our operating effectiveness test was complete for that university. If it did not place a copy of the contract or if provisions were withheld we tested whether any of the additional reporting requirements were met. As we combined these requirements together in the one calculation it is not possible for universities to obtain a score of 100%. The scores we refer to here are contained in Appendix B.

In light of universities' increased compliance with class 3 obligations this year, we have been able to capture additional information about contract registers' design effectiveness and operating effectiveness with respect to class 3 requirements. In order to give universities practical feedback we have included our observations of university compliance with sections 31 and 32 separately in the *Audit Findings* section of this report, page 5.

As our testing methodology remained unaltered, universities' scores from this compliance audit can be compared to the results from the 2015 audit report across all the classes.

## Audit limitations

The desktop nature of this audit limits our ability to test the veracity of the information underlying the contracts register. This means that we relied solely on the information on the register as a true representation of fact.

Given this, we made the following assumptions of regulatory compliance:

- All contracts over the value of \$150,000 have been entered onto the contracts register in accordance with section 27(1) of the GIPA Act; and
- Information about a class 1 contract is entered onto the contracts register within 45 working days after the contract becomes effective in accordance with section 27(2) of the GIPA Act.

We were able to easily obtain a sample of class 1 contracts for testing because all contracts on an agency's register are class 1 contracts. However, although the legislative regime is predicated on classification of government contracts with the private sector, we were unable to determine whether contracts are class 2 or class 3 contracts unless the university specifically stated this on its register. As a result, we could only obtain a sample of these contracts where it was specifically stated.

This year we observed that universities are classifying contracts in their contract registers in different classes. This is a positive step taken by universities to assist in providing clarity to information contained on their contract registers.

## De-identification of universities

We have de-identified universities in tables and aggregate data. Where we identified specific areas of concern, we engaged independently with the respective universities, both throughout the process to ensure we were responsive to issues in which IPC assistance was previously sought and at the conclusion of the audit. We will issue individual commentary to each university on final publication.

The order of universities in this year's report is identical to that in the 2015 audit report.



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## Audit findings

The compliance audit results show that universities' awareness of the contract register regime and subsequent compliance with the legislative requirements has markedly increased. This is reflected through increased design and operating effectiveness scores across the university sector. However, the audit also identified that the effective implementation of infrastructure remains a challenge for some universities.

### FINDING 1: ALL UNIVERSITIES NOW HAVE OPERATIONAL CONTRACT REGISTERS

All ten universities have the design to allow the capture of contract register requirements and are now using the design to meet their GIPA Act obligations, although each university complies with the requirements to varying degrees. The university sector is commended for its progress in this area given that in 2015 there was one university that did not have an operational contract register.

### FINDING 2: CONTRACT REGISTER DESIGN EFFECTIVENESS IMPROVING ACROSS ALL CLASSES

There are marked improvements in the ability for universities to comply with the contract register requirements across all three classes compared to 2015.

Six universities have contract registers that are designed to capture all the obligations required to be captured for class 1 contracts and two universities are designed to capture all the obligations to be captured for class 2 contracts.

Since 2015, we observed that many universities have enhanced or amended their contract registers. This appears to have helped universities achieve higher design effectiveness scores this year.

We observed that:

- nine universities now address more than 80% of the obligations required to be captured for class 1 contracts. This is an improvement from last year which saw only seven universities capable of achieving this result. The average rate of improvement in class 1 scores this year across the sector is 8%;
- eight universities now address more than 50% of the obligations required to be captured for class 2 contracts. This is an improvement from last year which saw only three universities capable of achieving this result. The average rate of improvement in class 2 scores this year across the sector is 38%; and
- eight universities now address more than 25% of the obligations required to be captured for class 3 contracts. This is an improvement from last year which saw only three universities capable of achieving this result. The average rate of improvement in class 3 scores this year across the sector is 18%.

### FINDING 3: CONTRACT REGISTER OPERATING EFFECTIVENESS IMPROVING ACROSS ALL CLASSES

There have been significant improvements by universities in operationalising and utilising their contract registers.

Two universities entered all the information required to be completed for a class 1 contract achieving a score of 100% and one university did the same for class 2 contracts requirements. No university achieved a full score of 100% in operating effectiveness in 2015. Therefore, this is a commendable result by the university sector.

