

**Community and Public Sector Union  
Submission:**

**Inquiry based on Auditor-General's  
report No. 19 (2017-18)**

**February 2018**

## Introduction

The Australian Public Service plays a vital role in Australian society and Government. All Australians benefit from a public sector that can meet the big national challenges and deliver quality public services.

However, the Government's cutting of 14,000 APS jobs and increased use of consultants, contractors and labour hire is causing serious damage to the APS. Essential skills are being lost, and the capacity of the APS is being hollowed out, while valuable funding, in a highly constrained resources environment, is being wasted on expensive external providers.

The increased use of contractors and labour hire is being driven by Government's imposition of an arbitrary staff cap that forces agencies, even where they have available budget, including new program funding, to avoid any direct employment of additional staff. This then requires agencies to use labour hire and contractors for work better done through direct employment in the public service.

The CPSU believes the JCPAA's Inquiry to be very important for the APS and for the community. The full extent of Government expenditure on consultants, contractors and labour hire is being obscured by substantial deficiencies in how this expenditure is tracked and reported. This lack of transparency is unacceptable.

The impacts of job cuts and the increased use of external providers is being deeply felt across the APS. Public servants care deeply about the quality of their work and the quality of service to the community – and staff are increasingly angry about the problems they are seeing around them.

It is now urgent to reduce the use of external providers and rebuild APS staff numbers and skills.

In doing so, the Government's goal should be to provide the community with world-class public services. Achieving that goal requires:

- Abolishing the ASL cap
- Eliminating labour hire
- Placing a cap on agency expenditure on consultants and contractors, and reinvesting the savings to build APS staff and internal capacity
- Applying the merit principle of the Public Service Act, and
- A long-term commitment from Government to provide satisfactory funding.

As Terry Moran argued in his IPAA Victoria Fellows' Oration, "reinvesting in policy memory and capability, encouraging frank advice, and improving service delivery know-how is the way forward if the APS is to think for itself and be the crucible for reform that it can and must be for Australia to thrive."<sup>1</sup>

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<sup>1</sup> Terry Moran AC. (2017, 21 November). 'Back in the Game' IPAA Victoria Fellows' Oration. Retrieved from <https://cpd.org.au/wp-content/uploads/2017/11/Terry-Moran-AC-IPAA-Victoria-Oration-21-November-2017.pdf>

## Recommendations

1. Review current categorisation of information in AusTender and provide improved guidance and staff training to help ensure consistency.
2. Regular spot reviews (including analyses of individual contracts) to ensure the accuracy of contract information in AusTender.
3. The Commonwealth should abolish the average staffing level cap which is driving outsourcing and the use of labour hire, reducing APS capability, increasing costs, undercutting wages and conditions, and denying agencies the ability to determine appropriate staffing mix.
4. To restore transparency and accountability in the expenditure of public monies, the Commonwealth should
  - publish annual service-wide information on the:
    - i. total expenditure on consultants
    - ii. number of non-APS employees (inclusive of contractors, consultants and labour hire) as part of the total APS workforce.
    - iii. percentage breakdown of tender method.
    - iv. percentage of contracts adjusted after tender.
  - require agencies to publish in their annual reports the number of non-APS employees that are part of their agency workforce.
5. The Commonwealth create a central clearinghouse for evaluating the performance of companies across multiple contracts, sharing what is learnt, advising public bodies and enforcing contract standards.
6. Rebuild public sector service delivery and policy development capacity through:
  - Identifying public sector work that has been outsourced or contracted out and should now be brought back in house; and
  - Identifying savings in the use of consultants and contractors, and then reinvesting those savings into rebuilding public sector capacity.
7. Strengthening the capability of the APS to offer stewardship and frank advice in the public interest by increasing the number of secure permanent jobs in the public service, through eliminating the use of labour hire in the public service, and reducing the use of contractors, casual and non-ongoing positions, and increased funding.
8. The Commonwealth reconsider digital transformation as an opportunity to improve services, rather than an opportunity to cut costs, by:
  - investing in staff;
  - reducing its reliance on ICT contractors and consultants;
  - providing adequate funding in the Budget to invest in ICT systems and training that support digital government service delivery; and
  - involve and utilise staff and the wider community in the development and delivery of public services.

## Effectiveness of Commonwealth procurement policy and guidance

### *Key points*

- There has been a decline in procurements through open tenders.
- Panel tenders have increased.
- A small number of suppliers dominate panel arrangements.
- The Finance Department guidance on what is a consultant versus a contractor is not always clear.
- The definition of 'consultancy' is not consistently applied by agencies, and contracts are regularly categorised incorrectly.

### **Commonwealth Procurement Rules**

The Commonwealth operates a devolved procurement framework.<sup>2</sup> The Department of Finance is responsible for establishing and promoting the Procurement Framework which applies to all Commonwealth corporate and non-corporate entities. Each entity is responsible for its own procurement processes and decisions.

Central to the Procurement Framework are the Commonwealth Procurement Rules (CPR) which mandate that procurement must achieve value for money.

