



Submission to the Joint Committee of Public Accounts and Audit Inquiry into Commonwealth Procurement

A New Commercial Entity for Commonwealth Procurement

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From: Hypereal Pty Ltd

Introduction

Hypereal's original submission to the Inquiry queried whether the entities that have contributed to and sustained the current state of ICT procurement have either the expertise or the incentive to change it now. We pointed to evidence of inaction by both the DTA and Department of Finance in the face of several previous formal critiques, including a Taskforce, a Senate Enquiry, and the ANAO, over a span of five years.

We argued instead for the establishment of a new, independent commercial entity tasked with implementing leading procurement practices into government. These processes were explained in our submission and its appendix, including how their implementation would address the shortcomings exposed by the ANAO in several recent procurement audits.

The Committee expressed an interest in exploring this proposed entity in more detail. In response, this supplementary submission outlines how the entity could be established, funded, and structured, together with its remit and key objectives.

Making the mindset shift: from buying things to orchestrating supply markets

A central procurement function for government is not a new notion. Other countries already have them, in various forms. All these countries have moved their understanding of the procurement function far beyond the act of making a purchase.

It follows that the first step for our procurement transformation must be to alter the way we think about the function, and especially the way it is defined. Procurement must cease to be *"the process of acquiring goods and services"* (ANAO) and aspire to becoming:

"the active lifecycle management of supply markets in order to achieve transparently reported technology, financial and social outcomes that promote better government and the wellbeing of the people."

This revised definition establishes the parameters of the new commercial entity's mandate and the extent of the responsibilities which it will gradually assume. It will be responsible for nurturing supply segments and supply relationships for the benefit of the country, over multi-year periods. It will balance hard commercial outcomes with social and economic policy goals. It will contribute to effective government by crafting quality third-party solutions and exposing waste. It will work accountably and in the open. Implicitly, it will develop a professional workforce capable of doing these things for the agencies in which they work.

The recent ANAO audits highlight how decentralisation and loose guidelines have resulted in very different but deeply embedded agency-level procurement practices. These practices will be challenging to re-shape without the clear authority to do so. The new commercial entity would therefore be mandated across central agencies. This mandate would apply to overarching IT and non-IT category strategies, to significant cross-agency supply relationships, and to individual procurements over a spend and risk threshold. The entity would however also act a non-mandated nexus for collaboration between agencies, tiers of government, and potentially to other public sector bodies and NGOs.

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This is not to say that the entity would perform all procurement activities itself. Its centre-led model is pragmatic, flexible, and outcome focussed. Within the context of a given category strategy, it may assume the lead; convene inter-agency teams to work collaboratively, or simply provide value-added market intelligence and procurement advice.

The accountabilities and structure of the new commercial entity

The entity will assume responsibility for procurement rules, policy and ways of working; for their evolution, and for providing expert input to policy or legislation that touches on procurement matters. It will take carriage of and review the CPRs. It will scrutinise the use of panels and the “value for money” misconception that sits at their heart. Working with the APSC, it will also lead on professionalising the procurement function (see separate response to your supplementary question).

It will introduce a strong modernisation agenda into procurement. One of the ways in which this will be displayed is in the implementation and ongoing management of procurement technology. In more mature environments, procure-to-pay and source-to-settle systems have for many years been used to decrease procurement cycle time and the risk of error while increasing process repeatability and auditability. Modern procurement functions use workflows, not Sharepoint documents, to express their delegations of authority. Modern procurement functions use data matching to avoid making \$0.4M overpayments to suppliers. The DTA’s JCPAA submission advocated against “open to all” approaches to market because of the evaluation overhead: modern procurement systems automate the initial stages of tender evaluation.

A technology modernisation focus will also benefit vendors. It will build on the legacy of the original Digital Marketplace to reduce the overhead of interacting with government, for example through the creation of a single vendor identity and credentialling across government.

The entity will own, curate, and report on the third party spend and supply base, and will be accountable for interpreting it to external stakeholders. This reporting will optimally also highlight spend and progress against major projects and level-up to the transparency provided by other jurisdictions, including Australian states.

The entity will also consultatively set whole-of-government procurement targets for financial and non-financial benefits and will report publicly on their attainment. An important first step for this work will be to define what constitutes a benefit and how benefits realisation should be tracked. This will kickstart an essential financial discipline that is currently very patchy.

Cost reductions have been private sector procurement’s bread-and-butter for decades. High performing teams are expected to deliver “10x” – 10 times their running costs. Procurement commitments are baked into budgets and their delivery validated by hawk-eyed CFOs. These CFOs rely on procurement’s work to create budget flexibility or absolute cost downs, especially in times of economic challenge. Government has not yet prioritised this sort of cost rigour.