We observed that:

- six universities now complete more than 80% of the obligations required to be captured for class 1 contracts. This is an improvement from last year which saw only three universities capable of achieving this result. The average rate of improvement in class 1 scores this year across the sector is 14%; and
- four universities now adequately complete more than 50% of the obligations required to be captured for class 2 contracts. This is an improvement from last year which saw only three universities capable of achieving this result. The average rate of improvement in class 2 scores this year across the sector is 26%.

This year we observed that many universities entered meaningful information into the designated contract register fields resulting in high levels of operating effectiveness across the sector.

However, the operating effectiveness scores continue to be affected by universities not completing all the required fields resulting in some blank fields. Blank fields do not provide the public with any meaningful information. Having complete and meaningful information in contract registers is fundamental to maintaining the integrity of the open access pathway.

### FINDING 4: UNIVERSITIES ARE CLASSIFYING CONTRACTS IN THEIR CONTRACT REGISTER INTO THE DIFFERENT CLASSES

Since last year we observed that universities have begun to classify the contracts on their contract register into classes 1, 2 and 3. Although this is not a requirement of the GIPA Act, the contract register scheme is predicated on classifications. This change greatly assists members of the public to clearly obtain access to contracts within the contract register. At the same time we are of the view that classification would assist universities to better comply with the requirements of this scheme.

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## OBSERVATION 1: COMPLIANCE WITH CLASS 3 REQUIREMENTS INCREASING BUT PRACTICES VARY ACROSS THE UNIVERSITY SECTOR

As indicated above in our *Audit testing* section of this report, university compliance with class 3 compliance has improved in 2016. In 2015, only three universities had contract register designs that enabled capture of class 3 requirements and no university was observed to be operating this aspect of the contract register provisions. The positive change in compliance observed this year has provided us with greater insights into patterns of class 3 compliance across the university sector. In part this change appears to have been supported by universities now classifying contracts in their contract register into classes 1, 2 and 3 giving greater prominence both internally and externally to these requirements but also through the increased maturation of the sector.

The class 3 reporting requirement in section 31 of the GIPA Act is that agencies must include a copy of the class 3 contract if a class 2 contract has a value exceeding \$5 million. If the agency does not include a copy of the contract on its register or provisions within the copy of the contract have been withheld, other additional reporting requirements in section 32 of the GIPA Act apply.

We observed universities beginning to establish the requisite design to enable the capture of class 3 information. In particular, register designs reflect a willingness to comply with section 31. However, contract registers do not appear to have matured sufficiently to comply with section 32 of the GIPA Act.

From an operational perspective, we observed that three universities now place a copy of class 3 contracts onto their contract register in accordance with the requirements of section 31 of the GIPA Act. This is a pleasing improvement in universities' compliance with the contract register requirements on a holistic level.

We observed that seven universities have contract registers that are capable of capturing section 31 reporting obligations. Three universities included a copy of the class 3 contract on their register. Other universities did not upload class 3 contracts but provided contact details to assist members of the public who might require a copy of the contract. However, this practice does not accord with the legislative requirements. Further it does not promote open access to government information which allows members of the public to access information without having to make a request.

Where a university decides not to place a copy of the class 3 contract on their register, there are additional reporting requirements in section 32 of the GIPA Act. For the four universities that were required to comply with these additional reporting requirements, we observed that none of these universities placed the additional information onto their contract registers.

We note that the additional reporting requirements also apply when particular contract provisions have been withheld from an uploaded contract. Of the three contracts that we observed that were uploaded onto the register, two contained provisions that were withheld from disclosure. These two contracts would be subject to the additional reporting obligations under section 32 of the GIPA Act. This information is required to be placed onto the university's contract register. Compliance with section 32 of the GIPA Act is an area that would benefit from additional attention by universities given the nature of class 3 contracts.

Generally across the university sector, we observed that contract register design is weakest with respect to capturing the requirements contained in section 32 of the GIPA Act. This is the additional reporting requirements when agencies choose not to include a copy of the contract on its register or when provisions have been withheld from an uploaded contract. This information is important for transparency and accountability purposes.

We look forward to continuing to work with universities to address these issues at the conclusion of the compliance audit.

## Conclusion

Our primary finding is that universities' compliance with the contract register obligations has matured significantly within a relatively short time frame. All universities now have operational contract registers that are designed to promote compliance.

This is a pleasing result and universities are commended for the work they have done over the last year to achieve this improvement. The elevated compliance of the university sector occurred as a result of many factors including increased engagement and adoption of our 2015 audit report recommendations.

Further design work by universities would better support compliance with the requirements of section 32 of the GIPA Act. Additionally enhanced reporting in accordance with section 32 is also required in respect of some universities.

