

# Submission to Senate Finance and Public Administration Committee, Inquiry Into “Supporting the Development of Sovereign Capability in the Australian Tech Sector”

February 2024

## Introduction

TechnologyOne welcomes the opportunity to contribute to this inquiry. TechnologyOne is an ASX100 business providing full suite Enterprise Resource Planning systems as Software-as-a-Service founded in Brisbane in 1987 and headquartered in Fortitude Valley, Brisbane. TechnologyOne is one of a handful of businesses worldwide operating in this market.

From an entrepreneur founded business with one customer, TechnologyOne has grown to have 16 offices in Australia, New Zealand, across the Pacific and PNG, Asia and in the UK.

Over this time, TechnologyOne has trained thousands of Australians and wholly rewritten its software four times to be at the forefront of successive generations of technology, all of which remains Australian intellectual property. We could not be more proud of this contribution to sovereign capability.

TechnologyOne has provided core business management software to Government agencies for 34 years. From one Federal Government customer, TechnologyOne has grown to now support 230 government agency customers in every state and territory, New Zealand and across the Pacific.

TechnologyOne is pleased to share in this submission insights we have gained over this period and across these jurisdictions, as well as local government.

This inquiry is timely as we have witnessed a global trend to valuing more highly the development and retention of sovereign capability around the world, led by policy developments in the US and Europe.

The changing geopolitical environment, weaknesses in national supply changes exposed during the Covid19 pandemic, and the imperative to transform and decarbonise global energy markets has had a profound impact on industrial policy. Procurement by governments has assumed a central role in this changed environment and TechnologyOne welcomes the Senate’s interest in this issue.

Focus issues for this submission are:

- The scope of policies: have we been too narrow?
- The international context: our trading partners’ increasingly interventionist approaches
- Assumptions in “go to market” processes and designs
- Process trumping purpose
- Uneven Playing Fields
- Unrecognised Value
- Addressing the Cultural Cringe

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## Australian Technology Industry and Domestic Capability – Beyond SMEs?

TechnologyOne is one of a small number of Australian founded technology businesses that have grown from a privately funded, entrepreneur-led start-up, through scale up, to an established, ASX100 business, all the while remaining domiciled in Australia.

TechnologyOne's success has been built on the belief that a commitment to continual product improvement and development centred in Australia can be a competitive advantage here and internationally.

The business reinvests on average 20 percent of revenue in R&D every year. By way of comparison, Apple, famously a heavy investor in R&D, invested just under eight percentage of revenue in R&D in 2023.

TechnologyOne has retained its headquarters and corporate domicile in Australia. The vast majority of its R&D spend is in Australia, most of it in the R&D centre is located Fortitude Valley, Brisbane head office.

Since the late 1990s, a more typical path for successful Australian technology businesses has been to either move their domicile overseas before public listing – usually to the US – or to be wholly acquired by an overseas technology business – again, most often from the US.

TechnologyOne does not in any way suggest those businesses that have followed either of these paths should be considered anything other than success stories.

However, it does raise questions about how we build enduring sovereign capability in this country. Powering the US's continuing domination of the tech sector has been that it has a cohort of very large, decades old, mature tech businesses. From the success of these businesses over generations, the US has developed a rich and successful financial sector focused on fast-growing tech businesses, generations of experienced managers, and a pipeline of young people trained in technology.

These same factors, combined with the size of the US market, create the gravitational pull that causes so many Australian businesses – and those from elsewhere – either to move to the US or to be acquired by US tech giants.

If policy makers are seeking to understand how enduring sovereign capability in technology can be better developed and retained, we submit it is important to look beyond creating more supportive conditions for SMEs and start-ups.

This question receives little attention.

To be more specific, we submit two questions for policy makers.

- Can sovereign businesses be better supported as they grow beyond SMEs to a point where they are a genuine alternative to established overseas Big Tech businesses? And;
- What role is there for policy to encourage those businesses that have grown to be globally competitive to remain domiciled in Australia once their major growth opportunities are overseas?

Where there are only weak factors anchoring the most successful businesses in Australia, policy to further support start-ups and SMEs may not contribute to enduring domestic capability.

For example, supporting SMEs to create innovative intellectual property only for those businesses – and their unique IP – to be acquired and moved offshore before they attain the critical mass to compete

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internationally could weaken relative sovereign capability. This would be a perverse outcome of a successful SME focused policy framework.

## The Future Made in Australia Agenda

The US Government in 2020 recognised it was experiencing a global industrial inflection point.

Changed geo-political circumstances had exposed the reliance on potentially undesirable supply chains. Covid19 had exposed the vulnerability of countries to both disruption in transport networks and misaligned domestic interests of other nations in their supply chains and, industrial reorganisation and disruption created by accelerating decarbonisation in energy markets was creating generational investment opportunities and shifts in wealth.

