



JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

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21 May 2018

Mr Chris Jordan AO
Commissioner of Taxation
Australian Taxation Office

Email: parliamentaryservices@ato.gov.au

Dear Mr Jordan

JCPAA Inquiry on Australian Government Contract Reporting

I am writing to you regarding the Joint Committee of Public Accounts and Audit (JCPAA) inquiry on Australian Government Contract Reporting – Inquiry based on Auditor-General's report No. 19 (2017-18). The Committee has additional questions on notice in relation to the Australian Taxation Office's appearance at the Inquiry's public hearing on Friday, 23 March 2018.

On- hire labour

- 1) What assessment and cost comparison is undertaken internally in regard to the engagement of on-hire labour or contracted workers vs APS staff?

The Australian Taxation Office (ATO) applies an integrated approach to workforce management. The focus is not specifically on hire labour vs contractors vs APS staff, but what type of workforce will best enable the ATO to deliver its required outcome for a particular program of work. Factors considered include capabilities required, flexibility, time frames (e.g. terminating measures), and costs.

- 2) What workforce planning processes do you undertake that monitor and account for your non-APS workforce?

The ATO use a blend of workforce types including ongoing, non-ongoing and casual APS employees as well as non-APS workforce types such as contractors, labour hire, vendor providers and outsourced services. Blended workforces are used to ensure flexibility and responsiveness to client expectations, while being effective and efficient. This allows the ATO to be more agile and achieve the best value for money while delivering outcomes and respond to peaks and troughs in workload.

The vast majority of the ATO workforce are ongoing APS employees.

The ATO uses external providers in limited and specific circumstances to meet outcomes especially where:

- a) we require workforce flexibility balancing current and future outcomes
- b) critical skills are only required for short-term projects or to meet specific spikes in demand

- c) specific skills sets are in short supply
- d) it is more efficient
- e) it is more cost effective.

Each decision to utilise an APS or non-APS worker or workers is examined and determined on a case by case basis to determine the most appropriate work force to achieve the required outcome.

Value for money

- 3) What is your internal process and methodology for determining value for money, both prior to selecting a contractor or consultant, and at the completion of the contract or procurement process?

The ATO complies with the Commonwealth Procurement Rules in all of its procurement activities, including those involving the engagement of contractors or consultants.

In relation to determining the value for money of the proposed services of a contractor or consultant, the ATO considers the financial and non-financial costs as well as the benefits associated with the procurement. Specific factors considered include:

- a. the quality of the services
- b. fitness for purpose of the proposal
- c. the potential supplier's relevant experience and performance history
- d. flexibility of the proposal (including innovation and adaptability over the lifecycle of the procurement)
- e. environmental sustainability of the proposed services (such as energy efficiency and environmental impact)
- f. Whole-of-life costs.

Once a contractor or consultancy contract has commenced, the responsible supervisor or contract manager monitors their work on a regular basis to ensure the work being done is satisfactory and meeting agreed timelines. In the case of significant contracts, the contract manager will also work closely with the supplier to identify opportunities to deliver additional value.

- 4) Given payment under contracts is generally milestone-based ('deliver final report by x date') what assessment as to the value of that milestone is undertaken prior to payment and who undertakes that assessment?

Contract milestones and deliverables are embedded within ATO contracts. Prior to approving payment under a contract, ATO Contract Managers seek assurance that the relevant contract milestones and deliverables have been met.

- 5) Does a formal evaluation of value for money form part of the corporate record available on an ongoing basis to other areas of the agency?

Yes.

- 6) How many contracts has the department not paid out in full or ceased prior to contract end, in each of the financial years 2012-13 to 2016-17, as a result of the contractor or consultant having delivered a sub-standard product or service?

Contract managers apply a rigorous process to ensure a successful contract outcome for the ATO. In the small number of cases where a contract outcome does not meet ATO expectations, the ATO will, where remediation has been unsuccessful, withhold payment or terminate a contract early. Unfortunately, in relation to data reporting on the

number of terminated contracts, this information is not recorded in a way that would enable the easy compilation of figures. Preparation of the figures requested would, therefore, cause an unreasonable diversion of the ATO's resources.

- 7) What assessment have you undertaken regarding prices, timeliness and quality of work by contractors and consultants in June, July and at other times of the year?

