

**Senate Committee on Finance and Public Administration**

**Inquiry into Digital delivery of government services**

**ANSWERS TO QUESTIONS ON NOTICE**

**Australian Taxation Office**

**MARCH 2018**

**Department/Agency: ATO**

**Question: 1**

**Topic: Inquiry into Digital delivery of government services - personnel managing the contract process**

**Question:**

CHAIR (Senator McAllister): Were in-house personnel managing the contract process in 2009-10, or did you in turn rely on external expertise to assist you in procuring these providers?

Mr Katf: I'm going to have to take that on notice, because I wasn't there, but I have a strong recollection that some external advice was provided on the procurement approach, and internal people were involved in the selection process and the normal procurement cycles that go with that.

**Answer:**

The ICT sourcing program was managed internally. The program obtained strategic advice from external experts, which were factored into the approach to market. All key decisions including procurement approach, evaluation outcomes and contract execution were the responsibility of the ATO.

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**Question: 2**

**Topic: Balance of external/internal staff**

**Question:**

CHAIR (Senator McAllister): AusTender indicates there were quite a large number of contracts or a spike in contracts for individuals to come in and provide support for just 12 months in that period. They were looking for individuals with skills in solution design, systems architecture, SAP specialists and mainframe specialists. Can you provide any comment about the relative balance of external to internal providers in specifying what was wanted in the contract and then taking that through the procurement process?

Mr Katf: I personally am going to have to take that one on notice and defer to my colleague, Mr Dardo.

**Answer:**

The ICT Sourcing Program was managed in the majority by ATO employees, supported by external engagements for specialist advisor expertise. The objective was to maximise the use of appropriately skilled internal resources, supplemented by external resources where necessary. The ATO does not retain this specialist skill set as an enduring capability due to the potentially long periods between utilising these skills. ATO employees are utilised in the governance and management areas.

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**Question: 3**

**Topic: Contractors leaving ATO**

**Question:**

CHAIR (Senator McAllister): It strikes me that your answer runs across two distinct questions. One is the wisdom of choosing a turnkey solution rather than building or establishing your own kit in house. The other is the expertise you used, having made that decision, to then establish contractual relationships with others. From your evidence it sounds like quite substantial expertise was brought in to support contract development and management.

Mr Dardo: Absolutely. There was a probity adviser in addition to the internal ATO advice. A legal firm was providing legal advice. Other expertise was brought in, because these were large contracts, to advise the boards and the evaluation committees.

CHAIR (Senator McAllister) The AusTender contracts I referred to earlier weren't for legal or probity advice but for technical expertise. I listed them before: solution design, systems architecture, SAP specialists and mainframe specialists. They were 12-month contracts. I assume they left the organisation once the procurement process had finished.

Mr Dardo: I couldn't tell you specifically, because I don't have that list in front of me and would have to reconcile it. I don't have that level of detail.

**Answer:**

Some of these resources were unrelated to the ICT Sourcing Program. Some key external technical experts moved from the sourcing program to support the management of the transition of services into the ATO. Where this occurred, contract extensions were executed for the required transition period up to the end of these individual's contracts.

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**Question: 4**

**Topic: Cloud location contract**

**Question:**

Senator PATRICK: Okay. If I buy some cloud storage on my iPad, I actually never know where it is. You're saying that it is in your requirements that you contract that the data be physically stored somewhere in Australia?

Mr Dardo: Absolutely. And we can tell you the specific instances, the locations physically.

Senator PATRICK: Without giving me the locations, can you please provide the committee with the particular portions of the contract that would constrain that, just so I can have a look at how that contract might be worded?

Mr Dardo: We can take that on notice and provide that, I believe.

**Answer:**

Our cloud contracts generally do not specify particular locations, but do specify that our data must remain in Australia. Extracts from some relevant Cloud infrastructure / SaaS contracts:

**Amazon Web Services:**

Clause 3.2 [Data Privacy]: Customer may specify the AWS regions in which Customer Content will be stored.