Competition among suppliers is essential to achieve value for money, and competition is best achieved through open tender processes. Therefore, CPSU notes with concern the ANAO report that<sup>3</sup>:

- Of total procurement value in 2016-17, less than half was procured through an open tender.
- This is the lowest rate of open tender for some five years.
- The use of panel arrangements has increased since 2014-15, and,
- A large majority of panels examined had a relatively small proportion of suppliers awarded the majority of contract value.<sup>4</sup>

A recent contract for Adecco Pty Ltd to supply labour hire workers for DHS is a case in point:

- This is a very large contract for the provision of 1,000 labour workers for multiple years.
- This contract was not subject to an open tender.
- The contract was awarded from a panel.

Leaving aside for the moment the very serious issues about labour hire use (covered in detail elsewhere in this submission), the tender process for this contract does raise serious questions about how value for money was achieved and whether all potential suppliers had an opportunity to compete.

The CPSU submits that the trend away from open tenders, and the potential for panel provision to be dominated by a limited number of suppliers raises important challenges for the CPRs and is therefore worthy of further detailed examination by the ANAO and others.

### **Definitions and the clarity and appropriateness of guidance materials**

The Commonwealth Procurement Rules (CPR) mandate that procurement must be competitive, not disadvantage small and medium enterprises, and be transparent.

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<sup>2</sup> Department of Finance (2018, February). Submission to the Joint Committee of Public Accounts and Audit - Australian Government Contract Reporting - Inquiry based on Auditor-General's report No. 19 (2017-18) Part A

<sup>3</sup> The Auditor-General (2017, December). ANAO Report No.19 2017-18 Information Report: Australian Government Procurement Contract Reporting. Retrieved from <https://www.anao.gov.au/work/information/australian-government-procurement-contract-reporting>

<sup>4</sup> The Auditor-General (2017, December). ANAO Report No.19 2017-18 Information Report: Australian Government Procurement Contract Reporting. Retrieved from <https://www.anao.gov.au/work/information/australian-government-procurement-contract-reporting>

Accurate categorisation of the type of tender or contract is essential to meeting those rules. A fundamental categorisation question is whether a contract is a consultancy or non-consultancy contract. This is an important distinction as it goes to the heart of the purpose of the procurement.

Consultants are distinguished from other contractors by the nature of the work they perform.

One of the distinctions is the output is being produced for the agency (consultancy contract), or on behalf of the agency (non-consultancy contract).<sup>5</sup>

And while the Department of Finance produces guidance material on the matter, the guidance material itself is not always clear. CPSU notes that guidance material states that the nature of each contract involving the provision of services must be assessed on a case-by-case basis to determine whether it involves a consultancy for the purposes of AusTender reporting. This creates the prospect of inconsistency in agency application, and increased scope for incorrect categorisation.

The clarity of the guidance is further clouded by the provision that case by case determination is applied even where the contracted party purports to be a provider of consultancy services.

Furthermore, while the guidance provides a list of common consultancies and non-consultancies, it states that the list is not definitive and there will be cases where the nature of the arrangement is 'grey', requiring a judgement call. This creates further scope for incorrect categorisation.

Incorrect categorisation undermines the transparency of the tender and reportage system, and creates the situation where neither government, the APS nor the public can be entirely clear about what is being spent for what purpose.

This problem is further exacerbated by Department of Finance guidance which provides that entities do not need to separately identify minor consultancy elements in non-consultancy contracts, or particular invoices relating to consultancy work performed under an overarching contract.<sup>6</sup> This approach means that expenditure and outcomes on some consultancy work will go unreported.

ANAO Report 19 has clearly identified that there are serious issues with the application of this categorisation. The ANAO report confirms long held CPSU concerns that the combination of central guidance that lack clarity and devolved procurement framework with high volumes of contracts is a recipe for inaccurate and inconsistent reportage.

The CPSU recommends there should be:

- A review of the categorisation of information in AusTender
- Improvements to Department of Finance guidance material, and
- The provision of further staff training across the APS.

The Commonwealth should then seek further assurance by way of regular spot reviews (including analyses of individual contracts) to ensure the accuracy of contract information in AusTender.

**RECOMMENDATION:** Review current categorisation of information in AusTender and provide improved guidance and staff training to help ensure consistency.

**RECOMMENDATION:** Regular spot reviews (including analyses of individual contracts) to ensure the accuracy of contract information in AusTender.

<sup>5</sup> Department of the Prime Minister and Cabinet (2015, 25 June). Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies

<sup>6</sup> Department of Finance (2014, 10 July) Additional Reporting on Consultancies. Retrieved from <https://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/reporting-requirements/consultancies-reporting/principles.html>

## Use of consultancy and non-consultancy services in the APS

### Key points

- Between 2013 and 2017 APS staffing levels were cut by 14,044. During this period consultancy expenditure increased markedly.
- The Average Staffing Level cap is driving the increased use of contractors, consultants and labour hire
- Agencies are forced to have a maximum average staffing level, even where there is funding available for the direct employment of staff, creating a perverse incentive to employ contractors, consultants or use labour hire.
- The Productivity Commission has recommended the removal of the staffing cap.
- Budget operational rules prevent new policy proposal funding from using new APS staff and this has further driven use of contractors or labour hire
- There are questions about the accuracy of consultancy expenditure published in AusTender which may be much higher than reported.
- It is difficult to determine exactly how much has been spent on specific types of non-consultancy services such as the use of contractors and labour hire.
- The share of ICT contractors has grown over the past five years and spend on internal ICT personnel has fallen accordingly.

