HYPEREAL

Submission to the Joint Committee of Public Accounts and Audit	
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From:	Hypereal Pty Ltd

Introduction

Hypereal was founded by leaders of the Australian Government's Digital Transformation Office (DTO) between its establishment in July 2015 and its merger into the Digital Transformation Agency in late 2016. Today, Hypereal helps public sector entities operate more effectively in a complex and digitally enabled world.

Drawing on our decades of international procurement expertise, we first provide an overview of the role, remit and operation of procurement in leading practice organisations. We explore the additional impact to which government procurement should aspire, and suggest a working definition against which current government procurement can be assessed. We then outline the impediments to improvement and suggest a potential radical way forward.

The submission is supported by a series of articles published by InnovationAus in the last 2 years as a contribution to the public discourse. The articles (contained in Exhibit 1) are summarised in this submission. Setting out the rationale for change, they then provide step-by-step prescriptions for practical and strategic procurement transformation.

This submission explicitly addresses commonwealth ICT procurement practices. Our experiences however lead us to believe that the points we raise and solutions we signpost will also apply to non-IT procurement categories.

What does good procurement look like?

It is important to understand what procurement excellence looks like in order to establish a point of comparison with current government procurement practices, and to set an aspirational end-state vision.

The ANAO, in its two reports covering the activities of the DTA, defines government procurement as "*the process of acquiring goods and services*". Outside the sphere of federal government, however, the procurement function has been professionalising since the 1980s and defines itself much more ambitiously.

In its most evolved forms, procurement now represents the commercial function accountable for all aspects of an organisation's third party spend, across all categories from raw materials to contingent labour and from banking relationships to facilities management.

The ANAO's definition reflects the process aspect of the function that, in non-government settings, is now largely automated and standardised. Enterprise tools are deployed to manage routine, volumetric purchases by means of catalogues, to run e-tendering, and to handle the end-to-end procure-to-pay cycle.

The payables function that acquits these transactions also often sits within the procurement function. Payables manages expense permissibility, coding, and allocation and is procurement's on-ramp to the finance function. The line-item level data curated by payables supports the advanced spend analytics and data-informed insights required by modern buyers. These insights are used by procurement professionals, known as category managers, to set a multi-year strategy across a related group of procurement categories.

The category strategy will develop differentiated approaches to various spend segments and across the procurement lifecycle. Working collaboratively with their internal stakeholder base, procurement professionals will consider at least the following questions:

- What do my relationships and analysis lead me to forecast about demand and supply trends?
- How is my strategy crafted to support the values, priorities and mission of the business, and what is my evidence base for this?
- How strong are my relationships with my stakeholders, and how might I better understand their businesses to unlock and report value from the supply base?
- What financial opportunities can I see to better manage our cost base and how will I secure them?
- What cost-downs can I lock in with the CFOs whose business I support and what detailed rationale will I table to assure them of execution?
- What supply chain risks, including continuity and obsolescence, can I see and how will I mitigate them?
- What supply market development activities should I undertake to enhance competitiveness and
- secure my supply chains?
- How do I develop and manage fair and confident relationships with my suppliers in order to assure preferred customer status and benefit from their innovation and insight?

Category teams are usually comprised of sourcing professionals, whose specialism is go-to-market activities, and supplier performance/ supplier relationship management counterparts, who ensure cost and quality value delivery and proactively manage vendor relationships. Equal weight is given to sourcing and post sourcing activities, which together ensure supply chains that are effective in all lifecycle phases.

Although cost, quality and reliability targets have been the traditional focus of private sector procurement functions, many modern teams now also lead diversity, green and social procurement initiatives.

Procurement professionals in evolved environments will be skilled in – among other things - data analysis; strategy development and deployment; needs, specification and outcomes drafting; contract law; stakeholder management, and formal negotiation. Many will be members by examination of a professional body (notably the Chartered Institute of Purchasing & Supply and the Institute of Supply Management) which also requires them to adhere to a code of professional ethics.

Is good government procurement different, and how should it be defined?

Good government procurement needs to do, to have, and to be all the things expected of leading practice private sector procurement functions … and more.

Government procurement can and should be deployed as an instrument of social and economic policy. It offers a unique alternative to grant funding for domestic suppliers, especially SMEs, by providing a hand up, not a hand out. The option is not an easy one. Unlike the patronage model, where a grant is awarded without any real expectation of a value exchange, a commercial relationship comes with mutual obligations.

So how much more confident would government buyers need to be to award business away from the comfortingly familiar multinationals that now dominate the procurement landscape? How much more perceptive and proactive would they need to be to spot and nurture the potential of small domestic suppliers? How much more sophisticated would they need to be to coach neophyte providers to interact successfully with large organisations? How much more evolved would their own systems and processes need to be to adequately support these sorts of initiatives? These are questions with which the Future Made in Australia (FMIA) Office will have to contend. But they are material to good government procurement.

The ANAO, as we have noted, takes a process view of the procurement function, defining government procurement as "*the process of acquiring goods and services.*" Sadly, this very tactical definition accurately reflects the role and expectation of ICT procurement in government today. And the ANAO reports that prompted the current Inquiry highlights that in many cases, even these basic expectations are not being met.

