



Australian Government  
Digital Transformation Agency



# Inquiry into the management and assurance of integrity by consulting services (Consulting services)

Submission by the Digital  
Transformation Agency

April 2023

## Executive summary

The Digital Transformation Agency (DTA) is pleased to contribute to the Inquiry into the management and assurance of integrity by consulting services.

The following submission focuses on the DTA's role as manager of whole-of-government ICT panels – creating robust procurement and contracting frameworks to uphold integrity, and managing risk when contracting digital consultants across government. The submission addresses the terms of reference, outlining the current measures the DTA takes in establishing and managing panels to:

- manage conflicts of interest by consultants
- prevent conflicts of interest, breaches of contract or other unethical behaviour by consultants
- include enforcement measures to provide a course of action in the event of an integrity breach, such as the inadequate management of conflicts of interest, breaches of contract or other unethical behaviour by consultants
- manage risks to public-sector integrity arising from the engagement of consultants
- promote transparency of work undertaken by consultants and the accountability of consultants for this work.

As a future initiative, the DTA recommends the Finance and Public Administration References Committee (the Committee) considers including [ISO 20700:2017](#) – an international standard for the management of consultancy services – in Commonwealth procurement guidance as an expected minimum standard for consultants tendering for Australian Government contracts. The government would need to determine if this measure would create an unintentional barrier for small-to-medium and Indigenous enterprises and, if so, what policy levers could be used to minimise this risk.

The DTA trusts that this perspective offers the Committee insight into the practices and challenges for Australian Government entities in engaging consultants.

## Background

The DTA is responsible for managing whole-of-government digital and ICT procurement to reduce costs, improve terms and conditions for government entities, and streamline procurement and contracting processes. As part of this work, the DTA manages a number of panels for commonly used ICT categories across hardware, software, cloud, telecommunications, digital services and labour hire.

While each of the panels managed by the DTA includes professional service offerings, the Digital Marketplace panel is by far the biggest channel through which Australian Government entities source digital and ICT hire and professional services (including consulting services). More than \$12.3 billion in contracts have been undertaken using this panel since it was established in 2008.

The DTA is exploring additional measures to further assist buyers in the next iteration of the Digital Marketplace panel, due to launch in 2024.

It is expected that this panel will become the DTA's standard contracting framework, where entities buy digital products and services under standard government terms and conditions. This will also encourage consistency in how government entities manage risk when engaging with consultants under the DTA's panels.

## Managing conflicts of interest

The DTA manages conflicts of interest throughout the panel lifecycle. Suppliers that apply for inclusion on the DTA's panels are required to identify and declare all conflicts of interest and confirm that they have not engaged in any unethical conduct, both in general terms and in preparing their submission. By applying for a panel arrangement, suppliers consent to additional confidential reference, probity and credit checks. The DTA applies the same expectation on employees involved in evaluating and managing the panels, with regular monitoring of conflicts of interest and deeds of confidentiality to promote an environment of transparency and proactive risk management that protects all parties.

The DTA has specific requirements to ensure the panels promote ethical conduct. It requires suppliers to:

- comply with, and continually monitor, contractual obligations (including on confidentiality and proper conduct), and address any breaches should they arise.
- remain financially viable, continually monitor financial status through a third-party service, and manage any issues with suppliers and affected entities as required.

- hold, continually monitor and update as required appropriate types and levels of insurance.
- demonstrate compliance with relevant procurement-related policies, which may be sought annually by the DTA, at the time of tendering or at the time of contracting.

These measures ensure suppliers are well equipped to provide services responsibly and ethically, especially if they have access to data or systems that support the services the Australian Government delivers to its citizens.

## Enforcement measures

The DTA is responsible for ensuring enforcement mechanisms exist within the contracting frameworks for its panels. For example, the terms and conditions of the Digital Marketplace panel have several layers of mechanisms that enable buyers to manage an integrity breach, including:

- cooperation and information exchange throughout an investigation into breaches of contractual terms.
- issuing a stop-work order to a consultant under investigation, if necessary.
- contract termination in the event of a serious breach of contract.

These enforcement measures are referred to in the pre-negotiated work order templates (between the buyer and the seller) that sit under the head agreement (between the seller and the DTA), in addition to the ability of the contracting entity to define the liability regime and performance penalties related to their specific contracts. In this way, the DTA ensures that the enforcement mechanisms are clear, easy to understand and quick to follow in the event of any breach.

## Risk management

While the DTA creates the framework to facilitate proper risk management when engaging consultants under its panels, actual responsibility for proper risk management rests with the contracting buyers.

In addition to the measures above, the DTA outlines the contractual obligations in head agreements and pre-negotiates work order templates for entities to use when contracting under the panels. These templates are designed to prompt the contracting entities to specify what will be required over the term of the contract, including:

- solution and/or services to be delivered
- requirements for ongoing engagement between parties
- ongoing reporting on, or monitoring of, performance
- owner of intellectual property
- schedule of milestones and/or deliverables
- payment schedule (generally tied to these milestones and/or deliverables).

By creating these templates, the DTA promotes best practice under its panels by encouraging buyers and sellers to clearly define expectations from the outset. In addition, it provides entities with the right foundation to manage their contracts effectively and assure the delivery of their intended value-for-money outcome.

## Transparency and accountability

The DTA's role in digital and ICT procurement is two-fold:

1. to promote transparency in the procurement process to engage consultants
2. to facilitate transparency in the contracts that result.

In January 2023 the DTA launched [reports and insights on the BuyICT website](#), which shows the level of spend under its procurement arrangements including contract values for small-to-medium and Indigenous enterprises.

Under the contractual framework, clauses are included in head agreements and work order templates to uphold transparency and accountability when engaging consultants. For example, the Digital Marketplace panel clauses ensure that government entities and their consultants:

- agree on a clear statement of requirements and scope of the engagement
- define the milestones and timeframe for the engagement
- define the key personnel, and their roles and responsibilities
- define the acceptance criteria for the delivery of any work
- monitor progress and performance through agreed metrics
- ensure consultants follow the agreed governance and reporting requirements
- audit procurement processes, contracts and payments as required
- include enforcement measures available to manage poor performance, improper or unethical conduct, or any breaches of confidentiality

- understand expectations around performance, warranty and liability.

In this way, the DTA encourages both parties to hold each other accountable for the successful delivery of the contract and the best use of public resources.

## Any other related matters

As a future initiative, the Australian Government could consider consolidating the number of procurement pathways (such as panels) currently used for consulting services, as each pathway involves individual terms and conditions.

Consolidation of pathways by introducing mandatory panels would allow for standard terms and conditions for government entities, as well as sellers and the consulting services they provide. This would also allow for simplified management of data, providing clearer trends and analysis for future use.

In addition, the Committee could consider including ISO 20700:2017 in Commonwealth procurement guidance as an expected minimum standard for consultants tendering for Australian Government contracts.

ISO 20700:2017 is an international standard recognised as the best practice guide for engaging with consultants. It aims to improve transparency and understanding between consultants and their clients, as well as to improve the quality, professionalism, ethical behaviour and interoperability of consulting services.

While the DTA is considering including this requirement under its panels, incorporating it in the government's broader procurement guidance would set a consistent expectation and effectively guide behaviour across the consultancy sector in Australia. This could be achieved by including it in procurement guidance for Commonwealth entities, and especially for the guidance on the establishment of panels across government.

It should be noted, however, that this could create an unintentional barrier for small-to-medium and Indigenous enterprise. The certification process to comply with the standard may require too much time, money and effort for some sellers. Further research by the Australian Government should explore what policy levers or initiatives can be used to minimise the impact on these providers.