The US responded with both aggressive policies to support domestic investment in emerging industries (such as in energy) and the overtly nationalistic Made in America procurement policy.

The intention of the policy could not be more explicit:

“Made in America” policies are designed to increase reliance on domestic supply chains and ultimately reduce the need to spend taxpayer dollars on foreign-made goods.<sup>1</sup>

It is telling that the US, already the largest tech market and producer in the world, regards procurement policy favoring domestic supply as a necessary part of industrial policy to secure its future.

It is also notable that the US believes this policy is open to it within the trade obligations and agreements it has entered into, including those with Australia.

TechnologyOne is aware of arrangements in other countries that, while less overt, are clearly intended to both advantage local providers and ensure the development of domestic capability as an outcome of any procurement contract.

In Singapore, for example, TechnologyOne is aware of contractual requirements that have the effect of driving capability transfer and increasing retained economic benefit. Government customers will pay invoices only if they have published a tender on a government portal for the amount of the invoice (even where there is a contract in place). This requires opening an account on the portal, and this can only be done by a Singapore resident.

Once the tender process is complete, the invoice needs to be uploaded to a separate portal which, again, can only be done by a Singapore resident. For payment purposes, signatories for Singapore bank accounts must be residents.

In addition, TechnologyOne has seen clauses in individual contracts requiring services to be delivered by people resident in Singapore, and that the contractor is required establish a local office.

The Australia Government has recognised the role of the Government in encouraging more procurement from local supply with the Made in Australia policy and the establishment of the Future Made in Australia Office.

The FMIAO is intended to increase the opportunities for Australian businesses to sell services to Government agencies.

Awareness of the Government’s expectations that agencies consider Australian suppliers appears to be growing among agencies and departments.

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This is welcome and begins to address what has been an entrenched cultural resistance to trusting Australian technology. (see below)

However, even as this awareness begins to grow, TechnologyOne is concerned agencies often have the impression that the Buy Australia Policy and FMIAO relate only to SMEs. Further, there appear to be, as yet, few practical requirements attached to procurement processes that drive home the Government's objective.

It is not our understanding that the intention of the policy is that measures relate only to SMEs. As noted above, the obligations created for US Government Departments and agencies under the Made in America Office and the requirements in other markets are not constrained to procurement from SMEs.

### **“Go To Market” Approaches and Embedded Assumptions: Disadvantaging Australians?**

Australian technology businesses are often challengers with both innovative and disruptive technologies and business models. They think differently because they are challengers who usually compete against established overseas providers that invest heavily in presenting themselves as “safe” choices, based on their familiar brands.

Departments and agencies considering new or upgraded technology often begin by seeking external advice and assistance, firstly to define their requirements, then in understanding available options to meet those requirements and then to develop the process to go to market for the new capability. Agencies have, until recently, relied heavily on the Big 4 consultants for this work.

The advice provided by these consultants has extended from defining requirements potential suppliers have to meet, to defining the scope and splits of the products and services, writing the market approach documentation and, finally, assessing the responses to advice on the best option.

Even where panels have been introduced to pre-qualify solutions and providers, many assumptions and requirements reflect the historical influence of these organisations.

As has recently been extensively publicly discussed, there have been deep conflicts of interest in the business models of the Big 4 dealings with Government.

In technology markets, their influence as advisers to Departments about their technology needs and procurement processes is troubling.

The Big 4 have global multi billion-dollar business practices implementing software from the world's largest technology businesses. This creates at the least an apprehension of bias in favor of those vendors.

The corollary of this is a potential bias against Australian alternatives. It is clear these consultants have enjoyed privileged access to information and influence for many years and there is no clear constraint in them sharing this with their commercial partners outside of in flight procurement processes.

It also means they have, at worst, an interest in ensuring the design and requirements of requests to market reflect the approaches preferred by those multinational providers. At the very least, it means they have far less direct exposure to alternative providers and approaches and no internal incentive to proactively seek to understand and consider them.

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By way of example of direct relevance to TechnologyOne, tenders for software typically separate the cost of the product from the cost of the implement. The implementation project is often treated as a discrete approach to market.

Given the Big 4 maintain practices as sales channels and implementation partners for overseas software vendors, seeking advice from them on this approach creates an immediate potential for conflict.

Even further, however, the vendor/integrator separation is a legacy of previous generations of technology that is under challenge, especially from TechnologyOne.

In the past, software was acquired as a product, and installed onto “on premise” computing hardware. Today, Software is increasing delivered as a service. The hardware and software are managed by the vendor and the user pays a subscription. It is the equivalent in the productive software market of the transition from VCR and DVD to Netflix in the consumer video entertainment market.

This legacy approach, however, continues to underpin the commercial relationship between the software vendors and Big 4 consultancies.