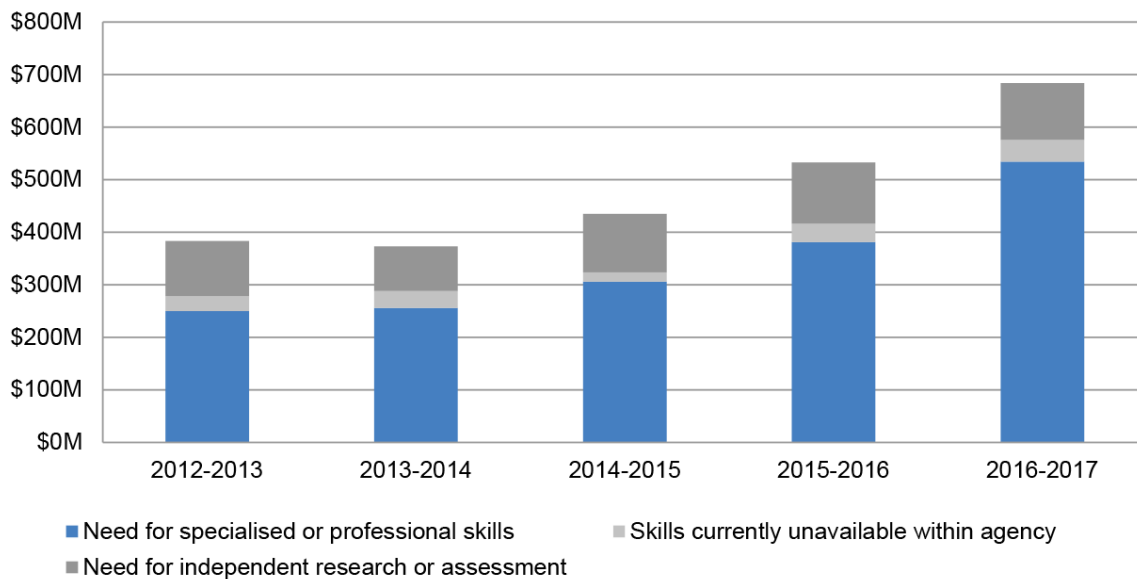
### Drivers of use

#### Job cuts

Jobs cuts have been a major driver of the increased use of consultants and contractors.

As the current Government slashed 14,044 APS jobs between 2013 and 2017, there has been a corresponding rise in consultancy expenditure. The recent ANAO report, at Figure 5.1, makes this clear:

**Figure 5.1: Consultancy contract value by consultancy reason and financial year (2012–13 to 2016–17) <sup>7</sup>**



<sup>7</sup> The Auditor-General (2017, December). ANAO Report No.19 2017–18 Information Report: Australian Government Procurement Contract Reporting. Retrieved from <https://www.anao.gov.au/work/information/australian-government-procurement-contract-reporting>

The CPSU notes the increase in the number of consultancies for the provision of specialised or professional skills. The CPSU submits that this represents the capability gap caused by mass redundancies.

This increased expenditure is also evidence of the false economy of public service cuts – as the work of APS employees is replaced by expensive external providers.

It is also the case that deficiencies in the AusTender reporting regime result in the under reportage of consultancy use, and that the actual expenditure is most likely to be larger than that reported.

### **The Average Staffing Level cap**

Under the current Coalition Government, a major driver of the use of non-consultancy services in the APS is the average staffing level (ASL) cap.

In October 2013, the newly elected Coalition Government commenced a program of job cuts. Then in the 2015-16 Budget, the Coalition determined that the general government sector employment levels (excluding military and reserves) must be kept at or below 2006-07 levels (167,596).<sup>8</sup>

This decision created an average staffing level cap that is below the actual funding level of the agency. This means that regardless of funding levels or operational requirements, agencies are forced to have a maximum average staffing level equal or below their 2007 staffing level.

The practical effect of the ASL cap is that while agencies have the funding, including new program funding, to hire additional staff, the cap is forcing them to avoid any direct employment of additional staff and instead engage casuals, hire contractors and use labour hire to do work that would normally be performed by permanent APS employees.

Examples of the impact of the cap are now numerous, including:

- Within the Department of Social Services, CPSU delegates have been told by branch managers that DSS cannot not recruit new APS employees, and that new work and work once performed by APS staff made redundant must now be done by contractors.
- The Australian Taxation Office (ATO) has indicated to CPSU it has a financial year staffing cap of 18,043<sup>9</sup> and although it has funding for more employees above the cap level they are prevented from hiring APS employees and therefore must resort to labour hire and contractors.
- It is a similar story at the Australian War Memorial which has a cap of 278, and an increased use of labour hire.

The National Disability Insurance Agency (NDIA) is a notable example of how the staffing cap is impacts on the capacity of APS agencies. It has a staffing cap of 3,000 employees, a significant reduction from the NDIA's initial estimate of 10,595 in 2018-19.<sup>10</sup> The reduction has driven by the outsourcing of 7,000 future NDIA staffing positions.<sup>11</sup>

The current staffing cap of 3,000 people has meant the NDIA needs to outsource much of its work. This presents a particular risk when the agency is so new, and therefore needs to build institutional expertise and knowledge.