We propose a working definition of government procurement that better reflects what is desirable and possible. This definition may, we hope, serve as a validation test for what good should look like:

"*Government procurement is the active lifecycle management of supply markets in order to achieve transparently reported technology, financial and social outcomes that promote better government and the wellbeing of the people*".

The core challenge for ICT procurement reform: Nothing ever happens

Government ICT procurement reform has been the sound of one hand clapping for at least the last half-decade.

In August 2017, the ICT Procurement Taskforce delivered its report and 10 recommendations. The Taskforce was conscious of previous efforts to reform ICT procurement which had not succeeded in moving the dial. It wrote:

> "The taskforce is aware that reviews by successive governments since 2008 have highlighted issues with Government decision-making and delivery around ICT projects. Most notably, the 2008 Gershon Review, the 2010 Reinecke Review, the 2014 Audit of the ICT Reform Program and the 2015 Belcher Review all identified similar problems with the Government's governance, oversight and capability when it comes to ICT and its procurement.
>
> The taskforce therefore considers that 'more of the same' will not improve ICT procurement outcomes for government. "

However, this Taskforce too was destined to be ineffective. To the extent that the 2022 ANAO audit of DTA procurement does not refer to the Taskforce, its findings, or the commitments given by government to implementing its material recommendations.

These recommendations, the government response to them, and our assessment of the current state are as summarised below:

#	Recommendation Content Summary	Government Position	Our current state assessment
1	Deliver a framework for ICT procurement that: - encourages innovation - provides fair competition for SMEs - is outcomes focussed - privileges open standards and cloud first - is secure - does not duplicate existing platforms .. agencies to report compliance as part of their annual performance standards	Accepted - will build principles, policies and guidelines	Excerpt from DTA response to ANAO audit #5 of 2022/23: "The Digital Transformation Agency (DTA) welcomes this review and agrees with the ANAO's focus on providing increased transparency over the DTA's internal procurement framework" ICT procurement framework lies behind government-only sign-in wall and cannot therefore be assessed

2	Develop targets for procurement, suggested as: - Annual WofG cap on ICT spend, with target for overall reductions - Maximum contract length & $ - Benefits realisation - Spending on govt priorities - Agencies building common platforms - Awards to Australian entities including SMEs	Accepted - initial annual cap for agencies with exceptions needing approval from the Minister & Department of Finance	Substantively not actioned. No caps or cost down targets. Contract length and $ commitments not adhered to. No public benefits realisation.
3	Develop a spend map to allow analysis and forward views	In principle. Will be in the "medium term"	Not actioned. Excerpt from Department of Finance response to ANAO audit #5 of 2022/23: "options to enhance functionality for reporting contract notices from standing offers in future updates to AusTender"
4	Develop a public dashboard of significant ICT projects status and outcomes in line with states	Internal dashboard only	Not accepted to action
5	Build an ICT strategy to direct procurement approaches	Accepted	The opaque selection of the Adobe product for myGov suggests material and strategically significant ITC procurement may not be not informed by a strategic approach to IT investments
6	Build procurement capability	Accepted	Not actioned
7	Focus on significant spends and vendors: - define and segment - develop "strategic business partnerships" model - develop pipeline - "Oversight body for sharing data and to advise govt on APS procurement performance" - provide incentives for WofG platforms - develop shared procurement approaches	Accepted	Substantively not actioned. IBM WofG contract announced as the largest ever negotiated and valued at $1B over the term. Actual value now estimated by the DTA to exceed $2B
8	Simplify practices including "panel reform"	Accepted	Not actioned. See ANAO audit #5 of 2022/23 for commentary on panel practices
9	Develop new procurement pathways including catalogue buying and innovative and small-scale experiments	Accepted and will implement	Not actioned
10	Periodic review	Accepted - rolling reviews and update to contemporary best practices	Not actioned

In the years since the release of the Taskforce report, the DTA has in our view engaged in performative compliance. For example, the agency's submission to the 2018 Delivery of Digital Services (Senate

Standing Committee on Finance and Public Administration) indicated that work was under way to deliver against the recommendations of the Taskforce:

> **" ICT Procurement Transformation Program**
>
> The DTA is transforming how government manages its ICT procurement, in response to the *Report of the ICT Procurement Taskforce,* released in August 2017. This will encourage more innovation and small-scale experimentation by agencies to give industry the opportunity to pitch innovative ideas. The work will also consider how to improve skills across government agencies, and will include new features for the Digital Marketplace to show how easy it is to procure goods and service in government.
>
> The program of work will also remove the systemic and cultural barriers to small business receiving government contracts, and aims to increase small-to-medium enterprises' share of the government's annual ICT contract spend by 10 per cent. There is also a target in place to reduce total annual ICT spend by 10 per cent over the next four years. "

The DTA has not delivered on this representation. It is unclear to what extent it ever intended to. The ANAO's September 2022 Audit of DTA procurement details observations similar to those that underpinned the recommendations of the 2017 Taskforce.

