

**Joint Committee of Public Accounts and Audit (JCPAA) Commonwealth
Procurement: Inquiry into Auditor-General Reports 6 15, 20, 12 (2021-22)
and 5 (2022-23)**

ANSWERS TO QUESTIONS ON NOTICE
Digital Transformation Agency
16 December 2022

Department/Agency: Digital Transformation Agency

Type of question: Hansard, Page 5 of DTA transcript

Date set by the committee for the return of answer: Friday 20 January 2023

Question on Notice Number: DTA001

Number of pages: 2

Question:

CHAIR: Just to clarify, there's no distinction in your understanding of someone who's got a financial delegation and someone who is able to do procurement? I know technically they can be the same thing, but I'm curious whether you distinguish between the two. The reason I ask is, if I remember my time in a government department, there's a number of people with financial delegations who might be approving milestone payments or contractual milestones met or grant payments or that kind of stuff. But there were fewer people—and it's probably more a matter of culture than delegation—who you'd let go to market. I'm curious because it's an issue that comes up in many departments.

Mr Fechner: The process that Mr de Wet talked about before—outside of the financial delegations, we've implemented a procurement delegation. The procurement delegate for authorising it goes to Mr de Wet. Then the responsible manager exercises their financial delegation under the act.

CHAIR: Could you just take on notice to give us a succinct explanation of that difference.

Answer:

Financial delegation refers to the powers and functions of the accountable authority for the entity (i.e. the Chief Executive Officer) under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) that are delegated to other officials to exercise such powers and functions on the accountable authority's behalf. Delegating powers and functions of the accountable authority allows for operational decisions to be made quickly and efficiently.

In this case, it relates to the delegation of powers under *section 23(1)* and *section 23(3)* of the PGPA Act to enter an arrangement, as well as the commitment of relevant money. Financial delegations are made under *section 110* of the PGPA Act by the accountable authority.

Procurement delegation within the Digital Transformation Agency, refers to the process in which the Head of Corporate (Mr de Wet) authorises a procurement to be released to the market prior to the relevant financial delegate exercising their delegation. This is not a delegation under *section 110* of the PGPA Act, rather an internal control to ensure:

- The approach to market is appropriate and that there is a procurement plan in place prior to proceeding
- Conflicts of interest, including NIL responses, are formally captured in a central register
- Procurement risks are appropriately identified and either mitigated or escalated to the financial delegate for consideration and action
- Budget availability is confirmed, and
- Appropriate record keeping processes have been established for the procurement.

The relevant financial delegate must also authorise a procurement prior to the release to market.

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ANSWERS TO QUESTIONS ON NOTICE
Digital Transformation Agency
16 December 2022

Department/Agency: Digital Transformation Agency
Type of question: Hansard, Page 10 of DTA transcript
Date set by the committee for the return of answer: Friday 20 January 2023
Question on Notice Number: DTA002

Number of pages: 1

Question:

CHAIR: Okay, that's good. Your submission said that you were conducting an internal review of your fraud and corruption awareness processes, including by seeking input from Finance, and that the updated fraud and probity policies were scheduled to be released by the end of November. Given it's December, have they been released?

Mr de Wet: They have not. They are with my CFO for review at the moment and will be released next week.

CHAIR: We'll take that as reasonable. I think we've covered, with Mr Violi's questions, the probity issues. You also noted that you are undertaking 'a retrospective review, by exception, of historical procurements' up to June 2022. Could you perhaps take on notice to give us some further detail about the progress of that review and how many procurements have been reviewed so far. How many procurements are being reviewed because of staff raising concerns versus your risk profile that you've put over that process? What degree of noncompliance or ineffective contract management did the review identify, and what did you do? Would it be a reasonable presumption that you've identified a similar set of practices that the audit identified?

Answer:

The review of historical procurements up to June 2022 is ongoing. There are 3 procurements being reviewed, one has been fully reviewed and 2 are in-progress. All 3 procurements were identified by staff.

The completed review identified the requirement for improvements in the areas of procurement planning, evaluation planning, procurement risk assessment and advice, and record keeping. These are consistent with the practices identified in the ANAO audit. The DTA has assessed these areas and reviewed its current operational guidelines, procurement checklists and templates to mitigate the risk of future non-compliance or ineffective contract management.

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ANSWERS TO QUESTIONS ON NOTICE
Digital Transformation Agency
16 December 2022

Department/Agency: Digital Transformation Agency

Type of question: Hansard, Page 10-11 of DTA transcript

Date set by the committee for the return of answer: Friday 20 January 2023

Question on Notice Number: DTA003

Number of pages: 2

Question:

CHAIR: I have a final question, but we don't really have time to explore it right now and we'll hear from others about it later today. We've got a couple of interesting submissions, including one from a consultant or entity arguing for quite significant transformation of how government does ICT procurements and explaining to us concepts which I'd never understood in the professional procurement world that are adopted in the private sector of category management. They were arguing for professionalisation and so on, as well as making some pretty pointed observations about panels. Could I perhaps invite you to have a look at those two submissions, given you do have a lot of expertise. We can't ask you for policy opinion; I understand that. But, to the extent that you think it will be helpful for our inquiry and that you're able to do so, could you offer any further observations on the issues that are raised there—even the extent to which the DTA might be thinking about these things. That's a neutral, proper way to ask the question. I think that'd be very helpful. I certainly feel a bit out of my depth trying to understand ICT procurement in the complex world you work in, so any of your expertise in helping us understand those submissions would be really helpful.