It creates inherent risks in every IT project. Under the model where implementing the software is a separately contracted activity, priced on a time and material basis, there is perverse incentive on the implementation partner. When a project runs over time and over budget, the implementation partner may actually be paid more.

Buyers have tried to mitigate this risk through complex and lengthy contractual arrangements. These themselves create a barrier to entry for businesses not experienced in dealing with government.

Changes in technology, however, are creating opportunities for wholly alternative models that rebalance the responsibility for implementation and thereby risk of project failure. These also create opportunities for different contracting arrangements.

TechnologyOne does not have partnership arrangements with external implementation consultants, instead implementing its own software. Historically, this has been done through one contract for software and one for implementation services.

Since transitioning to a pure Software-as-a-Service business, and true to our heritage as a market innovator, disruptor and challenger, TechnologyOne has introduced a pricing model that does not charge separately for implementation. Customers pay only an annual subscription and TechnologyOne which includes implementing the solution.

This fundamentally changes the incentives and risks around implementation projects, as it means TechnologyOne and the customer have aligned financial incentives to have the software installed and delivering value as quickly as possible.

This is an example of the type of innovation and creative thinking Australian businesses are introducing to create competitive advantage over MNC Big Tech providers.

Government procurement processes, influenced and shaped over time by advisers that have only dealt with incumbents from overseas, and who sometimes have commercial relationships with them, often lock these innovations out.

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## The Process Burden

TechnologyOne is aware of the difficulties Australian businesses encounter in responding to market approaches by Departments and agencies. These include long, unclear and bureaucratic selection processes, complicated and unreasonable terms and conditions, including expectations of risk sharing – such as pressure to accept unlimited liability.

In addition, in technology markets, service descriptions and requirements are often based on product-specific solutions offered by overseas Big Tech vendors and their Big 4 consulting partners. (see above)

Many smaller businesses simply shy away completely from dealing with the Government because of the cost and risk of doing business and the low chance of success when the requirements are designed to reflect competitors offerings.

TechnologyOne encounters all these challenges, and, while it is large and experienced and has the proven track record to be successful more often than not, it is clear to us these factors mean governments are often not getting the best outcome to meet their needs.

As discussed above, Australian tech businesses are almost always challengers and disruptors. The most successful, such as TechnologyOne, do not seek to ape overseas competitors but to provide a better alternative.

In competitive procurement processes conducted by the business lines within departments and agencies seeking new capability, TechnologyOne has a high rate of success going head-to-head with overseas tech giants.

However, once we have been identified as the preferred supplier, the process of executing a contract often takes on a life of its own. Many times, we have seen this add delay, expense and complication that is costly both to TechnologyOne and to the agency acquiring the solution for little or no value.

While these processes are intended to manage risk for the Government, this is a point at which process can trump purpose.

The use of external legal and procurement advisers seems often to be associated with contract execution becoming disconnected from the process by which a selection was made.

TechnologyOne some years ago negotiated with the Department of Industry, Science and Resources, acting on behalf of the Commonwealth. This agreement provides favorable prices, terms and conditions and is available for all Commonwealth agencies to use.

Yet even in cases where we are seeking to execute an agreement with an agency under this agreement, TechnologyOne has experienced procurement processes taking months as procurement and legal teams have sought to reprocure the overarching terms.

The lines of business within the agencies, who have selected the proposal based on the terms, seem powerless or unwilling to prevent this protracted and expensive exercise, which inevitably ends in the pre-agreed terms being accepted with little or no change.

It is important for legal and procurement teams to be properly informed about what technology is being acquired, the business need for which it is being sought by the business units, and contracting vehicle being used, and for their incentives to be wholly aligned with the business.

This is often not the case.

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For example, TechnologyOne has experienced external legal advisers attempt to introduce completely unworkable clauses into contracts for Software as a Service technologies that have come from contracts for obsolete, on-premise software technologies and which reflected an inadequate understanding of cyber security standards and practices.

Where the procurement or legal teams are external, these issues seem to arise more frequently. We believe there are two reasons for this.

Firstly, these parties are not close enough to the business need to understand the solution for which they are contracting. Secondly, where these agencies are engaged on time and material bases, there is an incentive for them to introduce new issues into negotiations, even where these issues are not relevant.

### Recognising Value? – Whole of Government Agreements

A small number of overseas technology companies have negotiated Whole of Australian Government Agreements with the Federal Government through the DTA in recent years.

No Australian business has such an arrangement in place.

While TechnologyOne understands these arrangements were intended to maximise the value for money for the Commonwealth in procuring from overseas tech giants, we submit they have had intended consequences in creating a playing field tilted against Australia's offering alternative sources of supply.

As noted above, these arrangements sit outside the panel arrangements and have the effect of creating a "fast lane" for procurement processes under price, terms and conditions that are not transparent but presumably address issues such as IP ownership and liabilities that create barriers to Australian businesses seeking to negotiate contract by contract.

