

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 1 (Proof Hansard Page 73)

Senator BARBARA POCOCK: Will you be sharing the findings of that review publicly?

Mr Jaggers: We have not made a decision on that, but we certainly shared the findings of the Scyne review publicly. We will take that on notice

Response

The Department of Finance (Finance) is currently undertaking an examination of the ethical soundness of PricewaterhouseCoopers Australia. Once completed, Finance will publish a summary of its findings on the Finance website.

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 2 (Proof Hansard page 81)

Senator O'NEILL: Can I table one contract on notice? You might want to take this on notice. It's management advisory services by Boston Consulting Group and the amount is \$79,900. I asked a bit about it of them the other day. I will table that. I have a couple of questions on notice. Do you ensure the projects are value for money even if they are uncompetitive? Do under the threshold contracts typically favour embedded consultancy firms? I'm looking for trends here. Does the Department of Finance have data on how many projects increased above \$80,000 while remaining a limited tender? Can it be broken down by consultancy firm? How does the Department of Finance ensure the consulting market is kept competitive—and I know that Senator Pocock would be particularly interested in this—and that smaller consultancy firms are adequately supported and engaged?

The land and expand model is definitely a part of the big con. I'm sure that you have read Mazzucato and Collington's book about that—talk about getting in; figure out how the system works; talk to a lot of people; do the mapping; is there a project? is it under \$80,000 and can I continue? I have grave fears that there could be gaming going on by sophisticated players who are being rewarded back at base, such as KPMG, EY, Deloitte and PwC, with what is like lunch money to these companies but is really significant money for every taxpayer who is putting it into the pot for the advantage of the nation.

Response

Value for Money considerations and competition

Value for money is the core rule of the Commonwealth Procurement Rules (CPRs) and officials must be satisfied, after reasonable enquiries, that the procurement achieves a value for money outcome (CPRs paragraph 4.4).

Regardless of the value of the procurement or the procurement method used, a commitment of public money to enter into a contract, must be evaluated against the evaluation criteria and determined to represent value for money.

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

Competition is a key element (CPRs paragraph 5.1) in determining value for money, particularly when the good or service being procured is not a product readily available in the market for comparison across suppliers to determine price and quality.

An open approach to market is one competitive method, however limited tenders also promote competition. Limited tenders may take a variety of methods and be scaled appropriately to the scale, scope and risk of the specific procurement in order to best deliver a value for money process and outcome. Procurement processes for contracts valued at less than \$80,000 are encouraged to seek multiple suppliers' quotes in order to determine value for money and create competition.

The Management Advisory Services (MAS) Panel was established through an open tender process. Entities using the panel are encouraged to approach multiple suppliers on the panel when issuing a request for quote. Small to Medium Enterprises (SMEs) are identified on the panel to enable entities to provide competitive opportunities to a range of potential suppliers and assist in meeting SME procurement targets CPRs paragraph 5.6).

Contract variations and limited tender

In 2022-23 (as at 29 February 2024), there were 3,295 consultancy contracts reported on AusTender. Of those, 2 contracts were awarded through a limited tender process that were originally valued below \$80,000 and were subsequently amended to a value of \$80,000 or greater. The table below shows this for the past 5 financial years.

Number of limited tender contracts originally awarded below \$80,000, then increased to \$80,000 or above, by consultancy firm (AusTender data as at 29 February 2024)					
Firm	2018-19	2019-20	2020-21	2021-22	2022-23
Boston Consulting Group	0	0	0	0	0
Deloitte	0	3	2	2	1
EY	0	0	1	0	1
KPMG	1	2	0	0	0
PwC	1	0	2	0	0
Total	2	5	5	2	2

SME engagement

The Government supports SMEs by facilitating access to the Government procurement market through reduced regulatory burden, removing red tape and simplifying procurement processes. Officials are required to apply procurement practices that do not discriminate against SMEs and provide appropriate opportunities for SMEs to compete.

In 2022-23, the Australian Government awarded contracts to SME's with an estimated value of \$20.5 billion (or 27.3% of total contract value awarded).

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

With specific regard to consultancy services in 2022-23, 68 per cent of contracts awarded under the MAS Panel were not to the Big 4 consultancy firms.