The ANAO's perspective is illuminating but partial. Its 2022 audit clearly demonstrates failings in foundational procurement practices and hygiene at the DTA. The audit does however have its limitations, in that it operates strictly within the paradigm of compliance to existing rules and conventions (most notably the panel process). It is incurious as to whether this paradigm represents leading practice. It does not.

And this is the core challenge for federal government procurement. It does not prize procurement expertise and has not made procurement a profession within the APS. It cannot therefore recognise that its expectations and implementation of procurement lag decades behind leading private sector practice. It is wedded to the existing ways of doing things, because it cannot conceive of alternatives, and it has so far stood fast against all attempts at reform.

A suggestion of radical reform

It does not seem feasible that the entities that have contributed to and sustained the current state of ICT procurement can be incentivised to change it now. Both the DTA and the Department of Finance have had opportunities to enact change which they have failed to embrace.

It is our view that an outcome of this current enquiry should be the establishment of an independent commercial entity tasked implementing leading procurement practices into government in ways that are transparent to citizens and industry. Its funding would come from the revenues currently tithed from agencies for their participation in mandatory WofG technology agreements.

This new entity would take a centre-led approach, adding value to agency buyers whose work does not bring them into regular contact with ICT supply markets by providing them market intelligence and sourcing expertise. Its category managers would look beyond sourcing activities to understand and manage the nature and extent of supply relationships and supplier performance and to shape the post-sourcing environment. They would develop and lead overall supply strategies to deliver on the government's digital and technology directions. They would be responsible for social and environmental procurement targets, as well as for the overall cost and quality performance of their category.

Among other key accountabilities, this entity would also manage transactional procurement and would implement transactional, procure-to-pay and e-tendering platforms. It would be responsible for curating spend data and assuring its accuracy.

Critically, at a period when economic headwinds require each dollar of public money to be carefully invested, it would also be capable of delivering a 5-10% real cost-down on the government's annual ICT spend, which is placed imprecisely at between $4B and $9B.

Advocating for procurement reform: Exhibit 1 (InnovationAus articles)

We have been advocating for ICT procurement reform for a number of years, including in our submission to the 2018 Digital Delivery of Government Services Inquiry in the Australian Senate (submission 26).

The three articles appended as Exhibit 1 were published by InnovationAus as a continuation of this advocacy. They were written as a contribution to the public discourse on federal government procurement.

They cover in detail some of the material points raised in this submission and add additional insight. Most specifically, they also include step-by-step, detailed, actionable change recommendations informed by over 3 decades of professional procurement experience in senior consulting and industry roles. While generally focussed on IT procurement, the topics covered are relevant to all types of procurement.

The following is a brief summary of the content of the articles.

1. "A simple fix for our broken government technology procurement" (August 2022)

This recent article for the Innovation Papers proposes a simple prescription of step-by-step actions to improve government ICT procurement accountability and outcomes.

These actions are grouped under the banners of Transparency, Value and Capability. "Transparency" outlines the practical steps by which procurement data can be improved and why, in addition to being the foundation for sound procurement, transparency is important for public trust and supply market development. "Value" considers how procurement opportunities and the progress of initiatives should be visible and measured. "Capability" turns to the mindsets and skillsets required to effect positive change.

The article closes with a caution that the endstate vision of procurement as an instrument of policy is out of reach until the foundational practices and hygienes it describes are in place.

2. "Stirring the pot on marketplaces and panels" (September 2020)

A 2020 ANAO review was critical of the Digital Marketplace, which in its original DTO form was developed and implemented by one of Hypereal's founders. The critique rested on the ways in which the Digital Marketplace did not conform to the panel construct. The leadership at the DTA did not understand or subscribe to the alternative contestability model that the Marketplace represented and subsequently made it compliant to the panel paradigm.

The ANAO's recent report of the DTA's current procurement practices graphically underlines the points made in this 2020 article regarding the calamitous misuse to which the panel construct is inherently vulnerable. The article also explores more robust and accountable alternatives to panel-based procurement.

3. "IBM govt contract renewal: It's deal time!" (September 2022)

In 2018, the DTA struck a multi-year WofG IBM deal that it estimated to be worth $1B. This contract is now up for renewal, and the DTA have announced their intention to finalise negotiations by CY end 2022.

Aggregating and harmonising multiple supply relationships with one vendor into a coherent whole is a legitimate procurement strategy. But it takes expertise to do well, and the DTA's recent revelation that the spend under this contract has doubled to ~$2B raises at least some questions as to the professional competence of the original negotiators.

This article details the steps that a professional procurement team would take to successfully renegotiate a deal of such magnitude. It outlines the work of post-sourcing teams in supplier performance and relationship management. It does not imply that these are steps or activities the DTA is actually taking.

The article also questions the decision to develop joint programs with IBM in key technology growth areas for Australian SMEs, and emphasises this contract as an example of why government procurement outcomes should be transparently reported.

Conclusion

We hope that this submission may make a contribution to the work of the Inquiry,

We are grateful for the opportunity to make a submission on a topic about which we are both passionate and qualified, and welcome further dialogue with the Committee.

