Centre for International Corporate Tax Accountability and Research

tax justice network Australia

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Centre for International Corporate Tax Accountability & Research and Tax Justice Network - Australia

Joint Submission to Senate Finance and Public Administration Legislation Committee on *Public Consultancy and Services Contracts Bill 2025*

Thank you for the opportunity to comment on the *Public Consultancy and Services Contracts Bill 2025.* We request the Committee recommend the passage of the Bill to establish a Parliamentary Joint Committee on Public Consultancy and Services Contracts. The Bill should have the desired impact of having more work done by the public service to build up their expertise and reduce reliance on external consultants.

Under the definitions in Section 3, we believe that it should be clear that contracts to carry out consultations for a Commonwealth entity should be captured.

The submitting bodies would also recommend an anti-avoidance provision in the Bill, so that the threshold outlined in Section 8(10) and (11) is not circumvented by a succession of smaller contracts under the threshold or by breaking up work into smaller contracts.

Consultocracy

We are concerned about how the over use of consultancy contracts has impacted our democracy and the skills and capabilities of the public service. We note that in 1991 Hood and Jackson coined the term “consultocracy", meaning where unelected consultants capture the public policy-

making of democratic governments.[1] Ylönen and Kuusela argued that it is important to distinguish consultocracy from other forms of public sector outsourcing. Whereas public sector outsourcings have a long history, the one characteristic feature of consultocracy is its close relationship to the different forms of expert-driven knowledge production that go deep into the heart of how societies are ruled and governed. In other words, the consultocratic forms of knowledge production are related to fields that are essential to the proper functioning of the democratic forms of government practices.[2]

The critical concern in many studies of consultocracy is whether consultocratic tendencies have reduced the openness, participation, and accountability of governance. Thus, the rise of consultocracy "parallel[s] a decline in democracy for the citizenry."[3] Consultants can evade traditional notions of democratic accountability by operating in 'institutional voids', where the norms of conventional policy-making are eroded.[4] Consultants are often able to hide behind "commercial-in-confidence" privileges, which are made worse by imprecise project specifications.[5]

Procurement rules assume that accountability can be created through three mechanisms:

- Market competition;
- Maintain an arm's-length relationship between purchaser and provider; and,
- Output control.

In the theory, to achieve accountability, public purchasers articulate their requirements in a set of 'objective' measures divided into multiple phases capable of producing a tangible product and evaluated against value-for-money criteria.[6] These ideals are fundamental components of the new public management, which draws from a transactional ontology to assert the primacy of private-sector accountability methods.[7] New public management ideals remain a core aspect of Australian public management and administration.[8]

These market-based logics have been criticised as being implemented as an article of faith rather than a genuine way of improving public management. Such critiques argue that private sector forms of accountability are inapplicable in the public sector or have not lived up to their hype.

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[1] Mutti Ylönen and Hanna Kuusela, "Consultocracy and its discontents: A critical typology and a call for research agenda", *Governance* **32(2)** (2019), 241.
[2] Ibid., 242.
[3] Ibid., 244.
[4] Marty Bortz, David Brown, Svenja Keele and Hilary Manning, "Management consultants and the social function of procurement", *Public Money and Management* (2023), 1.
[5] Ibid., 1.
[6] Ibid., 1.
[7] Ibid., 1.
[8] Ibid., 4.

Yet these ideals continue to permeate public management, such that they are seen as the 'new norm'.[9]

Critiques also argue that the inherent uncertainty of consulting projects, in which public servants and consultants are forced to work jointly to meet project aims, undermines the notion that transactional arms-length relationships are possible. The success of the service contract depends on the performance of both the purchaser and the provider. Further, it has been argued that the 'competitive principles' result in public servants artificially creating a series of 'discrete transactions' rather than recognising the long-term relationships between consultants and policy-makers.[10]

Bortz et al. argue that consultant procurement is socially embedded in networks of relations that cannot be understood solely through market-based forms of accountability.[11]

There is a view within the consultocracy literature that consulting practices spread a global orthodoxy of managerialism. Examples include Hilmer's role in shaping the 'employee relations' paradigm, the diffusion of Porter's ideas on national competitiveness, or Persson's influence over Australian national housing policy in the 1990s. Here, consultants become 'obligatory passage points' through which public servants must pass to complete anything.[12] Some researchers argue that consultants 'purify and translate' ideas and 'enrol' other actors into a process to shape the underlying paradigm of a policy sub-system. Consultants also manoeuvre through a network of actors and strategically deploy their ideas to shape how other people think about policy problems.[13]

Bortz et al. argue for reconsidering the conceptual basis of the consultant-policy-maker relationship. They argue that:[14]

> *Such a reconsideration should recognise both the transactional and relational nature of consulting and, in doing so, recast the procurement of consultants in ways that reflect more democratic (rather than market-based) forms of accountability.*

However, they fail to clearly articulate what those forms of democratic accountability would be.