However overall, the maturation of compliance and enhanced operationalisation of legislative requirements is positive. Continued efforts by universities to ensure that their contract register is well designed and utilised optimally is the key to continued successful compliance in the future. We make no recommendations to the university sector because the follow-up compliance audit findings show a significant increased maturity in universities' compliance with the contract register obligations.

Given the universities' demonstrable willingness to engage with the IPC and positive assumption of legislative requirements which has increased levels of compliance, our regulatory approach will now progress to a proportionate, constructive and responsive engagement.



## Appendix A: Legislation Part 3 Division 5 of the GIPA Act

### Division 5 Government contracts with private sector

#### 27. Register of government contracts valued at \$150,000 or more

- (1) An agency is to keep a register of government contracts (its government contracts register) that records information about each government contract to which the agency is a party that has (or is likely to have) a value of \$150,000 or more (**class 1 contracts**).
- (2) Information about a class 1 contract must be entered in the register within 45 working days after the contract becomes effective.
- (3) A contract **becomes effective**:
  - (a) when it is entered into by or on behalf of the agency concerned, or
  - (b) if the contract contains a provision to the effect that one or more conditions are to be met before the obligations of the parties under the contract are enforceable—when the condition or conditions have been met (and not when the contract is entered into by the agency).

#### 28. Value of contract

The **value** of a contract is whichever of the following values is appropriate to the kind of contract concerned:

- (a) the total estimated value of the project,
- (b) the total estimated value of the goods or services over the term of the contract,
- (c) the value of the real property transferred,
- (d) the rent for the term of the lease.

#### 29. Information to be entered in register – class 1 contracts

The following information about a class 1 contract is to be entered in the government contracts register:

- (a) the name and business address of the contractor,
- (b) particulars of any related body corporate (within the meaning of the [Corporations Act 2001](#) of the Commonwealth) in respect of the contractor, or any other private sector entity in which the contractor has an interest, that will be involved in carrying out any of the contractor's obligations under the contract or will receive a benefit under the contract,

- (c) the date on which the contract became effective and the duration of the contract,
- (d) particulars of the project to be undertaken, the goods or services to be provided or the real property to be leased or transferred under the contract,
- (e) the estimated amount payable to the contractor under the contract,
- (f) a description of any provisions under which the amount payable to the contractor may be varied,
- (g) a description of any provisions with respect to the renegotiation of the contract,
- (h) in the case of a contract arising from a tendering process, the method of tendering and a summary of the criteria against which the various tenders were assessed,
- (i) a description of any provisions under which it is agreed that the contractor is to receive payment for providing operational or maintenance services.

#### 30. Additional information for class 2 contracts

- (1) Additional information is required to be entered in the government contracts register for class 1 contracts to which any of the following paragraphs applies (**class 2 contracts**):
  - (a) there has not been a tender process, the proposed contract has not been made publicly available and the terms and conditions of the contract have been negotiated directly with the contractor,
  - (b) the proposed contract (whether or not made publicly available) has been the subject of a tendering process and the terms and conditions of the contract have been substantially negotiated with the successful tenderer,
  - (c) the obligations of one or more parties under the contract to maintain or operate infrastructure or assets could continue for 10 years or more,
  - (d) the contract involves a privately financed project as defined by guidelines published by the Treasury (as in force from time to time),
  - (e) the contract involves a transfer of a significant asset of the agency concerned to another party to the contract in exchange for the transfer of an asset to the agency.
- (2) The additional information required to be entered in the register for class 2 contracts is as follows:
  - (a) particulars of future transfers of significant assets to the State at zero, or nominal, cost to the State, including the date of their proposed transfer,

- (b) particulars of future transfers of significant assets to the contractor, including the date of their proposed transfer,
- (c) the results of any cost-benefit analysis of the contract conducted by the agency,
- (d) the components and quantum of the public sector comparator if used,
- (e) if relevant, a summary of information used in the contractor's full base case financial model (for example, the pricing formula for tolls or usage charges),
- (f) if relevant, particulars of how risk, during the construction and operational phases of a contract to undertake a specific project (such as construction, infrastructure or property development), is to be apportioned between the parties, quantified (where practicable) in net present-value terms and specifying the major assumptions involved,
- (g) particulars as to any significant guarantees or undertakings between the parties, including any guarantees or undertakings with respect to loan agreements entered into or proposed to be entered into,
- (h) particulars of any other key elements of the contract.