Hypereal Exhibit 1: InnovationAus

A simple fix for our broken government technology procurement

Catherine Thompson
Innovation Aus "The Innovation Papers" Contributor
9 August 2022

The Innovation Papers' invitation to provide a visionary reimagining of government Information and Communications Technology (ICT) procurement should have filled my life with sunshine. So why the disconsolate mien of someone who has been handed a box of chocolates to find that only the strawberry crèmes remain on the top layer?

It is because I am staring at the strawberry crèmes of procurement, which have not been made any more palatable by years of being handed around. They are Transparency, Value, and Capability, and unless someone eats them up, we can't in good conscience move on to the delights of Strategy and Purpose that might be found in the layer beneath.

This trio are foundational to our collective ability to engage in democratic practices of informed enquiry, to support public oversight and advocacy, and to turn government's substantial ICT spending power to the advantage of its own economic base.

ICT procurement is not an intractable problem for government, even though inaction – and sometimes backsliding – on the findings of the 2017 ICT Procurement Taskforce (and its many and consistently worded predecessors) might lead to that conclusion.

This piece explains why these first steps are important and what simple changes we could usefully make now. Rather more controversially, it suggests who should take them.

And when this work is done – and only then – will we be able to access the power of our procurement for innovation to the public good.

Transparency: first fix the data!

The benchmark for basic procurement competence is that we understand what is bought from whom, and optimally at what price. At the federal government level, we cannot currently tell this with any degree of confidence, and nor has it been considered a government priority to do so.

Data is a national asset. And accurate and publicly accessible public sector procurement data is valuable to industry and civil society, as well as to government itself.

For those looking to sell to government, the data is market intelligence. For civil society, data transparency encourages engaged citizenship and promotes public sector accountability.

For government, it helps gauge the success of ICT policies such as cloud-first, and also provides data-driven inputs to new government technology and industry policy. Uncomfortably, this probably means

that any current policies based on understanding how spend flows to sellers are at the very least questionable.

The Australian National Audit Office's (ANAO) 2020 review of ICT panels hazarded that in the 2018-19 financial year, contractual technology commitments might be $3.9 billion.

The 2017 ICT Procurement Taskforce's estimates from 2010 to 2016, however, dropped no lower than $5.9 billion (and peaked at $9 billion).

It is notable that the Taskforce abandoned its attempts to wrangle the raw data from the AusTender repository and instead turned to Intermedium's curated dataset. The government's response to the Taskforce report formally acknowledged the limitations of the data. Yet, nothing has changed in the five years since the report's release.

The challenge lies not in the paucity of data, but in its lack of explanatory power. The root cause of this failing is that the dataset is not actively curated.

Although the database is centrally held, each agency contributes to it according to its own lights, navigating the complex coding structure as best it may and providing text descriptions as it sees fit. Some relevant fields are missing.

Although agencies may respond to outside enquires with more information, they are not required to do so and the Freedom of Information (FoI) process represents the only formal pathway to greater detail.

In April, InnovationAus.com wrote a piece on the Australian Electoral Commissions' (AEC) new electoral management software. The AusTender entry reads "software". "Work Order E01" for a cost of $20.4 million. That's not transparency.

I offer a quick and simple prescription to bring federal ICT procurement spend intelligence up to the level enjoyed by private sector counterparts.

First, designate a data custodian with formal accountability for the quality of the data. Then, create a simple taxonomy of ICT expense categories to replace the current coding.

Adopt this taxonomy into the chart of accounts of central agencies, which will not only reduce complexity but also create consistency between agency general ledgers and the public record of their procurement.

Next, indicate whether contracts are fixed price or capped, originals or amendments, and split multi-year contracts into annual spends.

All three actions will contribute to more accurate forward estimates. Lastly, make this data (publicly) discoverable by means of user-friendly data visualisation tools.

As a side note, the need for a source-of-truth dataset is more acute where alternative sources of data have been progressively and quietly shelved.

The ICT Trends report that provided annual information drawn from agency general ledgers ceased publication some years ago, and in May this year the detailed Digital Marketplace reporting on spend, opportunity type, winners and average pricing discretely vanished when Marketplace was re-platformed onto commercial software.

I reflect on how humdrum and transactional these recommendations appear. But then: how much clearer do recommendations need to be before change is enacted?

The stories we tell in today's digital world are all narrated with data. As accountable public servants and citizens, if we fail to roll up our sleeves and engage with this and other imperfect narrations, we are failing both the nation and ourselves.

Value: lifting the veil on opportunity and performance

ICT procurement activity in government mostly happens behind closed doors. The record of open tender opportunities is highly obfuscated by the incidence of purchases from panels, which are counted as open tenders, regardless of whether any competition is involved.

In the absence of any notable changes to ICT procurement customs, we can assume that open competition remains limited to ~25 per cent of opportunities, as noted by the ICT Taskforce.

The tendency to drag the veil of secrecy over ICT procurement is nowhere more marked than on the Digital Marketplace, a platform whose original purpose was to make ICT opportunities more accessible to a wider range of non-traditional suppliers to government.

Now, however, 75 per cent of its opportunities are restricted to buyer-nominated bid lists. Not only are other pre-qualified sellers locked out of submitting for these opportunities, but the opportunity details are visible to no-one but invited bidders. (I have written more extensively on the topic of panels and marketplaces in *Stirring the Pot on Marketplaces*).