The very fact that these vendors have been selected to conclude WoAG agreements is seen by buying agencies as an endorsement of them as "safe" choices. (see below)

TechnologyOne has, in the past five years, twice unsuccessfully sought to initiate a negotiation process to conclude a WoAG Agreement. On the first occasion we were told the vendors prioritised to negotiate WoAG agreements were those with whom the Government spent the most money. While this is understandable, it does suggest a model of "the more you charge, the more attention and advantage you get", rather than, "the more you serve, the more we care". If this was the approach, TechnologyOne with more the 80 Federal Government agencies as customers, including some of the most senior central departments, would be given a higher priority. Our major competitors, which are all overseas businesses, have WoAG arrangements in place.

We submit the future of WoAG arrangements should be critically examined.

### Missing Value – Taxation, Competitive Fairness and Retained Economic Benefit

TechnologyOne is aware of and supports recent initiatives by the Federal Government to highlights the importance of MNCs paying their fair share of tax, especially on income from contracts with the Government.

From July 1 2023, tenderers for Government contracts valued at more than \$200,000 were required to disclose the country of tax residency in tender processes.

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The draft Supplier Code of Conduct requires suppliers to meet the tax obligations in Australia and to be transparent, timely and complete in engaging with government authorities on tax matters. They are also accountable for the ethics and legality of their conduct in other markets.

These are important signals about the expectations of the Government and align with community expectations of how their tax contributions are spent.

However, TechnologyOne believes the Government should consider how it can level the playing field for Australian resident tax-paying businesses competing for Government business with MNCs that have in place tax arrangements that ensure they will not pay the same level of Australian tax on income from the same contract.

Allowing overseas businesses to engage in practices that transfer their revenues and profits out of Australia for taxation purposes has the same effect as providing them with a subsidy. That this subsidy is offset in some part paid by TechnologyOne's own tax payments makes the situation even more galling.

This is not a theoretical argument. The most recent tax transparency report from the Government reported that at least one of the largest competitors to TechnologyOne in providing ERP solutions to Government did not pay tax on its multibillion dollar revenues from Australia.

This competitive distortion could be addressed by making the tax domicile of the parent company a weighted assessment criteria in tender processes.

Broader measures of retained economic benefits should also be considered.

### ["No one ever Got Fired for Buying IBM" – Acknowledging the Cultural Cringe](#)

In the 1970s and 1980s, IBM was so dominant in the IT world that it became the default choice in markets it served. Buyers were confident that, whatever reservations they had personally, the IBM brand was so well known that their superiors would neither question their buying choice, nor would their decision-making be considered faulty if the investment did not deliver the returns expected.

Australian businesses seeking to sell to Australian Government's today continually report encountering a 21<sup>st</sup> century version of this attitude.

Firstly, many of the buying conditions and criteria described above are symptomatic of processes that are defined by the way overseas businesses prefer to sell to Governments, and the features of their products and services.

When Australian businesses are seeking to engage with agencies, it becomes clear that they are regarded as a "riskier" choice compared to an overseas brand name. This remains the situation even in the face of the track record of shameful project failures associated with these providers.

Some examples, such as the widely publicised Parliamentary Expense Management System project, represent such an egregious waste of money that they cannot be explained away simply as a failure of process.

It is difficult to understand why the Department of Finance, firstly, initiated this project at a cost that could not have survived scrutiny if fairly compared to that of alternatives, and then persisted even after the cost had ballooned to \$75 million and the delivery was years behind. It implies an unchallenged internal belief that only overseas technology with which the agency was already familiar could be used.

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The final indignity for the project and its sponsors is the ongoing dissatisfaction of the users of the system.

That this was a project within the agency tasked with maintaining fiscal discipline provides worrying insight into the depth of the cultural problem across the Government.

Continual and firm direction from the Government that the attributes and benefits of buying Australian should be valued could shift this bias over time.

Again, TechnologyOne has been successful with Australian government agencies over a long time and is less affected by this than those seeking to enter the government market. Even we, though, find agencies that resist believing we have the capabilities we have demonstrated time and again.

### Conclusion

TechnologyOne notes the initiatives of the Federal Government to reduce the reliance on external consultants, to build independent internal consulting and procurement skills, and to recognise the retained economic benefits of local sourcing.

These are most welcome developments.

To be fully effective in technology procurements, we believe it is important that these internal resources, policy makers and agencies are encouraged to pro-actively engage with Australian businesses to understand how their technologies and business models differ from those they might have previously encountered from overseas vendors.

Agencies and departments should take a business-led approach to risk management, understanding that the alignment of commercial incentives is always a much more powerful mechanism than complex contracts, and that business outcomes should not be compromised to fit historical industry practices.

TechnologyOne would welcome the opportunity to contribute further to the Committee's deliberations, should the Committee consider it worthwhile.

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