### 31. Register to include copy of class 3 contract

If a class 2 contract has (or is likely to have) a value of \$5 million or more (**a class 3 contract**), the register must include a copy of the class 3 contract.

### 32. Confidential information not required to be included in register

- (1) A requirement of this Division to include information or a copy of a contract in the government contracts register does not require the inclusion of:
  - (a) the commercial-in-confidence provisions of a contract, or
  - (b) details of any unsuccessful tender, or
  - (c) any matter that could reasonably be expected to affect public safety or security, or
  - (d) a copy of a contract, a provision of a contract or any other information in relation to a contract that is of such a nature that its inclusion in a record would result in there being an overriding public interest against disclosure of the record.
- (2) If an agency does not include a copy of a contract in the register, or includes only some of the provisions of a contract in the register, because of this section, the agency must include in the register:

- (a) the reasons why the contract or those provisions have not been included in the register, and
- (b) a statement as to whether it is intended that the contract or those provisions will be included in the register at a later date and, if so, when it is likely that they will be included, and
- (c) if some but not all of the provisions of the contract have been included in the register, a general description of the types of provisions that have not been included.

### 33. Variations to contracts

- (1) If a material variation is made to a contract that would affect the particulars that are required to be included in the government contracts register in relation to the contract, the particulars included in the register are to be amended to reflect the variation within 45 working days after the variation becomes effective.
- (2) If a material variation is made to a contract a copy of which is required to be included in the register, a copy of the variation or the varied provisions is to be included in the register within 45 working days after the variation becomes effective.

### 34. Minimum public access period for information on register

- (1) Information (including a copy of a contract) required to be included in the government contracts register in relation to a contract is only required to be made publicly available as open access information for the public access period.
- (2) The **public access period** is whichever is the longer of the following periods:
  - (a) 20 working days,
  - (b) the period until the project to which the contract relates is complete, the goods and services concerned have been provided under the contract, the term of the lease has expired or the real property has been transferred.

### 35. Register to be published on Government tenders website

- (1) A copy of an agency's government contracts register is to be published on the Government tenders website (that is, the website with the URL of <https://tenders.nsw.gov.au> or such other internet website as the Premier may authorise for the purposes of this section).

(2) Each of the following agencies is not required to have a copy of its government contracts register published on the Government tenders website but is required to have a copy of the register published on any website of the agency:

- (a) a State owned corporation or a subsidiary of a State owned corporation,
- (b) a local authority,
- (c) a university.

(3) A copy of an agency's government contracts register is also to be made publicly available in any other manner in which the agency decides to make its open access information publicly available.

### 36. Disputes

(1) If a person other than an officer of the agency (including, for example, a party to a government contract) disagrees with the way in which an agency has interpreted its obligations under this Division, the agency is to obtain:

- (a) the opinion of the Chairperson of the NSW Procurement Board in relation to the matter, or
- (b) if the principal officer of the agency is the Chairperson of the Board—the opinion of the Minister in relation to the matter.

(2) This section does not apply to:

- (a) a State owned corporation or a subsidiary of a State owned corporation, or
- (b) a local authority, or
- (c) a university.

### 37. Agency obligation to find information

Information is required to be included in an agency's government contracts register only to the extent that the agency holds the information or it is reasonably practical for the agency to obtain the information.

### 38. Exception for industry support contracts

This Division does not require the Department of State and Regional Development to include any information about or a copy of a government contract in its government contracts register if the contract involves the provision of industry support.

### 39. Exception for SOCs – competitive neutrality

This Division does not require a State owned corporation or a subsidiary of a State owned corporation to include any information about or a copy of a government contract in its government contracts register if the contract relates to activities engaged in by the corporation or subsidiary in a market in which it is in competition with any other person.

### 40. Exception for Landcom—contracts for sale of land

This Division does not require Landcom to include any information about or a copy of a government contract in its government contracts register if the contract is a contract for the sale of land.

**Note:** Any exception under this Division from the requirement to include information about or a copy of a contract on a government contracts register does not of itself constitute grounds for refusing an access application.

## Appendix B

### Appendix B: 2016 compliance audit results

The results of the audit are contained in the tables and graphs below.