Making the details of government procurement opportunities and tender documents inaccessible by default is a questionable practice. From such documents, we can learn about government needs, how government funding is being deployed, and the skill and expertise with which market approaches are being crafted.

The only winner now is the multi-million-dollar probity industry, which acts as a proxy for process scrutiny until the point of contract award.

The performance of significant procurement initiatives post-award is equally opaque. Progress and performance reporting helps to illuminate the quality of initial and lifecycle value-for-money assessments.

Such reporting speaks to the effectiveness of the government technology commissioning environment and implicitly also supplies a judgement on the expertise of the sourcing and project management teams.

It is for this reason that the ICT Procurement Taskforce recommended the creation of a public dashboard to report the spend, progress and benefits of significant ICT projects, along the lines of those offered by several state governments.

The government of the day pushed back on the recommendation, opting instead to report the information only to in-house audiences. What early opportunities to publicly query cost overruns and failing projects have been missed as a result? Would the Digital Passenger Card, for example, have cost $60 million before it was shelved?

It is not technically challenging to make procurement opportunities, processes and outcomes more public where this does not conflict with the national interest.

Psychologically, however, it is terrifying: I understand that. But public institutions should not duck public accountability.

Capability: how can we make change happen?

Assuming that we are willing to fix ICT procurement data, opportunities and reporting, who should be tasked with the work? Logic dictates that the parties that have had the opportunity to enact change and have not done so should take a back seat now.

The Department of Finance has owned the ICT procurement dataset for many years but has failed to materially improve its quality.

Likewise, the instinct of the Digital Transformation Agency has been to withdraw insights from the public gaze – not limited to procurement, but also including the performance of government digital services.

It has almost ceased to perform (still mandatory) Digital Service Standard assessments and has killed off its very basic digital service reporting dashboard. Implicitly, both agencies have disqualified themselves from the task.

And what of the profession and practice of technology procurement itself? Let's be clear: public sector ICT procurement does not perform to the standard of its private sector counterparts.

The ANAO's 2020 report on ICT panels kicks off by explaining that "*procurement is the process of acquiring goods and services*", and sadly, this very tactical definition accurately reflects the role and expectation of ICT procurement in government today.

Federal ICT procurement essentially functions as a conveyor belt for goods and services into government in ways that comply with the Commonwealth Procurement Rules. Industry models are both more sophisticated and more accountable.

Most adopted a category management mindset over a decade ago. Category management is a strategic approach in which procurement professionals are responsible for the development of a supply segment, including its spend profile, supply base, and market facing activities.

They are also accountable for the attainment of agreed cost and quality targets. Leading industry functions have extended their reach beyond go-to-market activities, and they actively manage post-sourcing supplier relationships and supplier performance.

They recognise, for example, that sophisticated suppliers have multiple touchpoints within their organisation and coordinate their own responses at a strategic level. They know that unmanaged contracts typically bleed 40 per cent to 60 per cent of their benefits over a three-year lifespan and they track both benefit delivery and relationship status.

The ICT Procurement Taskforce, as well as more general and more recent reviews of APS capability, called out the difficulty of attracting top procurement talent or training it up in-house. Procurement is not a federal career path.

The current challenge for public sector buyers, supported neither by the digital-age procurement platforms that could inform their go-to-market activities, nor by professional formation or qualifications, is that they may not have the expertise to articulate an optimal procurement outcome, or even to recognise one.

This combination of capability and will is the void at the heart of our current ICT procurement. If we are to bridge it – to take ICT procurement as seriously as industry counterparts do – we need at a minimum to take the actions I have outlined.

These actions are acknowledged as “far-reaching improvements” by former Assistant Minister Angus Taylor in his response to the report of the ICT Taskforce.

I am therefore proposing that we create an independent, ICT commercial services agency. It could easily be funded by the transaction clip on whole-of-government ICT contracts that netted the DTA a cool $36 million in Financial Year 2020-21.

This agency would operate on leading-practice commercial principles and do so transparently to the public. Although a central agency mandate would (sadly) be necessary to its success, it would combine a centre-led approach with the service mentality familiar to procurement professionals.

It would also help to other agencies and tiers of government, and to the not-for-profit sector. It would be responsible for curating ICT spend data and assuring its accuracy. It would be responsible for open data and open contracting initiatives as evidenced in other jurisdictions.

Its category managers would provide market intelligence and sourcing expertise to support agency buyers whose work does not bring them into regular contact with ICT supply markets. These category managers would look beyond sourcing activities to understand and manage the nature and extent of supply relationships and supplier performance and to shape the post-sourcing environment.

They would develop and lead overall supply strategies to deliver on the government’s digital and technology directions. They would be responsible for social and environmental procurement targets, as well as for the overall cost and quality performance of their category.

This is not an outrageous vision. It merely describes the everyday function of a professional procurement operation in the private sector.

Such an operation would also be running catalogue-based transactional procure-to-pay and e-tendering platforms of the kind that would be useful to government; evaluating supply chain risk levels; and developing the professionalism of its people.