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8 Commonwealth of Australia (2016, May) 2016-17 Budget, Budget Paper No.4 Part 2: Staffing of Agencies. Retrieved from [http://budget.gov.au/2016-17/content/bp4/html/09\\_staff.htm](http://budget.gov.au/2016-17/content/bp4/html/09_staff.htm)

9 Australian Taxation Office, National Consultative Forum November 2017 report

10 Commonwealth Government (2016). 2016-17 Budget Paper No.4 – Part 2: Staffing of Agencies.

[http://www.budget.gov.au/2016-17/content/bp4/html/09\\_staff.htm](http://www.budget.gov.au/2016-17/content/bp4/html/09_staff.htm)

11 Luke Bo'sher (2015, 15 September). 7,000 NDIA jobs to be outsourced. Disability Consulting Services [http://www.disabilityservicesconsulting.com.au/resources/7000-ndia-jobs-to-be-outsourced/#\\_edn2](http://www.disabilityservicesconsulting.com.au/resources/7000-ndia-jobs-to-be-outsourced/#_edn2)

Almost one-third of the NDIA's internal staff are contractors. Many staff at the NDIA do not have long experience with the APS. A third (34.7%) of NDIA staff have a length of service of less than a year compared to a tenth (8.1%) across the APS.<sup>12</sup>

The Productivity Commission has recommended the removal of the cap on directly employed NDIA staff:

*"The Commission recommends that the Australian Government remove the cap on directly employed staff. This is on the basis that the NDIA is best placed to determine the most effective and efficient staff mix to deliver the scheme, within the constraints of its capped operating budget."<sup>13</sup>*

The Commission also identified a link between the staffing cap and outsourcing:

*"The rationale for the cap on directly employed staff appears to be to encourage the NDIA to enter into community partnerships. While it is important that the NDIA works collaboratively with the community to deliver the scheme, it could also lead to poorer outcomes. For example, the NDIA outsourcing a lot of its work can present a particular risk when the agency is so new and needs to build institutional expertise and capability."<sup>14</sup>*

There are further examples of the staffing cap driving outsourcing.

Between 2010-11 and 2016-17, 5,547 or 16% of jobs were cut from the Department of Human Services. Another 1,118 ASL are estimated to go in 2017-18, meaning a loss of 6,192 ASL since 2010-11.

Those job losses are causing substantial problems for the community and for staff – with 55 million missed phone calls in the past year, up from 29 million the previous financial year or nearly 90 per cent.<sup>15</sup> Clients are angry and frustrated while staff are under enormous pressure.

The Department, in response to an ANAO report, estimated that reducing the average speed of answer to five minutes would require an additional 1,000 additional staff.<sup>16</sup> However, the Government has not acted on this recommendation, but has instead contracted Serco to provide 250 call centre jobs, and contracted Adecco to provide 1,000 labour hire workers.

In Senate Estimates, the Department of Human Services responded to questions about why Serco was being engaged, stating that *"we currently recruited all the way up to our ASL cap"* and that they were *"fully staffed"*.<sup>17</sup>

Other examples of contractors or labour hire being used because of the staffing cap include

- The Commonwealth Department of Public Prosecutions being forced to convert APS employees to labour hire – at increased cost to the CDPP while also paying the labour hire employees less.<sup>18</sup>

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12 Data from APS Employment Database, 31 December 2016

13 Productivity Commission (2017). National Disability Insurance Scheme (NDIS) Costs, Study Report, Canberra. Retrieved from <http://www.pc.gov.au/inquiries/completed/ndis-costs/report/ndis-costs2.pdf>

14 Productivity Commission (2017). National Disability Insurance Scheme (NDIS) Costs, Study Report, Canberra. Retrieved from <http://www.pc.gov.au/inquiries/completed/ndis-costs/report/ndis-costs2.pdf>

15 Stephanie Dalzell (2017, 26 October). More than 55 million calls to Centrelink receive engaged signal in 2016/17, Senate Estimates hear. Retrieved from <http://www.abc.net.au/news/2017-10-26/55-million-calls-to-centrelink-received-busy-signal-in-a-year/9086518>

16 Australian National Audit Office (2015), Audit Report No.37: Management of Smart Centres' Centrelink Telephone Services, p.56

17 Parliament of Australia. (2017, 25 October). 2017-2018 Supplementary budget estimates - Social Services and Human Services. Retrieved from [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/ca/2017-18\\_Supplementary\\_Budget\\_estimates](https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/ca/2017-18_Supplementary_Budget_estimates)

18 Noel Towell (2017, 14 August). Federal government to dump prosecutors for labour-hire lawyers. Canberra Times. Retrieved from <http://www.canberratimes.com.au/national/public-service/federal-government-to-dump-prosecutors-for-labourhire-lawyers-20170814-qxvo9i.html>



- Despite having the funds to keep 30 non-ongoing staff, the Australian Institute of Aboriginal and Torres Strait Islander Studies was forced to do a closed tender with Hayes and convert staff to labour hire to keep them beyond 1 July 2017.
- At the end of 2016-17 financial year, the Australian Institute of Health and Welfare at the end of last financial year moved a cohort of staff from being employed on rolling 12 month term contracts to labour hire to avoid their ASL cap. The agency tried to advocate to their relevant Minister that they needed the staff but got nowhere.

