



Australian Government

Department of Veterans' Affairs

Submission to the

**Joint Committee on Corporations and
Financial Services**

**Inquiry into Ethics and Professional
Accountability: Structural Challenges in the
Audit, Assurance and Consultancy Industry**

August 2023

Joint Committee of Corporations and Financial Services Inquiry into Ethics and Professional
Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry

The Department of Veterans' Affairs (DVA) welcomes the opportunity to provide a submission to the Parliamentary Joint Committee on Corporations and Financial Services Committee (the Committee) Inquiry into *Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry*.

Background

On 18 July 2023, DVA received an invitation to make a submission into the Parliamentary Joint Committee on Corporations and Financial Services, *Inquiry into Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry*. The Terms of Reference state the committee will inquire "into recent allegations of and responses to misconduct in the Australian operations of the major accounting, audit, and consultancy firms (including but not exclusive to the 'Big Four'), via a detailed investigation and analysis of regulatory, technical, and legal settings, and broader cultural factors, including," (in summary):

1. The global and national firm structures
2. The extent to which governance obligations applying to a professional services firm may vary depending on the structure adopted, such as a partnership, a company, a trust, or other structure.
3. Mechanisms available to governments, government departments, statutory authorities, professional standards bodies, regulators, and non-government clients to monitor and sanction misconduct and poor performance

DVA notes the Inquiry Terms of Reference (ToR) and in its submission will address the "Mechanisms available to governments, government departments, statutory authorities, professional standards bodies, regulators, and non-government clients to monitor and sanction misconduct and poor performance." The remaining elements of the ToR relating to corporate structures and consequent governance arrangements of professional services firms are outside the remit of DVA and the submission will not address those matters.

Mechanisms available to governments, government departments, statutory authorities, professional standards bodies, regulators, and non-government clients to monitor and sanction misconduct and poor performance.

DVA's engagement of major accounting, audit, and consultancy firms is limited to situations where particular skills, expertise or services are unavailable within DVA. This is generally in cases requiring specialised work or where work requires a level of independence such as providing assurance around DVA projects or processes.

A range of mechanisms, provided both through Whole of Government arrangements and embedded DVA processes, are in place to monitor providers of this type and, where appropriate, to sanction misconduct and poor performance.

Whole of Government arrangements

Engagements by DVA of providers that are major accounting, audit, and consultancy firms are generally made in accord with Whole of Government Panels, managed by the Department of Finance.

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Since 2021, the engagement of such providers across the Australian Public Service (APS) has been streamlined under the Department of Finance administered, Whole of Australian Government (WoAG) Management Advisory Services (MAS) Panel (*the Panel*) for commonly used consultancy services.

The MAS Panel arrangement provides for efficiency, reduces risk and supports value for money outcomes. Under the MAS Panel arrangement, service providers must notify the Department of Finance immediately following any adverse findings made by a court, commission, tribunal or other statutory or professional body regarding the service provider's conduct or its ability to deliver the agreed services. Suppliers delivering services under the MAS Panel must also comply with applicable laws and legislation, including the *Crimes Act 1914*. Serious breaches of the Panel arrangements may lead to the exercise of the right to terminate.

The Commonwealth Procurement Framework, which sets out duties relating to the procurement of goods and services, outlines behavioural expectations for suppliers when engaging in procurement activities with the Commonwealth. In accordance with Commonwealth Procurement Rules (CPR) Paragraph 6.7, a potential supplier may be excluded from consideration on various grounds, including if the supplier's practices are dishonest, unethical or unsafe.

Embedded DVA arrangements

DVA has robust arrangements around the engagement of consultants including major accounting, audit, and consultancy firms. These arrangements include policies to prevent and manage conflicts of interest, breach of contract or unethical behaviour.

DVA is committed to conducting procurement activity that is consistent with the CPRs and the Australian Government Contract Management Guide (CMG).

The DVA Contract and Procurement Management Framework ('Framework') is designed to meet all mandatory requirements set out in the CPRs and CMG, and to ensure DVA procurement activity is in compliance with the Public Governance, Performance and Accountability Act 2013 (PGPA Act). It sets out to ensure that procurement processes are an efficient, effective and ethical use of resources that encourage competition and facilitates quality decision making and value for money outcomes.

The Framework also provides relevant guidance to staff on managing risks associated with the engagement of providers including those that are major accounting, audit, and consultancy firms including arrangements for appropriate risk and probity planning and transparency and accountability requirements.

The CMG sets out a requirement to 'ensure any conflict of interest declarations or deeds of confidentiality from relevant personnel (entity and supplier) have been provided' (CMG 1.3 (f)).

DVA recognises that either perceived or actual conflicts of interest can occur in performing duties or delivering services and has arrangements in place to provide guidance on identifying, declaring and managing them. The arrangements apply to all people working in DVA including contractors.

Section 13 of the Public Service Act 1999 (Cth) (Public Service Act) requires that an APS employee must take reasonable steps to avoid any conflict of interest (real or apparent) and disclose details of any material personal interest in connection with their APS employment. Section 13 also requires that employees must not make improper use of inside information to gain a benefit or advantage for themselves, or for any other person.

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While consultants and providers that are major accounting, audit, and consultancy firms are not engaged under the Public Service Act, they must behave similarly in accordance with provisions that are agreed and documented in their contracts.

For example, DVA's Internal Audit Program is delivered by a major accounting, audit, and consultancy firm (the *Internal Audit provider*). Under contractual arrangements the firm is required to notify DVA when any conflict of interest arises, or appears likely to arise. These arrangements also prohibit the disclosure of confidential information by the firm.

To provide assurance over compliance with these obligations, DVA requires the Internal Audit provider to have systems in place to identify and manage actual and potential conflicts of interest and to maintain the confidentiality of protected information.

The Internal Audit provider has policies, informed by national and international standards, that inform procedures relating to the identification, documentation, escalation and management of conflicts of interest and the protection of confidential information, including between the business units of the Internal Audit provider.

In support of these arrangements, the management of conflicts of interest and confidentiality is a core element of the Internal Audit provider's regular training and enforced by periodic quality review processes.

Contract managers are responsible for managing contract performance and compliance which includes management of risks and conflicts of interest while the contract remains in place.

While integrity concerns relating to providers that are major accounting, audit, and consultancy firms (including conflict of interest, breach of contract or unethical behaviour) cannot be addressed under the APS code of Conduct they can be managed directly through these contract management processes. This may include replacement of the specified personnel nominated in the contract or contract termination under appropriate circumstances.

Under the PGPA Act, DVA must also ensure fraud risks are fully considered when planning and undertaking business as usual activities. DVA maintains an Enterprise Fraud and Corruption Risk Assessment and ensures adequate controls and treatments are in place to mitigate any identified potential fraud or corruption risks. Processes are in place in terms of receiving, assessing and appropriately responding to allegations of fraud. If an allegation of fraud is substantiated, it will be referred onto the appropriate external entity.

The arrangements described above operate together to ensure that DVA is well positioned to address misconduct or poor performance when engaging major accounting, audit, and consultancy firms.