**Microsoft on-line Services:**

**Location of Customer Data at Rest**

Microsoft will store Customer Data at rest within certain major geographic areas (each, a Geo) as follows:

- **Office 365 Services.** If Customer provisions its tenant in Australia, Canada, the European Union, India, Japan, South Korea, the United Kingdom, or the United States (each of the foregoing a Geo), Microsoft will store the following Customer Data at rest only within that Geo: (1) Exchange Online mailbox content (e-mail body, calendar entries, and the content of e-mail attachments), (2) SharePoint Online site content and the files stored within that site, (3) files uploaded to OneDrive for Business, and (4) project content uploaded to Project Online.
- [not relevant to ATO]
- **Microsoft Azure Core Services.** If Customer configures a particular service to be deployed within a Geo then, for that service, Microsoft will store Customer Data at rest within the specified Geo. Certain services may not enable Customer to configure deployment in a particular Geo or outside the United States and may store backups in

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other locations, as detailed in the Microsoft Azure Trust Center (which Microsoft may update from time to time, but Microsoft will not add exceptions for existing Services in general release).

**4. ServiceNow:**

The Head Agreement of the WoG Cloud Services Panel (under which we have contracted with ServiceNow) specifies:

s.14 SECURITY, DATA PROTECTION AND DATA MINING

14.1 The Contractor must:

14.1.5 ensure that Customer Material is not accessed from or stored outside Australia unless expressly permitted by the Customer;

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**Question: 5**

**Topic: Service agreements**

**Question:**

CHAIR: I did want to follow up about that contract model—volume based payments. Were there any performance incentives or penalties associated with maintaining the level of service? What is the general framework for maintaining performance against outages, and what were the specific consequences for the providers in terms of the 10-day outage in December and the five-day outage in February?

Mr Katf: I don't have the details of that. I can tell you that we manage against service level agreements and attached to those service level agreements are penalties if they are not met. I do know that we did impose penalties associated with that outage.

**Answer:**

The ATO maintains a Performance Framework to measure the performance of our key infrastructure service providers.

The Performance Framework measures against four key business outcomes:

- Sustainable Business
- Supporting Business Change
- Ongoing Business Value
- Partnering for Outcomes.

These outcomes are measured by key performance measures including:

- Lost Business Time and Reliability
- Incident Resolution Time
- Problem Resolution Time
- Backup and Restore Verification
- Harmful Code Protection
- Completion Time for Standard Service Requests
- Completion Time for Non Standard Service Requests.

The ATO measures the performance of the Service Providers against these performance measures each month. The Contract with each Service Provider includes the thresholds for both expected and minimum performance level.

Where the Service Provider fails to achieve the minimum performance level, the ATO at its absolute discretion can apply Service Credits (known under the Contract as Performance At Risk Amounts). These Service Credits are a defined percentage of the monthly invoice that

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have been agreed as having regard solely to the reduction in value to the ATO of the services which have not been performed.

Where the Service Provider does not achieve the minimum performance level, and the Service Credits have been allocated by the ATO, these are accrued until the end of the contract year where, at the ATO's discretion, these amounts can be "earned back" by the Service Provider.

Based on legal advice, the ATO chose to not apply the standard Contract Performance Framework to the SAN outages of December 2016 and February 2017. This was on the basis that the Contract Performance Framework was not intended to deal with an outage of the magnitude of the SAN outages. The contract contains other commercial remedies that are intended to deal with situations such as these, which were utilised.

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**Question: 7**

**Topic: ASD**

**Question:**

Senator PATRICK: ...

I want to go to one other area. We took evidence from Mr Burgess, of ASD, in Sydney. One of the terms of reference for this inquiry relates to security and making sure people's privacy is not breached and so forth.

...

He goes on to say that they do penetration testing. He was careful to say that they only do that when they are asked. Have you asked ASD to do vulnerability testing? Have they done penetration testing on your systems?