**TABLE OF UNIVERSITY SECTOR COMPLIANCE WITH CONTRACTS REGISTER REQUIREMENTS**

	Class 1 Contract		Class 2 Contract		Class 3 Contract	
	DE	OE	DE	OE	DE	OE
<b>UNI A</b>	42%	31%	0%	0%	0%	0%
<b>UNI B</b>	83%	66%	0%	0%	0%	0%
<b>UNI C</b>	92%	50%	65%	N/A	25%	N/A
<b>UNI D</b>	100%	100%	100%	97%	25%	25%
<b>UNI E</b>	92%	89%	59%	33%	100%	N/A
<b>UNI F</b>	100%	100%	65%	65%	25%	0%
<b>UNI G</b>	100%	72%	88%	44%	25%	25%
<b>UNI H</b>	100%	97%	100%	100%	75%	N/A
<b>UNI I</b>	100%	79%	82%	47%	25%	25%
<b>UNI J</b>	100%	79%	100%	88%	50%	0%

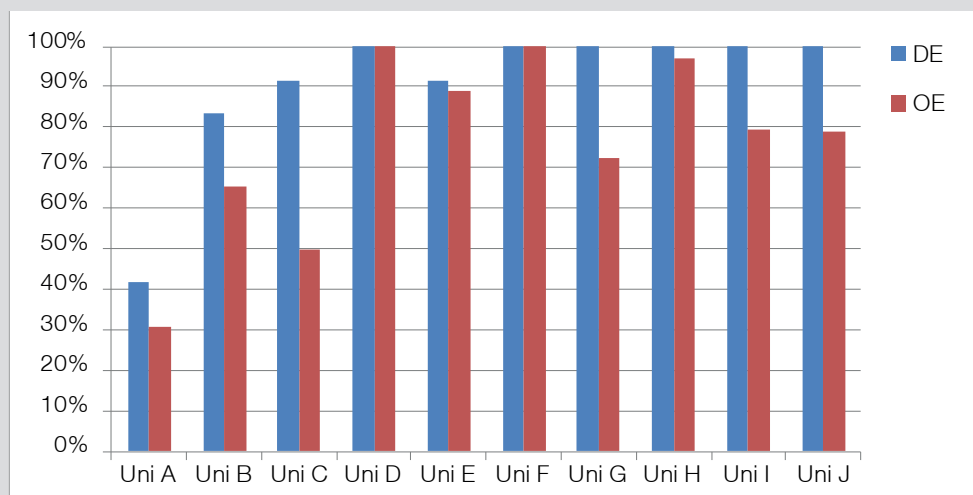
Note: N/A means not assessable. A result could be not obtained as no contract of that type was available to be assessed. Please refer to our "Audit Limitation" section for further commentary on our methodology.

