



JCPAA Inquiry into Commonwealth Procurement

Supplementary Evidence

Questions on Notice

1. Do you have any advice on any other specific information which should be made available on Austender from standing procurements.

Austender is a great tool for analysis, but it has significant shortcomings. Firstly, it does not capture all of the government spend. There are types of contracts that are exempt, for example some security contracts and then there are Corporate Commonwealth Entities (CCEs) that are required to use Austender and other CCEs that are not required. For example, the National Portrait Gallery is required to use Austender, but the National Library of Australia is exempt. The outcome is that Austender cannot provide a complete picture of Government spending.

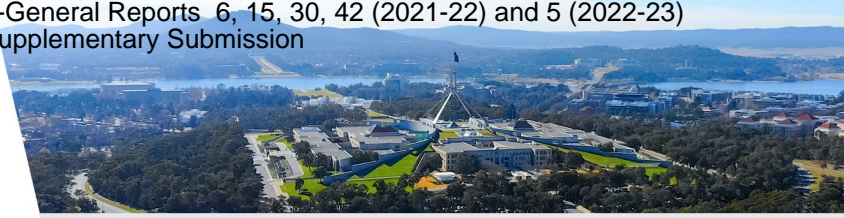
There is no overall curator of the information that is logged into Austender. This creates difficulty in assessing information without data manipulation first. For example, an organisation that wins multiple contracts could have several names listed for the same entity, some using just initials like XXX, some with full names Xxxxxx Xxxx Xxxxxx, and some with other variants. The lack of curatorial control means that many fields have variable, and in some cases, incorrect data. This then makes it difficult to identify and amalgamate spends or trends in the data without significant work.

Finance should be tasked with providing curatorial oversight for Austender and use information it gains from this process to implement training programs across agencies to improve compliance with listing requirements.

Not all the data recorded is downloaded when you select a download option. This makes it difficult to determine the method of procurement without using more complex data matching. All the entered publicly available data should be able to be downloaded. It would also be useful if information fields required in a search were selectable and that standard format reports were made available.

Contracts established from panels should clearly state the panel that was used, the nominal expiry date, future extensions allowed in the contract, the number of suppliers approached and reasons for single select if that option has been taken. They should not be allowed to masquerade as open tendered contracts.

If these improvements are made, it would make analysis by third parties easier thus making Government Procurement more transparent.



2. Also, if you are able to find a few moments to read Ms Thompson's submission and provide us with any additional reflections or thoughts on those issues that she raised around dedicated procurement entity and that much broader conception of procurement than the public sector has at present will certainly be very helpful.

Ms Thompson and Hypereal's submission to the JCPAA makes some important contributions to the debate on procurement in the Public Service, however its primary focus is on ICT procurement. National Advisory (NA) believes government procurement issues are more widespread than just ICT, and the issues vary across agencies and across the various levels of complexity of procurements. We are not convinced that the Hypereal model should apply to all procurement types within the APS as we do not think the benefits will accrue equally from all the levels of procurement.

Hypereal's submission points out that:

- Government needs to see Procurement as a profession [NA Agree]
- ANAO and government see procurement as a process when it should be seen as a system that covers from the beginning to end of the "procurement to pay" cycle [NA Partially agree – some procurements are simple and basic and suit a process with simple rules. Other procurements are far more complex and suit a more complex system approach. In other words, NA does not believe there is a one size fits all model].
- Seeing procurement as a system allows more innovative procurement methods to be utilised to improve value for money – Hypereal suggest potential savings of 10% on the annual ICT spend (saving \$400 to \$800 million per year). [NA partially agrees. Firstly, a large portion of ICT procurements do not require intense procurement skills as they are simple and basic in nature. Many procurements have been well researched and commercially negotiated by Finance and DTA's experts – for example the Microsoft Office software contract. Procuring this product is now very simple and the prices very competitive. The bulk of the ICT contracts we see on Buy ICT are labour hire contracts and we are doubtful that a systems approach would generate significant savings in the order of 10%. Generally, labour hire contracts are not overly competitive as agencies are after certain individuals who have the skills and the experience working within the agency. Then there are the more complex ICT contracts where relatively few agencies have the ICT and procurement skills to navigate through to a best Value for Money Outcome. That is why procurement for ICT has been directed to the DTA where there are meant to be experts to assist. The DTA may not have been fulfilling this role effectively in the past and perhaps fell into a devolved or partially devolved model. NA agrees there is room for improvement at this higher end and this could be achieved with greater oversight of ICT procurements by DTA (if it is adequately resourced) or independent experts. But perhaps the debate should be where should the ICT resources be – in-house, in the private sector or a combination that is fit-for-purpose.]
- Industry is using enterprise tools to automate the system [NA agrees that greater automation could be achieved in procurement within the APS.]