Contract extension

The Department of Finance provides the following guidance to officials when determining if a contract should be varied or extended.

- Extension options should not solely be exercised due to failure to appropriately plan procurement needs, continue supplier relationships, or with the intention of discriminating against a supplier or avoiding competition;
- Any variation to a contract should not significantly change the scope of the contract. The same principle applies when varying a contract to extend its initial term; and
- Regardless of the mechanism, entities must ensure that any continuation of a contract is in accordance with the original approach to market, the contractual terms and represents value for money.

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 3 (Proof Hansard page 74)

Senator BARBARA POCOCK: We have heard a lot of evidence about the revolving door, where senior personnel in the big four move between consulting firms in the public sector, which creates opportunities for conflicts of interest and undue influence. Do you know how many federal government employees have moved from the APS into the big four over the last several years—say, five years?

Mr Jaggers: I do not know the answer to that question.

Senator BARBARA POCOCK: Would you be able to see whether you're able to answer that question on notice?

Mr Jaggers: We can see if that data is available.

Response

The Department of Finance does not capture information pertaining to the movement of APS officials to consulting firms, including the big four.

The Australian Public Service Commission (APSC) has advised that the Australian Public Service Employment Database (APSED) stores data of all current and former staff employed under the Public Service Act 1999. The APSED is maintained by the APSC, and the data is supplied from the Human Resource Information Systems of APS agencies. The APSED collects and reports on the number of staff separating from the APS but does not capture information on post-APS employment.

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 4 (Proof Hansard page 74)

Senator BARBARA POCOCK: ... I also wondered if you are able to provide us with data on passes within your department; whether the big four have passes where they can come and go within the Department of Finance and have access to staff, to tearooms, and so on. I've heard reports from staff in the big four saying that they are put in place and have a lot of access, and that assists them to create new business.

Mr Jaggers: We will also need to come back to you on notice on that. We don't generally provide open passes to non-Finance employees, but from time to time there will be contractors who are working on particular items, who may be given short-term access to facilities. But I would need to take on notice the question.

Senator BARBARA POCOCK: So, I'm interested in unescorted passes, and also secondments.

Response

All Department of Finance staff, contractors and consultants requiring unescorted access to a Finance tenancy must hold a valid security clearance. The Department of Finance issues fixed-term contractor passes for contractors or consultants who provide specified services to Finance. As at 4 March 2024, the Department of Finance has 11 active contractor passes with Deloitte (3), KPMG (8), PwC (0) and Ernst & Young (0).

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 5 (Proof Hansard page 79)

Senator O'NEILL: ... Would you be able to discern how much is actually being spent on procurement in items that are under the \$10,000 threshold?

Mr Danks: Not through AusTender, no.

Senator O'NEILL: And you don't have any other mechanism?

Mr Danks: Individual entities may be able to report on that through their own financial systems.

Senator O'NEILL: Such as?

Mr Danks: ... I could take on notice what the Department of Finance does in our CFO area...

Response

For the period 1 July 2023 to 31 December 2023, the Department of Finance (Finance) has expended \$2,543,416.29 for invoices and payments for items valued under the \$10,000 AusTender reporting threshold. The majority of payments relate to official travel, with an average transaction value of \$352.

Finance has established internal procedures and policies to ensure officials comply with the obligations of the Commonwealth Procurement Rules and Commonwealth Procurement Framework when procuring items valued under the \$10,000 AusTender reporting threshold, including conducting regular assurance reviews.

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 6 (Proof Hansard pages 73-74)

Senator BARBARA POCOCK: Thank you for that. I want to return to some testimony from the Department of Industry, Science and Resources from estimates last week. They provided me with details of their contracts with EY in the committee. I think the contracts were in the vicinity of \$5,000,000. Of particular concern to me was their statement that: 'The department have a contract to the value of \$2.5 million with EY, which was for an assurance partner for our departmental grants administration activities.' I know this is the department and not you, but this particular contract is in relation to a business grants hub that that department operates.