The Department of Home Affairs stated in a meeting with CPSU representatives that as staffing numbers will not increase under the ASL cap they need to look to alternate options from the market to deliver visa services. The Department is currently in the process of outsourcing their call centre functions as well as opening to market visa processing functions. The total value in 2026-27 of the bundle of visa processing services the Department is looking at privatising is estimated to be up to \$8.8 billion.<sup>19</sup> This proposal to outsource visa processing is straight out of the Abbott Government's National Commission of Audit.<sup>20</sup>

The ASL cap is also driving increased use of external providers in the Department of Defence. CPSU members in Defence have provided a separate submission to this Inquiry.

The ASL cap is subject to ongoing monitoring by the Department of Finance and the Australian Public Service Commission (APSC).<sup>21</sup> ASL information is collected and monitored by the Department of Finance and agencies are required to provide monthly employee headcount reports to the APSC to "monitor the funded size of agencies."<sup>22</sup> The APSC has indicated that "inappropriate growth in staffing numbers may result in case-by-case controls on agencies' recruitment activity."<sup>23</sup>

In summary, the ASL cap is creating a perverse incentive to use external providers.

The CPSU submits that the ASL cap is terrible public policy. It is based on a flawed ideological preference to contract out. It is also a deeply misleading, as on one hand the Government claims it is making savings through smaller government while it is in fact driving wasteful expenditure, hiring external providers to perform work that could be done more cheaply and more effectively by APS employees.

The ASL cap is also impacting on APS capacity, and has substantial negative impacts on employees. These concerns are covered elsewhere in this submission.

The CPSU therefore submits that the ASL cap must be abolished as a matter of urgency.

### **Budget Operational rules**

CPSU members in a number of agencies have also reported that Budget operational rules are also driving the use of contractors and labour hire.

The effect of the rules is to prevent New Policy Proposal (NPP) funding from being used to employ new APS staff.

The CPSU is aware of circumstances where a NPP was initially rejected because they included additional APS staff, but a revised NPP using external providers at a higher cost was then approved and this has further driven the use of contractors or labour hire.

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19 Department of Immigration and Border Protection (2017, June). Delivering visa services for Australia Market Consultation Paper

20 Australian Government (2014, February). The Report of the National Commission of Audit: Phase One. National Commission of Audit. Retrieved from <http://www.ncoa.gov.au/report/phase-one/recommendations.html>

21 Commonwealth of Australia (2016, May) 2016-17 Budget, Budget Paper No.4 Part 2: Staffing of Agencies. Retrieved from [http://www.budget.gov.au/2015-16/content/bp4/html/bp4\\_part\\_02.htm](http://www.budget.gov.au/2015-16/content/bp4/html/bp4_part_02.htm)

22 Australian Public Service Commission (2016, 14 December) Managing the size of the Australian Public Service. Retrieved from <http://www.apsc.gov.au/managing-in-the-aps/recruitment-and-selection/interim-recruitment-arrangements>

23 Australian Public Service Commission (2016, 14 December) Managing the size of the Australian Public Service. Retrieved from <http://www.apsc.gov.au/managing-in-the-aps/recruitment-and-selection/interim-recruitment-arrangements>

The CPSU recommends the Committee seek information from agencies, such as the ATO, as to examples where budget rules have led to the use of contractors/labour hire rather than APS staff.

RECOMMENDATION: The Commonwealth abolishes the average staffing level cap which is driving outsourcing and the use of labour hire, reduces APS capability, increases costs, undercuts wages and conditions, and denies agencies the ability to determine appropriate staffing mix.

#### Expenditure on consultancy services and non-consultancy

As noted earlier in this submission, consultancy expenditure has increased as the current Government have slashed more than 14,000 APS jobs.

The CPSU notes the increase in the number of consultancies for the provision of specialised or professional skills. The CPSU submits that this represents the capability gap caused by mass redundancies, and that this increased expenditure is also evidence of the false economy of public service cuts – as the work of APS employees is replaced by expensive external providers.

And while consultancy expenditure is extremely high, and has attracted substantial public comment and concern, the actual expenditure is likely to be much higher than that reported through AusTender.

The CPSU, like other interested parties, finds it difficult to accurately establish what money is being sent and for what purpose.

The Department of Finance's submission to this inquiry has stated that '*Austender does not report expenditure on consultancies, only the value of contract notices flagged as consultancies.*'<sup>24</sup> It further goes on to state that '*contract reporting does not equate to actual expenditure in a particular period. Consequently, the reporting of consultancy contracts on AusTender does not, and is not intended to, reflect the Australian Government's annual spending on consultancies.*'<sup>25</sup>

The Finance submission further states that actual expenditure on consultancies is reported in entities' Annual Report.

However, an extensive review by CPSU of annual reports reveals that they provide very limited information – typically just the number of contracts and overall new and ongoing spending with little to no detail about the reason for the procurement and no detail about outcomes.

This is unacceptable in a public sector environment where transparency and accountability should be paramount.

The situation with non-consultancy contracts is worse.

While information on contracts as consultancy services can be obtained from AusTender and was reported on in ANAO Audit No.19, it can be difficult to determine exactly how much has been spent on specific types of non-consultancy services such as the use of contractors and labour hire. Annual reports do not provide the information either, and typically group together consultancies and contractors.

The lack of information about labour hire use is especially problematic.