- Government needs to add Diversity, Environment and Social Value to existing cost, quality and reliability value when evaluating tenders [NA believes that the rules and contract documents need to reflect the additional government priorities but we are generally of the view that that occurs now. What is less clear is how these other factors influence the value for money decisions, nor do we see clear guidance materials advising agencies how to evaluate these new measures. In a devolved environment where the rule maker does not monitor performance against the rules, we suspect that there will not be consistency across government.]
- Data on government procurement is poor and of insufficient quality to allow proper analysis of procurement. [NA agrees. Austender is a good procurement reporting tool that is clearly ahead of what any State Government provides. It is a useful tool to generate historical data, but the data requires too much manipulation to be useful. Austender needs to be actively curated to ensure data input from agencies is accurate, consistent in form and answer, and standards are being met. Austender should also be enhanced to ensure more transparency. For example, at present it is not possible to work out how much the government spends in any category without significant work.]

Hypereal makes one recommendation in its submission.

“It is our view that an outcome of this current enquiry should be the establishment of an independent commercial entity tasked with implementing leading procurement practices into government in ways that are transparent to citizens and industry. Its funding would come from the revenues currently tithed from agencies for their participation in mandatory WofG technology agreements. “

National Advisory partially agrees with the recommendation. There is some merit in having independent experts to advise government on procurement, but this is not required for the bulk of procurements as many are simple and straightforward and there are also very mature panel arrangements available for many of these requirements. Then there are the complex procurements where government has the capacity across the APS to direct procurements to specific agencies (e.g., ICT to the DTA, legal services to AGD etc). And finally, there are the very complex procurements where the resourcing and the knowledge within the APS needs to be bolstered by independent experts. There are no barriers to agencies seeking independent expertise in procurements and, in my time, Finance often did this for large complex procurements. There are also no barriers to using innovative procurement practices provided agencies have documented the reasons they chose that innovative method.

Due to the poor resourcing and skill levels within the APS, there is some merit in having independent experts mentor upcoming APS procurement staff and support major procurements in the short to medium term.



Additional questions – National Advisory

1. Your submission mentions decline in procurement related skills in the APS, with procurement officers and delegates often being generalists with limited procurement knowledge or experience.

a. Can you elaborate on the impact of this skills decline on government procurement outcomes?

We do not have empirical data on the amount of skills decline in the procurement space. For this we rely upon the information contained in official APS reviews and reports. The 2019 Our Public Service Our Future report identifies the need to build service wide capability in Procurement, Contract Management and Commissioning. Other reports by the ANAO have also indicated a decline in procurement resourcing and skill levels. Our experience has shown us that major procurement and contract management tasks are now being assigned to staff with limited experience, who often have no training and few mentors to call on for assistance. We have also seen rapid movement of staff out of these roles only to see the new appointees also have the same skill deficit. This problem was identified by the ANAO in the Home Affairs audit and our experience shows that this is a far wider issue.

Poor skills in these fundamental areas result in poorer outcomes for the government and these have been documented by the ANAO. We have no empirical records apart from those published by the Government's own studies.

b. Can you point to any positive examples, either in the in APS or elsewhere, of organisations successfully developing their procurement capability? If so, what lessons can be drawn from these examples?

When I commenced work at the Joint House Department in 1988, I was tasked with a number of functions, one was to ensure that the maintenance and construction works at “New” Parliament House would be undertaken at a standard that would have no impact on the important operations of Parliament. This required an efficient procurement system and high levels of contract management. Neither existed at the old Parliament House as the technology and scale of the buildings was quite different.