Indicatively, at least in the early years of their establishment, highly effective procurement teams could reasonably be expected to deliver ten times their cost (‘10x’) as financial benefits to the bottom line of their customer base.

Beyond Procurement 101

But there *is* an outrageous proposition, and it is one that public sector procurement is uniquely positioned to deliver. This is not a new idea, as it underpinned the National Innovation & Science Agenda (remember that?) funding for the Digital Marketplace.

The proposition is to consciously deploy government ICT spending as an instrument of economic and social policy.

Procurement is a natural organisational gateway, facing as it does both inwards to its clients and outwards to its supplier base. As the voice of the organisation, it articulates customer needs to suppliers, while its supply market development activities should ensure that a range of sellers are nurtured to compete successfully.

Several government initiatives also seek to achieve a competitive local supply market and do so through the ‘hand out’ route of funding. Procurement’s opportunity is to provide a hand up, by awarding business, building supplier reputations through referenceable contracts, and helping smaller entities understand how to service large organisations.

At our point on the maturity curve, this is an aspiration rather than a practical proposition. I have touched here on only a few foundational practices and precepts for sound public sector procurement.

Other challenges remain, including, for example, the intense geographic supplier concentration on Canberra; the SME procurement percentages that embrace 200 employee firms, the dearth of industry and government technology policies to which procurement efforts can align, and the need to rethink ICT budgeting and funding for the digital age.

The DTA advice on procurement innovation leads off by recommending that buyers "consult multiple sellers to determine suitable products or services" as an alternative to "a traditional sourcing approach."

Let's start with correcting the basics such that consulting multiple suppliers doesn't head the innovation checklist.

Perhaps then the ANAO can rewrite its definition to say: "*government procurement is the active lifecycle management of supply markets in order to achieve transparently reported technology, financial and social outcomes that promote better government and the wellbeing of the people*".

And then, when our rhetoric is not louder than our actions, we can chart the contribution that really visionary procurement could make.

Stirring the pot on marketplaces and panels

Catherine Thompson
InnovationAus Contributor
3 September 2020

Whether by chance or design, the ANAO's recently released and snappily titled "Establishment and Use of ICT Related Procurement Panels and Arrangements" contains all the ingredients for an interesting dish.

Those ingredients are transparency in government IT procurement; value for money; and the appropriateness of the panel construct to deliver either. The pot just needs a more vigorous stir.

Procurement panels are generally established through deeds. Fun fact: deeds are quaint legal instruments, untroubled by the digital age, that can be signed on parchment ("a writing material made from specially prepared untanned skins of animals" – Wikipedia) or vellum (calfskin) if you're out of 80GSM. And as such they are symbolic of the modernity of government's IT procurement thinking.

Panels were originally created to sidestep the cycle time and effort of competitive tendering. They establish groups of pre-qualified suppliers that can then be contracted directly without further competitive process.

Over the years, panels have become a central construct of government IT procurement. Department of Finance rules and guidance have crystallised around them and these form the prism through which the ANAO conducted its audit.

In an environment where panels contracted in vellum are the answer, it's to be expected that born-digital, alternative contestability models like the Digital Marketplace won't thrive. They don't fit this model and can't be explained by it.

Nonetheless, an unspoken tension between existing standards and the possibility of something different is evident in the ANAO's report. The underlying question – one hinted at cautiously – is whether panels remain the most appropriate response to procurement challenges in the digital age. Whether, if we were building from scratch, with all the advantages of digital transformation, we'd again opt for panels.

Certainly, they can be a speedy way to buy. The rules explicitly permit panel providers to be engaged without further commercial process, regardless of the magnitude of the purchase.

The ANAO's report highlights a $12.3 million award made on this basis. By way of contrast, non-panel procurements over $80,000 must include competition. The rules also say that panels comprising a single vendor are acceptable.

Both these practices are predicated on the questionable belief that the establishment of a panel provides as robust a competitive environment as a tender. In a typical tender, winner takes all and competitive tension sharpens minds and offers. In a call for panellists, there are as many winners as can satisfy the panel criteria.

In a tender, there is an actual use-case against which bidders' solutions and pricing can be objectively assessed, whereas a call for panellists relies on proxies such as rates schedules and capability statements. Realistically, a panel assessment can establish only that a vendor is likely to provide value for money if presented with an actual opportunity.

Shifting the point of assessment to the front end, prior to the need for a purchase, runs the risk that "value for money" becomes a theoretical exercise.

Lack of transparency is a risk factor

All panel procurements are however classified as open tenders, irrespective of whether or not a competitive process is followed. This opacity is not atypical of government's IT procurement practices, despite Commonwealth Procurement Rules requiring procurement activities to "facilitate accountable and transparent decision making".

Checklists and advisories for buyers that would shed light on government assessment criteria are hidden behind the DTA's procurement portal. A 2017 commitment to delivering a dashboard of IT spend remains unactioned. A previously reliable Finance report on IT spend is no longer published (and an email to their contact address went unanswered).

Perhaps as a result of these challenges, the ANAO themselves struggled to quantify government's IT spend, hazarding that it topped $3.9 billion. This is more than $2 billion shy of the 2017 ICT Procurement Taskforce's calculations. So we are talking material difference.