In relation to determining value for money, the ATO applies the Commonwealth Procurement Rules in all of its procurement activities. The period May to October encompasses Tax Time and represents a seasonal peak in ATO workload. Significant resourcing is required across this critical period to support service delivery. Where this resourcing involves our contingent workforce, the ATO utilises existing Panel arrangements that are established via a competitive approach to market and full tender evaluation. These panels are regularly refreshed to ensure services provided to the ATO reflect a competitive market outcome.

Taxation

- 8) What consideration of a company's domicile for taxation purposes is undertaken during the procurement process?

The Australian Government procurement framework is non-discriminatory. All potential suppliers to government must be treated equitably based on their commercial, legal, technical and financial abilities and not be discriminated against due to their size, degree of foreign affiliation or ownership, location, or the origin of their goods and services.

The Commonwealth Procurement Rules operate within the context of relevant national and international agreements and procurement policies to which Australia is a signatory, including free trade agreements and the Australia and New Zealand Government Procurement Agreement.

Other

- 9) The ATO submission notes that, among other uses, its contingent workforce 'provide[s] more efficient options for delivery of key outcomes within the ATO's average staffing level cap and budget'.¹ On-hire labour moved from \$14.7 to \$44.3 million, and outsourced services moved from \$75 million to \$216 million between 2012-13 and 2016-17.

- a) If the contingent workforce provides for more efficient options, what are the other options?

Delivery options include using a contingent workforce (labour-hire, contractors, casual staff), outsourcing or insourcing the work, using permanent staff, or a mixture of these options.

- b) Eleven years ago, ANAO report 49 of 2006-07² noted the significant flow-on effects and risks of a reliance on contractors, including limited means of managing exposure to the loss of knowledge, exposure to pressure on hourly rates, problems with the retention of APS staff given equity of remuneration and

¹ Australian Taxation Office, *Submission 14*, p. 4.

² Australian National Audit Office, https://www.anao.gov.au/sites/g/files/net616/f/ANAO_Report_2006-2007_49.pdf

allocation of work, and impact on morale of APS workers. What consideration of these factors occurs prior to outsourcing and contracting out of services?

Approximately 95% of the ATO workforce are ongoing APS employees. The ATO does use a blend of workforce types to ensure we can be flexible and responsive to client expectations while being effective and efficient. This allows the ATO to be more agile and achieve the best value for money while delivering ATO outcomes and respond to peaks and troughs in workload.

The ATO uses external providers (contractors and labour hire arrangements) in limited circumstances to meet outcomes especially where:

- i) we require workforce flexibility balancing current and future outcomes
- ii) critical skills are only required for short-term projects or to meet specific spikes in demand
- iii) specific skills sets are in short supply
- iv) It is more efficient and effective.

The decision to utilise external providers is made on a case by case basis and in consideration of the particular requirements of the recruitment opportunity. The ATO workforce is the most engaged it has been since at least 2012. In the most recent APS employee engagement survey (the 2017 APS Employee Census), the ATO's engagement score of 6.8 exceeded both the APS overall (6.7) and our peer agency benchmarks.

- c) What comparisons have been undertaken as to the cost of delivery and impact on services of an increase in, or the removal of, the ASL cap?

The ASL cap is prescribed by the Budget Process Operating Rules and the ATO is committed to working within the rules. The ATO has not undertaken any cost comparisons based on an increase in or removal of the ASL cap.

- d) What value for money considerations were taken into account prior to the decisions to outsource?

The ATO requires its staff, in accordance with the Commonwealth Procurement Rules, to ensure that each procurement achieves a 'value for money' (VFM) outcome. For significant procurements (including outsourced services), the ATO conducts a formal evaluation of VFM, which includes an in-depth consideration of both financial and technical aspects of the proposal.

We would appreciate if you could provide your response to the questions on notice by **COB Tuesday, 12 June 2018**.

Responses can be emailed to jcpaa@aph.gov.au. Please refer to the Committee's [guide for agencies](#) when preparing responses to questions on notice.

Should you have any queries about this matter, please contact the Secretariat on 6277 4615. Thank you for assisting the Committee with its inquiry.



Susan Cardell
Committee Secretary