Ylönen and Kuusela drew from a large multi-sectoral case study from Finland as well as existing studies. They concluded that increased reliance on consultants contributes to the monopolisation

[9] Ibid., 1.
[10] Ibid., 2.
[11] Ibid., 2.
[12] Ibid., 3.
[13] Ibid., 3.
[14] Ibid., 7.

and privatisation of public knowledge and ensuing dependencies, erosion of tacit knowledge and weakening of accountability.[15]

They argued that the impact of the increased use of consultants is not restricted to their influence on policies. Instead, it has had a significant qualitative impact on how public administration and governance are conducted in various fields, such as auditing, organisational restructuring, human resources, and information and communications technology (ICT).[16] Their research revealed numerous instances where consultants used and benefited from their information advantages to achieve a quasi-monopoly.[17] They made the point that ownership of the knowledge from a consultancy may result in information advantages for consultants that may lead to various dependencies by government departments and rent-seeking behaviour by consultants.[18]

They formed a view that government departments and agencies that contract out policy analysis face the risk of losing their specialist, in-house advisory capacity, turning them into mere contract managers and processors of the policy advice supplied by contractors.[19]

We share the concern about the rise of consultocracy. We believe it is highly desirable to rebuild the capability of the public service. Wherever possible, it should be the public service that resources the policy-making work of government.

Public Contracts and Profit Shifting

Government contracting is an area in high need of greater scrutiny. Of particular concern is corporations (and non-profits) that make significant revenue from government contracts but fail to pay a fair share of taxes. For example, recent analysis of ATO data for the 2024 financial year found that big tech corporations, including Amazon Web Services, Microsoft, Oracle, IBM and Accenture paid no or little tax. These big tech corporations are major suppliers to Australian governments: Amazon Web Services' whole of government agreement is now worth over $400 million. Amazon paid just $61 million in corporate tax on over $3 billion in 2024.[20]

This recent reporting confirms a trend identified in CICTAR's research.[21] In 2022 we found that Microsoft had government contracts worth over US $3.37 billion over five years, in five countries alone. At the time, Microsoft had been awarded over AU $635 million in Australian federal government contracts – this number is likely now significantly higher. Our research revealed patterns in Microsoft's accounts that indicate significant global profit shifting, reducing

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[15] Mutti Ylönen and Hanna Kuusela, "Consultocracy and its discontents: A critical typology and a call for research agenda", *Governance* **32(2)** (2019), 241.
[16] Ibid., 242.
[17] Ibid., 248.
[18] Ibid., 248.
[19] Ibid., 249.
[20] Joseph Brookes, " 'Indefensible': Multinational govt tech suppliers pay almost no tax", InnovationAus, 3 October 2025, https://www.innovationaus.com/indefensible-multinational-govt-tech-suppliers-pay-almost-no-tax/
[21] Amazon: The World's Largest Company is Subsidised By You, Centre for International Corporate Tax Accountability and Research, May 2022, https://cictar.org/all-research/amazon

its tax payments in those same countries where it books large revenues from government contracts – including Australia.[22] Microsoft continues to pursued by the IRS for a US $29 billion tax bill – the largest audit in U.S. history – for years of shifting profits to a Puerto Rico subsidiary.[23]

Oracle has been a high-profile court battle with the Australian Taxation Office for years, but continues to receive high levels of government contracts and payments.[24] Oracle has paid very low taxes in Australia (and globally) as it has shifted profits through royalty payments to an Irish subsidiary that had been tax resident in the Isle of Man, where the applicable tax rate was zero. Unfortunately, the courts have halted the ATO's progress in addressing Oracle's tax avoidance, which is reported to have implications for 15 other corporations and the abuse of royalties to shift profits from Australia.

In addition, to strong evidence of many large multinationals aggressively avoiding corporate income tax in Australia (and globally), corporations including Accenture have repeatedly failed to deliver on promises, contract terms and simple value for money (cost-benefit) analyses. However, these multinational corporations continue to win new large government contracts. In recent years, Accenture has received more in federal contracts than any of the so-called Big Four accounting and consulting firms.[25]

CICTAR research in 2018 identified that labour hire agencies that held major "temporary personnel services" contracts with the federal government included large, foreign owned multinational corporations that paid very little tax in Australia.[26]

The ability of large multinationals to reduce taxable income by shifting profits overseas disadvantages local companies that might be bidding for the same government contracts.

Corporations and non-profits that make significant revenue from government contracts should be held to a high standard of tax compliance. Failure to meet these standards should lead to exclusion from future contract opportunities. Measures that should be adopted include significant strengthening of the conditions for a satisfactory Statement of Tax Record (STR).[27] Currently, the bar for the ATO to issue an STR is far too low.