Cumulatively, a lack of transparency in procurement matters is important. It's said that sunshine is the best sanitation. Certainly, working in the open is a powerful disincentive to malpractice and fraud. The report's intriguing reference to ongoing investigations into "fraud allegations relating to the supply of IT contractors" provides a nod in this area.

Where outcomes and spend data lack transparency, signals about the health of the procurement ecosystem can be missed. Where outcomes can't be assessed, the process that delivers the outcome becomes the logical point of scrutiny. And where that process is locked into obsolescent ways of thinking about procurement, this becomes problematic.

Ultimately, it can lead to confusing a high compliance environment with an effective control environment, when the two are not always the same.

The Digital Marketplace was not born of the existing system

The Digital Marketplace was a born-digital alternative contestability model that worked in a way that's very different from a panel. Marketplaces use transparency of data and open access to opportunity to regulate price and quality outcomes.

Digital technologies allow them to do this at scale and speed, and to overcome some of the tendering challenges to which panels are currently the preferred solution.

Though it now operates purely as a government procurement platform, the Marketplace's foundational mission and funding from the National Innovation and Science agenda was to use government's power as a buyer to help develop the domestic technology sector.

In other words, to operate as an instrument of economic policy in relation to technology SMEs.

Sellers whose narratives needed fine tuning received feedback from Marketplace, and this was characterised in the ANAO report as allowing failing suppliers multiple attempt to meet the mark.

However, the practice of providing commentary that assists vendors to evolve their offering isn't a new one. In procurement circles, it's known as "supply market development" and is used as a tool to enhance

longer-term market competitiveness. For many of these SME suppliers, it was their first experience of interacting with government.

The Marketplace worked in a way that's very different from a panel, with a two-tier assessment model that started by introducing new sellers and their expertise in an online format that was discoverable by government buyers and any member of the public.

Potential providers who wanted to go further and actively participate in procurements applied for assessment to join the panel construct that (of necessity) supported the community of active sellers. This assessment focussed heavily on capability, because the mechanism for assessing pricing was the action of the Marketplace itself.

Rates bid by suppliers for digital specialist services were collated and posted on the marketplace, so that buyers and sellers alike could see demand and price curves by role, together with the amount of competition, and modify their pricing and purchasing strategies according to the evolving supply market dynamic.

The Marketplace was designed for buyer "briefs" for digital outcomes to be posted openly on the Marketplace and all qualified suppliers to be able respond to them. The Marketplace process is designed for the market to come to the buyer, and not the other way around.

Most government buyers work across a wide range of purchases and don't have strong connections with individual supply markets. If required to select a bidlist, they are likely to pick suppliers with whom they're already familiar, biasing the process against newer and smaller participants.

The ANAO's report fundamentally misconstrues proper Marketplace operation by suggesting that buyers start their procurement by selecting a bidlist. Unfortunately, it's now an easy mistake to make.

As the Marketplace increasingly resembles familiar procurement models, a decreasing percentage of opportunities is open to all sellers (~30 per cent currently).

Reverting to a system in which only certain suppliers are invited to bid reduces both the transparency of government opportunities (the opportunity information is hidden behind a login wall) and the ability of new sellers to connect with government.

The practice of restricting respondents also challenges the value for money equation, because it reduces competition, especially from nimbler and more innovative competitors.

Value for Money

Do panels deliver value for money outcomes? Without more publicly available data points it's hard to say. They are one link in the chain of contributors to value. But they should no longer be the link by which all others are defined, because, as NISA put it back in 2015:

"We are committed to changing the way government delivers to Australians by trialling good ideas, sharing information, looking for innovative suppliers and changing our policies when they are not working.

It has often been easier for government to continue with the ways things have been done rather than embrace new technological opportunities. We are making government digital by default and opening up procurement and data to encourage innovation in Australian business"

IBM govt contract renewal: It's deal time!

Catherine Thompson
InnovationAus Contributor
20 September 2022

In 2018, the then-Minister for Digital Transformation Michael Keenan announced a wide-ranging five-year whole-of-government contract with IBM. With an estimated contract value of $1 billion, this contract has recently been confirmed by the Digital Transformation Agency to have exceeded $2 billion. (This is good news for the DTA, which charges other agencies and departments a fee for using the contract).

The announcement was somewhat controversial at the time, as it ran counter to a recommendation of the 2017 ICT Procurement Taskforce to cap the quantum and term of agreements. This simple measure aimed to reduce the market dominance of very large providers and the likelihood of vendor lock-ins, as well as compelling more frequent reappraisals of the government's largest and most complex technology supply relationships.

Subject to these restrictions, the Taskforce took a pragmatic view of vendor-based sourcing, which is the practice of aggregating disparate relationships with a provider into one 'best of' deal. Logic dictates that these relationships will have been negotiated at different times, by buyers with varying expertise and leverage, and with uneven levels of success.

Vendor-based sourcing asks a provider to acknowledge the total value of the buyer's relationship and reflect it in consistently preferential pricing, and in other ways, such as early and better access to scarce resources and new products, and continuing support commitments to obsolescent infrastructure.