Answer:

Whole-of-government ICT Procurement:

Although the Digital Transformation Agency (DTA) does contest many claims and assumptions across these two submissions, we do share a common aim of improving the way digital and ICT procurement is conducted across government. This would extend to the investigation and introduction of specialised category management for digital and ICT led by the DTA.

Additionally, the DTA continues to engage and work across government to address key themes around:

- positioning procurement to play a more strategic (and less transactional) role across government – both through our work in whole-of-government procurement and engagement with broad sectors of the digital and ICT industry.
- improving the sourcing lifecycle by uplifting capability and encouraging consistent practices aligned with the Commonwealth Procurement Rules, including with [publicly-available guidance material](#).
- streamlining procurement with a simple, clear, and compliant online procurement-to-contract pathway with BuyICT.gov.au.

- continually improving marketplace panels and whole-of-government arrangements to encourage competition and get the best possible value for our government buyers.

When used as intended, panel arrangements ensure that government buyers:

- encourage competition
- enable participation of Indigenous and Small-to-Medium enterprise
- focus on outcomes (and the right outcomes)
- use open standards and adopt a ‘cloud first’ approach
- minimise cybersecurity risks
- avoid duplication and explore opportunities for reuse
- are innovative and iterate often.

The DTA alone, in its role for managing whole-of-government ICT procurement, cannot direct agencies on how they choose to do their procurements or the decisions they make.

Instead, we guide behaviour through:

- prompts built into the procurement workflows on BuyICT.gov.au, including numbers of sellers invited and the inclusion of Indigenous and Small-to-Medium enterprise.
- direct engagement with professionals across government and industry through the Digital Sourcing Network on procurement and the use of our procurement arrangements.
- guidance to upskill all parties in the Digital Sourcing Lifecycle to drive better procurement practices and shared outcomes.

The DTA continues to collaborate across government to drive better integrity and outcomes in procurement processes and this could be further enhanced through the addition of a digital and ICT category control given to the DTA.

DTA procurement:

In terms of DTA’s internal procurement, the DTA shares the submissions’ commitment to upskilling procurement professionals, which is evidenced by the DTA’s current journey of cultural and behavioural change.

The DTA’s internal procurement framework has been strengthened and all staff are required to complete mandatory training on fraud awareness and Commonwealth Resource Management. Mandatory training has also been complemented by tailored training on the DTA’s procurement policies and obligations in relation to financial delegations. By uplifting knowledge, skills and experience in procurement, the DTA is aiming to improve procurement practices demonstrated across the entity.

In December 2022, the DTA also reviewed and updated its procurement policies and probity guidelines. Specific guidance is now included on the duties of officials, approving spending, simple and medium procurement, panel procurement, limited tender procurement, and receiving gifts and benefits.

The appropriate use of panels in procurements is a key consideration before procurements are released to market. To support this, the DTA has developed an internal Panel Procurement Operational Guideline (the Guideline) that is required to be adhered to by all DTA officials. Under the Guideline at least 3 written quotes from different suppliers are required for a panel procurement. This process also identifies appropriate indigenous businesses and small and medium entities to be invited to respond to opportunities in line with relevant policies (i.e. Indigenous Procurement Policy). The intent of this Guideline is to prevent the use of ‘single select’ panel procurements and instead drive greater competition and better value-for-money procurement outcomes.

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Digital Transformation Agency
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Type of question: Written, provided 20 December 2022

Date set by the committee for the return of answer: Friday 20 January 2023

Question on Notice Number: DTA004

Number of pages: 2

Question:

The Department of Finance (Finance) provides advice, support, and services to assist Commonwealth entities when conducting procurement processes.

- a. To what extent does your agency make use of any resources provided by Finance during the procurement process?
- b. Has your agency sought or received any feedback at any stage from Finance on your procurement practices?
- c. What information or data have you provided Finance about procurement processes conducted by your agency?
- d. What support has your agency received from Finance in implementing the Auditor-General's recommendations?
- e. Does the DTA have any suggestions for additional resources that Finance could provide to better assist with procurement processes, or with developing procurement skills and capability more broadly?

Answer:

- a. The Digital Transformation Agency's (DTA) procurement processes support the Commonwealth Procurement Rules (CPRs) which are developed and administered by the Department of Finance (Finance). As part of the procurement processes, relevant CPRs and resource management guides developed by Finance, are regularly referred to by the DTA.
- b. The DTA have sought assistance from Finance in relation to internal policies, procedures, training modules and risk assessment processes to improve the DTA's procurement processes.
- c. As part of the DTA's accounts payable uplift in February 2022, information was provided to Finance on procurement processes, including a process map of the DTA's procurement activities to accounts payable. This was a separate process to the performance audit and the recommendations from the Auditor-General.
- d. In working through the Auditor-General's recommendations, the DTA sought assistance from Finance in relation to updating the DTA's policy and procedures.

Finance provided various examples of internal policies, procedures, and training modules to assist the DTA in updating its internal documentation and identifying gaps in procedures.

e. In Attachment D to the DTA's submission to the inquiry, the DTA offered insights from procurement officials that demonstrate a strong desire to understand and be supported in conducting best practice procurement, including in how to engage with the market, how to engage with risk, and how to use different procurement approaches to assure the intended outcome.

To support this, the Government could provide additional resources to uplift procurement capability, including:

- guidance on application of CPRs (inc. possible case studies of best practice/complex procurements)
- guidance on establishing panels
- workshops to identify and address pain points within procurement
- information sessions made available across APS (for both practitioners and business areas)
- simple, clear and compliant guided procurement-to-contract pathways and online procurement platforms.

It should be noted that while resources are useful, capability uplift will only be successful with an embedded culture of integrity and innovation from the top down.