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[22] Microsoft: Gaming Global Taxes, Winning Government Contracts, Centre for International Corporate Tax Accountability and Research, October 2022, https://cictar.org/all-research/microsoft
[23] Paul Kiel, "How a Maneuver in Puerto Rico Led to a $29 Billion Tax Bill for Microsoft", ProPublica, 13 October 2023, https://www.propublica.org/article/irs-microsoft-audit-back-taxes-puerto-rico-billions
[24] https://www.oracle.com/au/government/govcloud/ ; https://www.accountingtimes.com.au/tax/oracle-case-marks-shift-in-cross-border-tax-disputes-experts-say
[25] Ronald Mizen, "Accenture beats the big four in record $2b for Canberra work", Financial Review, 9 August 2022, https://www.afr.com/politics/federal/the-big-consulting-winners-from-record-government-spend-20220809-p5b8bb
[26] "Is the Australian Tax Office outsourcing to tax dodgers?" Centre for International Corporate Tax Accountability and Research, December 2018, https://cictar.org/all-research/ato
[27] Statement of Tax Record, Australian Tax Office, last updated 27 March 2025, https://www.ato.gov.au/about-ato/ato-tenders-and-procurement/complying-with-procurement-policy-and-legislation/statement-of-tax-record

Additionally, the forthcoming data from Australia's new country by country reporting requirement should be utilized to evaluate whether multinational corporations are artificially shifting profits offshore and whether they should be rewarded with future government contracts. In addition to penalties for non-compliance, any multinational that does not report public country by country information should be excluded from federal government contracts.

There is also a need for greater transparency about how government funding is spent by contracted parties. Entities, whether private subsidiaries of publicly traded corporations or large non-profits, that depend in large part on government revenue should be required to publish full (General Purpose – Tier 1) financial statements.[28] Greater public accountability and transparency should be a condition of future public funding.

The growth of private equity investment in publicly funded services, like Brookfield's now-collapsed Healthscope, Madison Dearborn's control of employment services provider APM, or numerous private equity investors in health, aged care, and early childhood education and care, raise significant concerns in terms of both tax practices and the quality of services provided. Private equity investments in operators of publicly funded service require additional transparency measures and should be more stringently controlled. As above, full financial statements should be required along with full disclosure of all of the Limited Partners (investors) in the controlling private equity fund.

We would welcome the opportunity to discuss further our extensive research on these matters. CICTAR is currently working with European partners to develop recommendations for revisions to the European Union's directive on public procurement. If this is of interest to the Committee's deliberations, we would be happy to provide that, or other materials, when completed.

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[28] The meaning of "reporting entity" is discussed in General and Special Purpose Financial Statements, Australian Charities and Not-for-profits Commission, https://www.acnc.gov.au/for-charities/manage-your-charity/obligations-acnc/reporting-annually-acnc/general-and-special-purpose-financial-statements

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Background on the Centre for International Corporate Tax Accountability & Research (CICTAR)

CICTAR is a global corporate tax research centre that produces information and analysis to untangle the corporate tax web. The Centre is a collective resource for workers and the wider public to understand how multinational tax policy and practice affects their daily lives. CICTAR's work supports public participation in the tax debate so that everybody can take part in decision-making that affects their communities.

For more information, visit the CICTAR website here: https://cictar.org/

Background on the Tax Justice Network Australia

The Tax Justice Network Australia (TJN-Aus) is the Australian branch of the Tax Justice Network (TJN) and the Global Alliance for Tax Justice. TJN is an independent organisation launched in the British Houses of Parliament in March 2003. It is dedicated to high-level research, analysis and advocacy in the field of tax and regulation. TJN works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. TJN's objective is to encourage reform at the global and national levels.

The Tax Justice Network aims to:

(a) promote sustainable finance for development;
(b) promote international co-operation on tax regulation and tax-related crimes;
(c) oppose tax havens;
(d) promote progressive and equitable taxation;
(e) promote corporate responsibility and accountability; and
(f) promote tax compliance and a culture of responsibility.

In Australia, the current members of TJN-Aus are:

- ActionAid Australia
- Aid/Watch
- Anglican Overseas Aid
- Australian Council for International Development (ACFID)
- Australian Council of Social Service (ACOSS)
- Australian Council of Trade Unions (ACTU)
- Australian Education Union (AEU)
- Australian Manufacturing Workers Union (AMWU)
- Australian Nursing & Midwifery Federation (ANMF)
- Australian Services Union (ASU)
- Australian Workers Union, Victorian Branch (AWU)
- Baptist World Aid
- Caritas Australia
- Centre for International Corporate Tax Accountability & Research (CICTAR)

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- Community and Public Service Union (CPSU)
- Electrical Trades Union, Victorian Branch (ETU)
- Evatt Foundation
- Friends of the Earth (FoE)
- GetUp!
- Greenpeace Australia Pacific
- International Transport Workers Federation (ITF)
- Jubilee Australia
- Maritime Union of Australia (MUA)
- National Tertiary Education Union (NTEU)
- New South Wales Nurses and Midwives' Association (NSWMWA)
- Oaktree Foundation
- Oxfam Australia
- Publish What You Pay Australia
- Save Our Schools
- SEARCH Foundation
- SJ around the Bay
- TEAR Australia
- The Australia Institute
- Union Aid Abroad – APHEDA
- United Workers' Union (UWU)
- Uniting Church in Australia, Synod of Victoria and Tasmania
- UnitingWorld
- Victorian Trades Hall Council
- World Vision Australia