We define labour hire as that 'triangular relationship' in which a labour hire agency supplies a labour worker to a third party (host) in exchange for a fee. In this arrangement there is no direct employment

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24 Department of Finance (2018, February). Submission to the Joint Committee of Public Accounts and Audit - Australian Government Contract Reporting - Inquiry based on Auditor-General's report No. 19 (2017-18) Part A

25 Department of Finance (2018, February). Submission to the Joint Committee of Public Accounts and Audit - Australian Government Contract Reporting - Inquiry based on Auditor-General's report No. 19 (2017-18) Part A

or contractual relationship between the host and the labour hire worker. Instead, the worker is engaged by the labour hire agency, either as an employee or as an independent contractor

CPSU workplace research, through exercising consultative rights under enterprise agreements and gathering reports from CPSU workplace delegates, has been able to establish that the Commonwealth is employing thousands of employees via third parties.

Some information has been revealed through Senate Estimates. During the 2016-17 Supplementary Budget Estimates in October 2016, agencies were asked how many staff were employed through labour hire arrangements and total expenditure on labour hire in 2015-16. The table below summarises the answers to the Questions on Notice provided by agencies.

**Table 1: 2015-16 Labour Hire Expenditure and Staffing by Agency**

<b>Agency</b>	<b>Number of staff</b>	<b>Total expenditure on labour hire</b>
Department of Social Services	700	\$147,000,000.00
Australian National Maritime Museum*	21	\$2,910,657.28
Australian Taxation Office	736	\$83,099,937.76
Commonwealth Superannuation Corporation	40	\$4,492,408.25
Department of Human Services	467	\$43,296,022.34
Department of Health	439	\$36,482,550.85
Australian Bureau of Statistics	160	\$12,846,000.00
Australia Council	5	\$397,364.00
Department of Finance	99	\$7,700,000.00
Department of Agriculture and Water Resources	396	\$26,428,000.00
Australian Grape and Wine Authority	5	\$302,394.00
Climate Change Authority	1	\$52,280.17
Department of Infrastructure	166	\$8,643,175.00
Australian Prudential Regulatory Authority	70	\$2,899,617.82
Department of Veterans' Affairs	641	\$24,300,000.00
Productivity Commission	12	\$433,643.00
Indigenous Business Australia	9	\$322,731.00
Great Barrier Reef Marine Park Authority	12	\$422,000.00
Royal Australian Mint	13	\$412,627.86
Tertiary Education Quality and Standards Agency	42	\$1,294,451.00
Australian Skills Quality Authority	38	\$1,065,658.00
Australian Public Service Commission	18	\$470,682.00
Australian War Memorial	129	\$3,290,854.00
Sydney Harbour Federation Trust	28	\$685,506.54
Australian Accounting Standards Board/ Auditing and Assurance Standards Board	1	\$15,852.59
Australian National Audit Office	9	\$13,966.12
Australian Securities and Investment Commission	n/a	\$15,533,434.00
Bureau of Meteorology	n/a	\$7,913,535.32
Australian Pesticides & Veterinary Medicines Authority	n/a	\$3,091,901.00
Australian Communications and Media Authority	n/a	\$265,000.00
Department of Immigration and Border Protection	n/a	\$1,249,250.00
Department of Education	n/a	\$10,143,259.97
<b>TOTAL</b>	<b>4,257</b>	<b>\$447,474,759.87</b>

This table reveals that some \$447m was spent on labour hire in 2015-16 on more than 4,000 labour hire employees. And as large as that number is, it is not the full picture. The table does not include all APS agencies, and in particular does not include the Department of Defence – one of the largest users of external staffing, nor the NDIA – who have subsequently revealed that they have had to employ some 900 labour hire employees because of the ASL cap.

Since this information was provided, the ASL cap has driven further use of labour hire employees. The full extent of current labour use in the APS is unknown, having effectively been kept hidden by agencies and the Government. The CPSU estimates there are upwards of 5,500 labour hire employees.

### **Information and communication technology (ICT).**

One area where there is substantial available information about expenditure and the impacts of contractors is in ICT.

There have been a number of major inquiries and reports about government ICT over the previous decade. Each of these reports has produced the same findings:

- Decades of outsourcing and contracting out has substantially eroded APS ICT capability, to the extent that the APS is now overly reliant on external vendors.
- Contractors cost considerable more than APS employees
- APS ICT capability, and the quality of systems and services outcomes, would be improved by reducing the reliance on external vendors and rebuilding internal APS staff numbers and skills, and
- Substantial savings would be made by replacing ICT contractors with APS staff.

Since 2011-12, there has been a significant shift away from permanent APS staff to the use of contractors. The proportion of external ICT full time equivalents (FTE) grew from 23% to 30%, while the proportion of internal FTE decreased from 77% to 70%.<sup>26</sup> Between 2011-12 and 2015-16, the number of ICT FTE have been cut by government from 17,758 to 15,808 or 11.3% to 10.4% of total entities FTE.<sup>27</sup>

The 2015-16 ICT Trends report revealed that, on average, the labour cost of external FTE is \$213,906 while the labour cost of internal FTE is \$131,530.<sup>28</sup>

The most recent report was the 2017 ICT Procurement Taskforce report. It found that:

- 1 in 3 APS ICT workers are now contractors.
- The share of external ICT personnel has grown over the past five years and spend on internal ICT personnel has fallen accordingly, and
- That external providers continue to cost substantially more than APS employees.

The CPSU calculates that with approximately 4,700 ICT contractors engaged, it is costing in the order of \$385m more per annum than if those contractors were engaged as APS employees.

This decline in internal capacity and increased expenditure on external capacity has occurred over the same time that the ICT failures in government services have increased.