Vendor-based sourcing is tricky to do well the first time as it requires buyer skill and diligence to develop spend, performance and future-needs insights. Arguably, the doubling of the estimated spend from $1 billion to $2 billion indicates some deficiencies in that regard.

But, now that the DTA has confirmed that it's looking to conclude its renegotiation in the next few months, what would a renegotiation of the IBM contract look like? And how would professional buyers approach this task?

Let's assume that the original agreement contained provisions for regular detailed reporting, so that a complete spend picture has been built up over the past four years, and that this has informed the DTA's $2 billion view of contract value at a line-item level.

Let's further assume that during these years, a government Supplier Relationship Management/Supplier Performance Management (SRM/SPM) team has been actively managing the relationship with the vendor. Procurement wisdom holds that unmanaged contracts bleed 40 per cent to 60 per cent of their identified value over their term, so the work of this team will have been crucial.

The SRM/SPM team will have forged positive relationships with agency buyers and will understand their future technology needs, budgets, and disposition towards the contract. They will possess detailed insights into vendor performance and will have managed compliance to contracted service standards.

They will have challenged and rectified anomalous pricing. They will have orchestrated demand by identifying unused assets and moving them to new areas of need, and by seeking to reduce overall

consumption (although, admittedly, a procurement team funded by pay-to-use contracts may not have a strong appetite for demand management activities).

In the course of regular review meetings, they will have come to understand the vendor's perspective very well and will be capable of interpreting it for the negotiation team.

It's the job of the negotiation team to craft this wealth of qualitative and quantitative data into a strategy. The team will make efforts to understand the web of agency relationships and their procurement drivers, and to ensure support for the renegotiation approach.

Crucially, they will brief stakeholders on the messaging to reflect to the vendor (who, for their part, will be seeking insights on the team's intent from all agency touchpoints).

The team will balance services that are unattractive to the vendor but important to the buyer, such as maintaining obsolescent hardware, with more tempting growth and high-margin products and services.

This task will be easier if the original contract made all supply arrangements coterminous, and able to be cleanly renegotiated as a package. The team will also have identified any products or services that escaped inclusion in the original agreement and will be seeking to incorporate them.

If the original negotiators were careful, they will have contemplated that spend could exceed the estimated $1 billion and included tiered discounts into the pricing. If they did not, the new negotiators will want a retrospective rebate as a precondition for re-signing.

These rebates normally represent some proportion of the margins derived from the windfall business. Assuming that preferential pricing is based on discounts from list, they will want to ensure that the referenced price list is the lowest priced of all the lists that exist. This is a wily old supply tactic that remains surprisingly effective.

Next, the negotiation team will look at what was promised in the original agreement and what has been delivered.

The DTA's then-CEO estimated a financial benefit of $100 million over the term of the contract. Government doesn't operate as rigorously as the private sector in locking in P&L extractable benefit from procurement, so this might be a second order consideration for the team.

Even so, it goes without saying that they will raise an eyebrow at "the more you buy, the more you save" benefit claims where there is such a large spend estimate overrun.

The joint IBM/federal innovation programs in cyber and quantum announced as part of the original deal are another matter entirely and require closer scrutiny.

The best case is that they represent an example of the marketing puffery that often accompanies big contract signings. The next best case is that these programs fell off the radar and haven't progressed. They will certainly have been priced into the deal, though, and a simple rebate request should cover this eventuality.

The worst case would be if these joint innovation programs had successfully completed. Joint programs inevitably establish a valuable inside track for a vendor, including opportunities for commercialisation and lock-in. They also implicitly endorse the vendor's capabilities to other buyers.

The IBM/DTA joint innovation programs targeted quantum and cyber, both of which are globally significant technology growth sectors. Domestic SME entrepreneurs in both sectors were entering the

world stage in 2018. Quantum scientist Michelle Simmons had been named Australian of the Year before the IBM deal was inked and was spearheading leading-edge onshore quantum thinking.

The federal government's Cyber Industry Growth Centre (AustCyber) had already established a domestic cyber innovation ecosystem. It is challenging to understand how, in these circumstances, it made sense to privilege a giant multinational for these two program opportunities.

Government ICT procurement can be a powerful instrument of social and economic policy. The renegotiation team will want to consider how the content of the new agreement should be reshaped in line with a broader strategy of domestic supply market development.

They might look to the ideas of the National Innovation and Science Agenda to develop such a strategy, or to the ICT Procurement Taskforce report. They might want to consider the original agreement's proposal to invite SMEs to become "channel partners" to IBM, and how this has operated over the past four years.

It's likely that with such a powerful prime contractor, any SME will have been an invisible subcontractor with no independent profile to government. This renewal should deliver strategy, not just pricing.

And this brings us to the single most important task for the negotiation team: to correctly characterise the relationship between buyer and seller. The way in which the IBM renegotiation proceeds, and its desired outcomes, will both be framed by this understanding.

Is it a key technology partnership, as heralded by IBM's original press release? In procurement circles, it's generally considered that partnerships are defined by shared risk and reward. Are those characteristics present here? Or are we just looking at a very substantial commercial supply agreement?