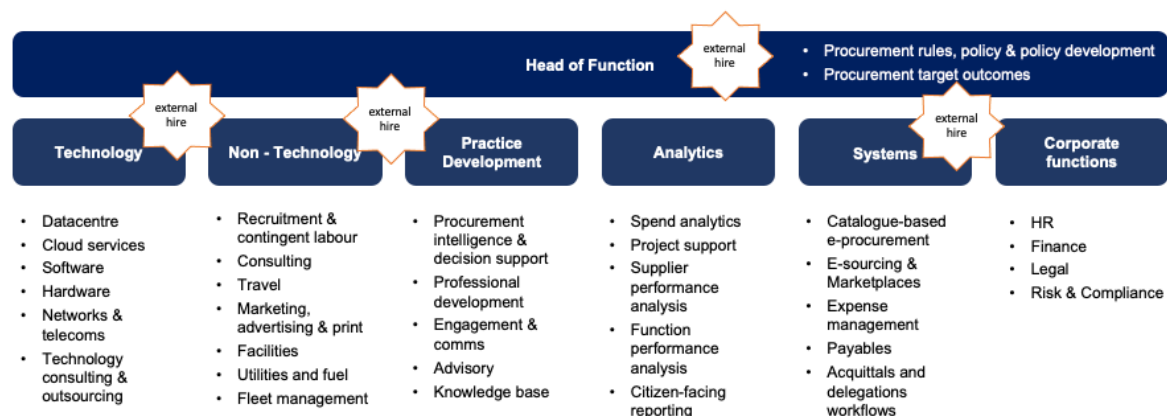
Today, financial targets for procurement teams are increasingly supplemented with non-financial requirements to support other organisational aspirations. The new entity’s targets will include measurable outcomes for orchestrating whole-of-government support for sovereign, social, First Nations and green procurement policies.

The new entity’s category managers will use historical spend insights together with agencies’ forward requirements to craft multi-year strategies across the overall spend segment and for key suppliers within it. These strategies will combine agency-level playbooks within an overall approach that defines cost and quality outcomes. They will be more finely nuanced than private sector equivalents because they will balance more potentially competing priorities. In the private sector, for example, the “tail” of low-spend vendors is compressed to reduce the cost-to-serve implications of ordering and payment. In the government context, however, this tail represents a constellation of small businesses that employ many Australian workers.

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Category managers are accountable for the performance of their category over multiple years. Their strategies will therefore span both sourcing (“hunting”) and post-sourcing (“farming”) activities to provide end-to-end lifecycle management that minimises value loss during the lifetime of a contract. New-to-government supplier relationship management and performance management (SRM/SPM) skills will be needed, especially if true innovation or supply partnering initiatives are to be contemplated. With few exceptions, government procurement capabilities do not currently extend this far, with the result that innovation programmes tend to be grant-funded and not procurement-led.

The figure below illustrates an entity structure that would support this agenda and level of activity:



Ambitions for the new commercial entity’s first cycle

Change will not be immediate, and the new commercial entity’s initial window should be set at 3 years. Establishment considerations and machinery-of-government changes will carve out 6 months or more of this time. Within this initial 6-month period, a handful of key external hires would be recruited, and the procurement, systems, policy, stakeholder management and leadership skills of this core team will be crucial to swift delivery and acceptance.

In its first cycle, the new commercial entity should be able to point to substantive achievements in 7 key areas:

- Relationships and credibility:** Forging respectful and principled working and policy relationships across government, and demonstrating value-add.
- Transparency of information and open dialogue:** Making accurate procurement spend and outcome data publicly available and interpretable.
- Target outcomes for cost and quality:** Setting overall cost down and value up target outcomes for government procurement and working with agencies to develop, deliver and measure category and vendor specific strategies to achieve them.
- Tangible outcomes for government policy:** Partnering with agencies to develop, embed and measure practices that support government’s broader social, economic and climate policies.
- Profession and capability build:** Partnering with agencies and the APSC to formalise the procurement profession, and oversee professional standards and development.
- Digital transformation:** Digitising manual processes by introducing source-to-settle functionality including catalogue-based e-procurement and e-sourcing systems.
- Enablers and blockers:** Reviewing, revising and owning procurement guidelines and guardrails and advising on procurement related policy and legislation.

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The new commercial entity will be budget neutral

The DTA funds its whole-of-government technology procurement efforts by charging agencies a percentage of what they spend on the mandatory contracts it manages. In FY20/21, the DTA reported an income of \$35.44M from this stream. This level of funding is sufficient to establish the new entity and start building its core capabilities and technology modernisation agenda, as well as to continue the current ICT procurement offering.

Additional funding for technology procurement will flow from machinery of government changes. Budgets for systems support, personnel, and premises will transition in from the DTA and other Department of Finance entities including the Centre of Procurement Excellence. Non-technology procurement arrangements, such as travel management, that currently reside within the Department of Finance will also transition.

The Industry portfolio leads several options for the new commercial entity's home

Although a number of other countries have established central procurement capabilities, their reporting lines reflect different drivers and priorities. In this section, we highlight some international precedents as we reflect on options for a new commercial entity for government.