The CPSU recommends therefore recommends that the APS rebuild internal capacity through increasing APS staff numbers and reducing the reliance on external providers.

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26 Department of Finance. Australian Government ICT Trends Report 2015-16. Retrieved from <https://www.finance.gov.au/sites/default/files/ict-trends-report-2015-16.pdf>

27 Department of Finance. Australian Government ICT Trends Report 2015-16. Retrieved from <https://www.finance.gov.au/sites/default/files/ict-trends-report-2015-16.pdf>

28 Department of Finance. Australian Government ICT Trends Report 2015-16. Retrieved from <https://www.finance.gov.au/sites/default/files/ict-trends-report-2015-16.pdf>

## Transparency of reporting Commonwealth procurement

### Key points

- The number of consultants and contractors employed by the APS are not included in official statistics about the APS workforce in annual reports, the Budget or APSC publications.
- The most recent service wide analysis conducted by the ANAO in 2007, found non-APS employees (inclusive of contractors, consultants and labour hire) constituted 11 per cent of the total workforce.
- Annual reports have no requirement to provide information on non-consultancy contracts related to staffing nor details on the consultancy contracts themselves.
- The functionality of AusTender is extremely limited and is affected by incorrect reporting.
- A search for the keywords 'labour hire' in AusTender shows there is no consistent categorisation.
- The ANAO has noted common AusTender errors include inaccuracies in contract dates, contract values, procurement method, and categories of procurement.

### Effectiveness of the Commonwealth's reporting requirements and arrangements to foster consistent reporting across the Commonwealth

There are serious deficiencies with the effectiveness of the Commonwealth's reporting requirements.

As discussed earlier, there are substantial flaws in the reporting of consultant expenditure which make it difficult to determine the total expenditure and the outcome for that expenditure.

There are also major gaps in the reportage of non-consultancy contracts.

There has not been a service wide analysis on the use of contractors since a review was conducted by the ANAO in 2007. That review found that:

- Non-APS employees (inclusive of contractors, consultants and labour hire) constituted 11 per cent of the total workforce.<sup>29</sup>
- Total expenditure on non-APS workers in 2005-06 was \$2.197b, approximately \$2.788b in 2016 dollars.<sup>30</sup>

Given staffing cuts since 2007 and restrictions on hiring permanent APS employees, non-APS employees are likely to be a larger proportion of the total workforce.

Some agencies, such as the Department of Defence, do provide data about the use of contractors but this type of reportage is far from common across the APS. Defence openly acknowledged the extensive use of outsourced staff. In 2017, the outgoing Secretary of the Department reported that after extensive job losses, there were more consultants, contractors and labour hire staff in Defence than permanent APS employees.<sup>31</sup> This is despite contractors costing 40 per cent more than their APS equivalents.<sup>32</sup>

The ATO has also provided data which shows that the government has cut the number of ATO employees significantly over the past five years. Ongoing staffing levels are 15.5% lower than they were in 2012. Furthermore, there has been a 4,338 or 336% increase in externally engaged staff on the ATO payroll system.<sup>33</sup>

29 Australian National Audit Office (2007, 25 June). Non-APS Workers. Retrieved from <https://www.anao.gov.au/work/performance-audit/non-aps-workers>

30 Calculation made using RBA Inflation Calculator from <https://www.rba.gov.au/calculator/annualDecimal.html>

31 Noel Towell (2017, 20 February). Consultants and contractors now outnumber public servants in Defence Department. Canberra Times. Retrieved from <http://www.canberratimes.com.au/national/public-service/consultants-and-contractors-now-outnumber-public-servants-in-defence-department-20170216-guf561.html>

32 Department of Defence (2010, 6 April), *SRP initiative information sheet: workforce and shared services: contractor conversions*. Retrieved from <http://www.defence.gov.au/srp/infosheets.htm>

33 Based on data from Australian Public Service Statistical Bulletin, snAPShots & ATO National Consultative Forum

But while Defence and the ATO, and some other agencies have made reports, they are the exception.

There is clearly a strong case for the Commonwealth to mandate new and improved reportage requirements. Improved reporting requirements for contractors and consultants will only occur if there are consistent service-wide obligations on agencies.

A yearly-service wide report on the number of non-APS employees would provide greater transparency to the community. Alongside this, agencies should be required to publish number of non-APS employees as part of their agency workforce as part of their annual reports.

There should also be better reporting on the performance of contractors and consultants. The creation of central clearinghouse for the APS, involving the ANAO, that could evaluate the performance of companies across multiple contracts which improve both transparency and what is delivered to the public. The performance evaluations should be shared across government and can help enforce contract standards.

In particular, new mandated reportage requirements should include obligations to report on the use of labour hire.

Currently, neither the APSC nor Government reports to the public on labour hire use. AusTender, the APSC nor annual reports currently provide any indication of the number of labour hire employees.

And they most certainly do not report on the either the pay rates, working conditions or employment rights of this largely casualised workforce.

This is an unacceptable situation. It undermines APS obligations to be transparent and accountable.

It effectively hides from public view explicit government decisions to turn secure jobs into insecure ones, and to use labour hire to drive down wages, conditions and employment rights

The omission of labour employment reportage by the ASPC is particularly egregious.