DE = Design effectiveness

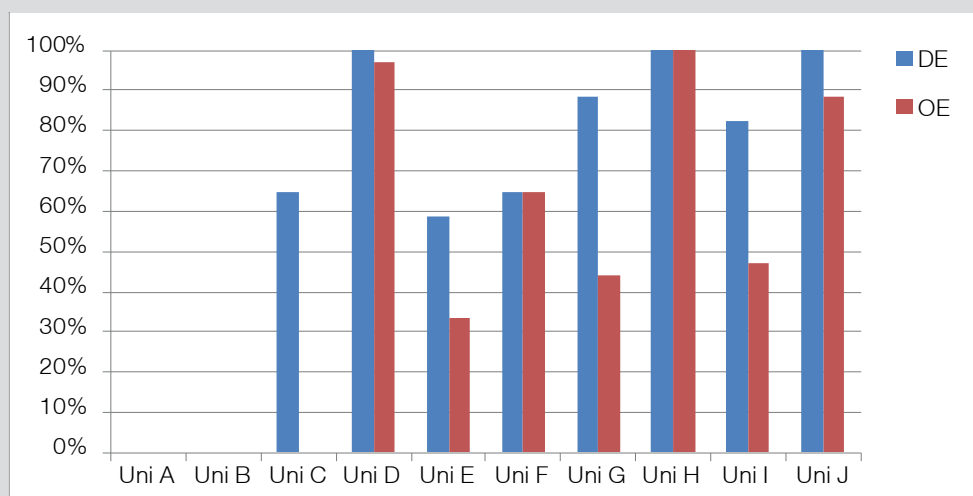
OE = Operating effectiveness

## GRAPHS OF UNIVERSITY SECTOR COMPLIANCE FOR EACH CLASS OF CONTRACT

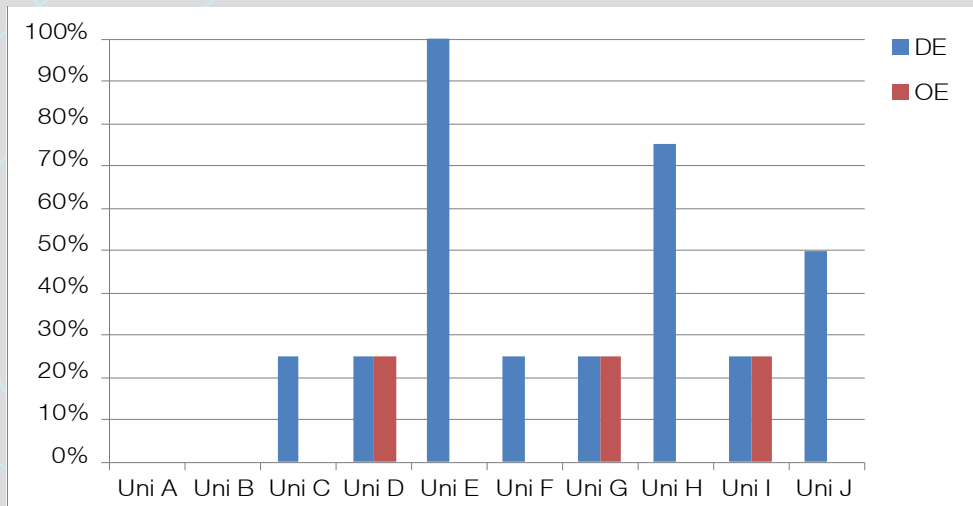
### GRAPH 1: Class 1 Contract Compliance



### GRAPH 2: Class 2 Contract Compliance



### GRAPH 3: Class 3 Contract Compliance





## Appendix C

### Appendix C: Comparison of results between 2016 and 2015

The below table represents the percentage change in the score attained by the University between 2015 and 2016. For example, a 5% score reflects a 5% improvement on the 2015 results. Where a university received a negative score this indicates that the level of assessed compliance is reduced compared to the result attained in 2015. Consistent with our stated process, we will engage with the relevant universities to discuss their scores.

**TABLE COMPARISON OF RESULTS BETWEEN 2016 AND 2015**

	Class 1 Contract		Class 2 Contract		Class 3 Contract	
	DE	OE	DE	OE	DE	OE
<b>UNI A</b>	8%	0%	0%	0%*	0%	0%*
<b>UNI B</b>	0%	8%	0%	0%*	0%	0%*
<b>UNI C</b>	0%	-6%	0%	0%*	0%	N/A
<b>UNI D</b>	0%	3%	12%	9%	-50%	25%*
<b>UNI E</b>	-8%	89%*	59%	33%*	100%	N/A
<b>UNI F</b>	0%	0%	65%	65%*	25%	0%*
<b>UNI G</b>	25%	3%	53%	9%	25%	25%*
<b>UNI H</b>	0%	3%	12%	12%	0%	N/A
<b>UNI I</b>	8%	4%	82%	47%*	25%	25%*
<b>UNI J</b>	50%	37%	100%	88%*	50%	0%*

*\*In 2015 universities obtained a "N/A" score for these fields as no identifiable contract was able to be tested. The result shown here is the first time a result has been allocated to the university through our testing methodology, as in 2016 identifiable contracts were available on the register and able to be tested.*

## Appendix D: List of universities audited

Ten universities, established under New South Wales legislation, are subject to the GIPA Act and were audited for compliance with Part 3 Division 5 of the GIPA Act. They are listed below in no particular order:

1. Charles Sturt University – [www.csu.edu.au](http://www.csu.edu.au)
2. Macquarie University – [www.mq.edu.au](http://www.mq.edu.au)
3. Southern Cross University – [www.scu.edu.au](http://www.scu.edu.au)
4. University of New England – [www.une.edu.au](http://www.une.edu.au)
5. University of New South Wales – [www.unsw.edu.au](http://www.unsw.edu.au)
6. University of Newcastle – [www.newcastle.edu.au](http://www.newcastle.edu.au)
7. The University of Sydney – [www.sydney.edu.au](http://www.sydney.edu.au)
8. University of Technology Sydney – [www.uts.edu.au](http://www.uts.edu.au)
9. University of Wollongong – [www.uow.edu.au](http://www.uow.edu.au)
10. Western Sydney University – [www.westernsydney.edu.au](http://www.westernsydney.edu.au)

## References

*[Universities Compliance with the GIPA Act: Audit Report 2015](#)*



information and  
privacy commission

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