I was able to convince JHD to engage a professional procurement expert and to run procurement and contract management courses for staff. The result was that after 3 years we had an efficient procurement team and strong contract management skills. Using these skills we were able to put in place strong performance based contractual arrangements for the majority of the contract maintenance services conducted at Parliament House.

Procurement is a profession and at JHD, our procurement team were committed to being procurement specialists and rigorously pursued training in their chosen profession. As mentioned in the hearing, professional staff across the APS at this time were remunerated under a Senior Professional Officer pay structure rewarding them for pursuing a specialist career. Today, specialists are not rewarded, and specialisation is often seen as an anchor that slows down one's career progression.



I cannot provide more recent examples, however; I do note that public services in many overseas countries have also had problems with a deficit of procurement professionals. For example, in 2019-20, the Welsh Government embarked on a program to increase the level of procurement expertise across its Public Service. It is now providing fast track training to 200 public servants per year, taking them to a Practitioner or Advanced Practitioner level and rewarding them appropriately. They have also engaged senior procurement specialists as mentors. The program has been oversubscribed with trainees despite trainees having to agree to work with the Welsh Public Service for 2 years following the training. The Welsh Government is aiming to have one procurement specialist in the Public Service for every 10 million pounds per year of public money spent on materials or services. It is too early to assess the effectiveness of this programme.

C. The Auditor-General has identified cases where entities seek to comply with the letter of the procurement rules without necessarily achieving the intent of the rules. What suggestions do you have for building a culture of good procurement practices in the APS?

This can be summed up in just two words - Training and Accountability

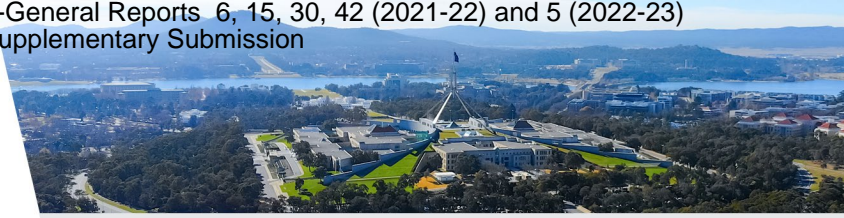
While Secretaries and Senior staff are rewarded for getting things done and not penalised for breaching procurement rules, shortcuts will be taken. At present, there appears to be no reporting guidelines for procurement breaches. I am certain that there were reporting guidelines for most of the period that I worked in the Department of Finance as I had to complete a quarterly report and respond to breaches that occurred within my Branch.

The New Zealand Government has a reporting guideline which requires each government agency to self-report to New Zealand Government Procurement (NZGP) annually (it is rule 70 of their procurement rules). The Performance Capability Index Framework consists of multiple sections requiring an agency to assess its procurement maturity and performance across the complete cycle of procurement assessing eight categories:

- Strategy and outcomes
- Commercial and social outcomes
- Governance and assurance
- Risks and benefits
- Planning and sourcing
- Managing for results
- People strategy
- Building capability

The information provided is used to rank agencies, to help identify capability improvement initiatives across government and to provide a continual improvement process whereby agencies prioritise improving maturity levels.

A link to the Performance Capability Index is shown here.



<https://www.procurement.govt.nz/assets/procurement-property/documents/questions-and-evidence-guide-pci.pdf>

The UK Government is introducing a new oversight unit within the Cabinet Office to oversee public procurement. It was initially thought that the oversight body would have powers to review and intervene in procurements, but these powers have been dropped. The oversight body will be called the Procurement Review Unit (PRU) and sit within the Cabinet Office and be advised by a panel of subject-matter experts appointed by the Cabinet Office. The subject-matter experts can be private sector procurement experts. The legislation for the scheme was scheduled to go before Parliament in 2022 but it has not been tabled yet.

The Australian Government had annual procurement reporting to Finance, and this appears to have stopped around 2014. Introducing a reporting requirement will provide the first step of accountability that is currently missing.

You cannot make people accountable for procurement errors if they are not trained. There needs to be a training program implemented across the APS to train all procurement staff to a level required by the size and complexity of the procurement they are undertaking. A program like the Welsh Government's program could be implemented providing specialised training that would make procurement a profession in the APS.