Mr Katf: I would have to take on notice the specifics around ASD. We have been in constant dialogue with the ASD folk in recent times for a range of reasons. I don't know if we have asked them specifically that question. I will take that on notice.

...

Senator PATRICK: You are saying that you do have penetration testing, that that is part of your own team work?

Mr Katf: That's correct.

Senator PATRICK: I would still like to know whether the department head has requested ASD penetration testing...

**Answer:**

The ATO has not requested penetration testing assistance from ASD to date, as an expert capability is maintained within the ATO to conduct testing against ATO assets. The ATO penetration testing team are industry certified and have knowledge of ATO systems.



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**Question: 8**

**Topic: Volume of unauthorised attacks**

**Question:**

Senator PATRICK: I don't want to go into any more detail than that, for obvious reasons. However, on that monitoring of 'unauthorised penetration testing'—or hacking—do you have any statistics? I do not want you to go into the type or nature of it, but I would like some statistics on the volume of attacks or unauthorised accesses that you experience.

Mr Katf: I am happy to take that notice and provide that information to you. I can tell you that we definitely have; I just don't have it to hand.

...

Senator PATRICK: When you are looking into the statistics, the two things I am interested in are the quantum and also your success in detections. I do not want to go into any more detail than that.

Mr Katf: I am happy to take that on notice.

**Answer:**

In an average working week ATO receives just over 1 billion connections to its internet services. Of those connections approximately 60% are legitimate attempts to use ATO services. The remainder are mostly attempts to test the protective layers of ATO systems, with approximately 0.001% being identified as potentially malicious exploitation attempts (around 8 thousand per week). The ATO maintains detailed statistics of cyber-related activity and reports this internally on a weekly and monthly basis.

The majority of these attempts are rendered ineffective by system design and other security measures that are continually refined through the ATO's security practices including its internal penetration testing activities. The ATO acknowledges that no system is immune from compromise and actively monitors for suspicious activity that may be an indicator of compromise. Monitoring is undertaken by the ATO's cyber security operations centre, which uses a range of intelligence sources, threat analytics and other technology to detect and respond to cyber threats.

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**Question: 9**

**Topic: Recommendation implementation**

**Question:**

CHAIR (Senator McAllister): The ATO systems report had a series of recommendations around enhancing ATO capability to support infrastructure, design and ICT governance. I understand that those things, at least at the time of reporting, were not completed. They were the things that were expected to take the longest to resolve.

Mr Katf: Yes.

CHAIR: Can you give us an update on where you are up to on each of the three recommendations that were made under that theme?

Mr Katf: I can tell you that two of them are complete. The one that is still outstanding is around the governance and design capabilities...

CHAIR (Senator McAllister): Is there a work plan associated with implementation of those three recommendations?

Mr Katf: There is. As I said to you, the final step in that will be the recruitment processes. It's not so much 'how long is a piece of string', but I think we will continue to look for opportunities to bring in extra talent in that space.

CHAIR (Senator McAllister): Could the work plan be provided to the committee.

Mr Katf: Absolutely.

**Answer:**

In response to the recommendation to enhance the ATO's IT capability pertaining to infrastructure design and implementation planning, a new team has been established to strengthen the infrastructure and design capability, and actions have already been taken to improve our governance and design capabilities. A skills gap analysis has been undertaken and identified further recruitment requirements. The following actions are underway to augment the existing capability:

| <b>Resource Type</b> | <b>Recruitment Period<br/>(From – To)</b> | <b>Resources On-board<br/>(Month)</b> |
|----------------------|---|---------------------------------------|
| External Consultancy | Apr 2018 – Jun 2018                       | June 2018                             |
| Contractors (4)      | Feb 2018 – Jun 2018                       | Aug 2018                              |
| APS Recruitment (8)  | Feb 2018 – Aug 2018                       | June 2018                             |