The department delivers these grants on behalf of other departments. I know that is an industry department, but I want your view on it. Do you see a problem—because I really do—with that department outsourcing their core work of management of grants to EY, a firm which has had some serious blots on its copybook in recent times and internal culture problems, clearly, from the Brodrick report, and certainly a major problem with one of their own partner's alleged tax avoidance practices, which took many years to surface in EY. So there are real issues around their internal culture of servicing—serious problems. It took far too long to come clean about this issue and profit margins of 50 per cent to 60 per cent on government work for government departments. Why is this core work of managing the allocation of internal public sector money within the public sector being outsourced like that? Do you share my concern?

Mr Jagers: It would be hard for me to comment on the particular contract that you are referring to. What we can do is take it on notice. The department does have a role in grant guidelines, but the people who are responsible for that are not at the table today. So we will take the question on notice.

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

Response

The APS Strategic Commissioning Framework (the Framework) supports APS agencies to use external workforces appropriately. The framework provides clear expectations on the type of work that should be undertaken by public servants and guidance on how to prioritise APS capability.

The Framework states that procurement of the external workforce is appropriate in limited circumstances such as:

- where agencies are genuinely unable to fill a capability gap through recruitment and are unable to access expertise within the APS or
- where there is a need for independent advice (for example, due to requirements in legislation or an assurance need) and it cannot be sourced from within the APS. This should be used on a one-off or limited basis or
- where services that may be non-core APS work are required such as property management, Defence base health services, building cleaning, construction and security.

The Commonwealth Procurement Framework is devolved, and questions regarding a specific procurement activity or contract should be directed to the relevant department.

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 7 (Proof Hansard page 80)

Senator O'NEILL: Does the Department of Finance have information on a break-down by department of procurement that is just below the threshold, somewhere in the 70 to 80 kay range?

Mr Danks: We could take that on notice. I'm sure it could be—yes, we could take that on notice and provide a report.

Senator O'NEILL: Thank you. If a parent contract of \$79,000 was decided to be amended or increased by, say, \$79,000, would this be an open tender process? Or could the second instance remain limited tender?

Mr Sebar: If you're asking whether an original contract of less than \$80,000 is amended to go above 80,000—in that instance where the contract is being amended, there is not a requirement to go out for a new tender process. It is an amendment to the existing contract. But entities are required to report that amendment on AusTender.

Senator O'NEILL: Okay. So would it be easy for me to identify the ones that have been extended in that way?

Mr Jagers: You're asking about the ones that cross the threshold?

Senator O'NEILL: Yes.

Mr Jagers: So first contract under \$80,000—

Senator O'NEILL: Yes. Second contract under \$80,000—

Mr Jagers: The second contract takes it over—

Senator O'NEILL: Third contract under \$80,000—

Mr Jagers: Let's come back to you on notice about how to search for that.

Response

AusTender provides a procurement threshold report, providing the detail of contracts that were originally awarded and their related amendments. This report is available at: <https://help.tenders.gov.au/getting-started-with-austender/information-made-easy/contracts-by-threshold/>

By clicking the Agency Analysis tab, and then clicking on “below \$80,000” all contracts below \$80,000 can be downloaded. This can then be sorted by value, and will advise of the Contract Notice number and the agency responsible.

Senate Finance and Public Administration References Committee

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

Department of Finance

Response to Question on Notice

Hearing of 23 February 2024

Question on Notice 8 (Proof Hansard page 75)

Senator O'NEILL: Can I draw your attention to the evidence from the APES Board today about the work of IESBA, which recently issued a global exposure draft on the ethics and independence requirements for sustainability assurance practitioners, in addition to consultants more broadly—many of whom are suppliers to government. They were talking about extending the global code beyond the accounting profession, as a key area of strategic focus in 2024-27. Are you aware of that, or is that new evidence?

Mr Jagers: We can come back to you on that specific piece of information. We are conducting, as part of the development of these products, the supplier code of conduct, but also the conflicts of interest and confidentiality pieces of work that we are doing. We're doing a lot of desktop research in relation to that, and we are considering all the frameworks that we possibly can. We will take all of those matters into account.

Response

Finance is aware of the announced focus of the International Ethics Standards Board for Accountants (IESBA) strategy and work plan. Finance will be monitoring IESBA's progress, and will engage with the Accounting Professional and Ethical Standards Board in the finalisation of the development of the Commonwealth Supplier Code of Conduct.