PM&C would provide the entity with high levels of advocacy and sponsorship, and perhaps the best visibility. Alignment with other PM&C entities seeking to uplift capability and efficiency in government would be assured, including the APSC and ANAO. This reporting line would be consistent with the UK's Crown Commercial Services, a ~700 FTE executive agency that reports into the Cabinet Office, which acts as the government's corporate centre.

The Department of Finance is the current home of the DTA, and has traditionally had carriage of the Commonwealth Procurement Rules as well as whole-of-government ICT procurement and some non-technology categories. The current model somewhat resembles the Singaporean solution, in which government supports its otherwise decentralised procurement regime with Ministry of Finance-set rules and a whole-of-government procurement platform. A Department of Finance reporting line would create the least level of change and emphasise the cost and budgeting components of procurement. A strong Department of Finance alignment may, however, risk tethering the new entity to the inertia of a very large institution, including to the existing ways of working and mindsets that were unflatteringly exposed in the DTA and other recent ANAO audits.

The Department of Finance shares a minister with the Public Service, and this synergy may be worth exploring. This smaller portfolio may prove a good fit for a new, centre-led, commercial entity which shares characteristics with the recently announced in-house consulting unit. Canada provides a template for this combination: Procurement Canada (with a spend of CAD \$16B) reports to the Minister of Public Services and Procurement.

The final alternative is the Industry portfolio, which shifts the perspective from inward- to outward-looking. This is the option selected by New Zealand, whose whole-of-government procurement capability has recently embarked on a strategic rebuild of its procurement along the lines outlined in this paper. France's central procurement function is domiciled in a ministry that combines the economy, finance, and manufacturing sovereignty. Both entities have carriage of actions that are within the remit of the Future Made in Australia Office (some of whose responsibilities the new commercial entity would assume).

Overall, current strong messaging around sovereign and social procurement inclines us towards a home in the Department of Industry and Science. Procurement is the gateway between industry offerings and the workings of government, and the Buy Australian Plan relies on procurement as an instrument of economic policy.

The Buy Australian Plan implies that government procurement can operate with sophistication. That is to say that its buyers can conduct simple, clear, outcome-based procurements; coach small businesses inexperienced in dealing with large bureaucracies; encourage innovation; assess and fairly apportion

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risk, and nurture supply markets through action, interpretation and networking, all while delivering benefits for government itself.

Why make the change?

The future-focused Buy Australian Plan forces us to think differently about procurement. And here's the problem.

The recent ANAO audits expose basic commercial and ethical failings that suggest procurement is unlikely to evolve to meet new expectations without radical intervention. Previous taskforces, audits, and inquiries had flagged many of the scenarios that could lead to the issues uncovered by the ANAO. Yet nothing changed.

Now take a look at some of the proposed remediation actions to these audits. The checklists, education and compensating controls being progressed, for example, by the DTA may indeed lead to better procurement hygiene, and perhaps even to procurement competence. But these actions are incurious. They do not look beyond the audit point to question the structures and forces that called it into being. This is not a reflexive system that is capable of step-change improvement.

So we can continue as we are, in the knowledge that current accountabilities, policies and processes bound our reality and restrict our ability to create positive change, but continue to serve us in comfortable, familiar ways. Or we can lean into a bold reimagining of what procurement could deliver - for government, for the economy, and for the APS – by leading with an expert new vision and with radical reform.

Conclusion

We hope that this high-level overview of the nature, objectives and practical establishment of a new commercial entity for Commonwealth government procurement is helpful to the work of the Inquiry and to its decision-making processes.

We are happy to explore this construct with you in more detail, and in the meantime remain grateful for the opportunity to make a supplementary submission on a topic about which we are both passionate and qualified.

Supplementary resources

DTA Annual Report FY20/21 (p97): https://www.dta.gov.au/sites/default/files/2021-10/DTA%20Annual%20Report%202020-21_Accessible%20FINAL.pdf

Department of Finance Centre of Procurement Excellence (CoPE): <https://www.transparency.gov.au/annual-reports/department-finance/reporting-year/2018-2019-5>

Buy Australia Plan and A Future Made in Australia Office: <https://www.finance.gov.au/business/buyaustrianplan>

Crown Commercial Service UK: <https://www.crowncommercial.gov.uk/about-ccs/>

UK Cabinet Office: <https://www.gov.uk/government/organisations/cabinet-office/about>

NZ Government Procurement: <https://www.procurement.govt.nz> and

The February 2022 NZ Cabinet paper proposing strategic procurement changes: <https://www.mbie.govt.nz/dmsdocument/18660-government-procurement-refreshing-strategic-priorities-proactiverelease-pdf>

French Direction des Achats de l'Etat : <https://www.economie.gouv.fr/dae/strategies-segments-dachat>

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Public Services and Procurement Canada: <https://www.tpsgc-pwgsc.gc.ca/apropos-about/prps-bt-eng.html>

German public procurement model: <https://www.bmwk.de/Redaktion/EN/Dossier/public-procurement.html>

Singapore public procurement model: <https://www.gebiz.gov.sg/singapore-government-procurement-regime.html>