The APSC is responsible for policing the ASL cap that forces agencies to use labour hire and the APSC is charged with producing State of the Service reports. The most recent State of the Service report informed the public that the rate of casual employment in the APS had fallen slightly. This information is deeply misleading as it fails to reveal that the Commonwealth is employing thousands of casual workers via third parties.

**RECOMMENDATION:** To restore transparency and accountability in the expenditure of public monies, the Commonwealth should:

- publish annual service-wide information on the:
  - i. total expenditure on consultants
  - ii. number of non-APS employees (inclusive of contractors, consultants and labour hire) as part of the total APS workforce.
  - iii. percentage breakdown of tender method
  - iv. percentage of contracts adjusted after tender
- require agencies to publish number of non-APS employees that are part of their agency workforce in their annual reports.

**RECOMMENDATION:** The Commonwealth create a central clearinghouse for evaluating the performance of companies across multiple contracts, sharing what is learnt, advising public bodies and enforcing contract standards.

Accessibility to, and availability of, consolidated reporting for both consultancy and non-consultancy contracts (value, expenditure, categories of service)

There is limited consolidated reporting available on consultancy and non-consultancy contracts.

Annual reports are required to provide a summary statement on consultancies detailing the number of new contracts, the total actual expenditure on all new contracts, the number of ongoing contracts and the total actual expenditure. There is no requirement to provide information on non-consultancy contracts related to staffing nor details on the consultancy contracts themselves.

Previously the Department of Finance had commissioned detailed AusTender data analyses, which included analysis of segments. However, none have been published since the 2012-13 financial year.<sup>34</sup>

### AusTender

While AusTender can provide some reporting, particularly on consultancy contracts, its functionality is extremely limited and is affected by incorrect reporting.

For example, a 'Contracts awarded as Consultancy' report can be exported from the AusTender website. The contracts included in the report would be where 'Yes' is indicated in the column that says Consultancy. However, as previously noted, it may not include all consultancies and would therefore be of limited value.

There are also problems with understanding, from the available reports, why some contracts are tagged as a consultancy when seemingly very similar contracts are not. For example, while some legal services are listed as consultancies, others are not. Similarly some research related data services are listed as consultancies while others are not. The description provided is limited, making it hard to identify why it is a consultancy.

The ANAO has acknowledged this is an issue, stating that "*analysis of individual contracts with respective entities would be required to determine the extent to which consultancy contracts are being accurately reported in AusTender using the 'consultancy' flag.*"<sup>35</sup>

A further example of inconsistency in AusTender is how outsourced services are categorised and reported. For example, searching for the keyword 'labour hire' for 2016-17 financial year from AusTender shows there is no consistent categorisation. Categories used include:

- personnel recruitment
- human resources services
- information technology consultation services
- temporary personnel services
- business law services
- project administration of planning
- employment services
- printed publications
- corporate objectives or policy development
- personnel recruitment
- Information technology consultation services
- information services

There are also a range of variations on contract titles. The end result is to make it very difficult and timing to retrieve useful information – as one would need to predict all the potential keywords and categories that could cover consultancy and non-consultancy contractor services.

Another example of the problematic categorisation is an ATO contract for the Provision of Outsourced Contact Centre Services. It is categorised as "management advisory services".<sup>36</sup>

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<sup>34</sup> Department of Finance (2014, 12 December). Analysis of Australian and Overseas contracts by the Australian Government. Retrieved from <https://www.finance.gov.au/procurement/analysis-of-australian-overseas-purchasing-contracts.html>

<sup>35</sup> The Auditor-General (2017, December). ANAO Report No.19 2017–18 Information Report: Australian Government Procurement Contract Reporting. Retrieved from <https://www.anao.gov.au/work/information/australian-government-procurement-contract-reporting>

<sup>36</sup> AusTender (2017, 6 October). Contract Notice View - CN867971-A7. Retrieved from <https://www.tenders.gov.au/?event=public.cn.Amendment.view&CNUUID=533DDEF8-A6DF-86EF-68CEB63C9682F280>

As a further example of the deficiencies of AusTender, the CPSU draws the Committee's attention to an ATO contract<sup>37</sup> from October 2017 (Contract Notice View - CN867971-A7):

- This is a very substantial contract with a value of \$248m.
- The contract was awarded to Serco Pty Ltd.
- CPSU understands this contract to be for Serco to use Serco premises, equipment and staff to operate a call centre.
- However the contract is categorised as "management advisory services".

In the CPSU's view the use of "management advisory services" is an inadequate description of what is in effect the wholesale outsourcing of an important function that should more properly be the work of the ATO.

As previously recommended, the CPSU submits that a review of the current categorisation of information in Austender should be undertaken along with improved guidance and staff training to help ensure the consistent and correct categorisation of information in AusTender such as 'labour hire'.

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<sup>37</sup> AusTender (2017, 6 October). Contract Notice View - CN867971-A7. Retrieved from <https://www.tenders.gov.au/?event=public.cn.Amendment.view&CNUUID=533DDEF8-A6DF-86EF-68CEB63C9682F280>



## Australian Public Service capability and capacity

### *Key points*

- Australians want government to retain the skills and capability to deliver services directly.
- The use of contractors and consultants has driven the deskilling of the APS.
- Contractors are completing ongoing work, not just fixed-term projects, and are brought in to fill higher vacancies.
- The over reliance on external advice carries substantial risks for agencies.
- If Departments solely become a contract manager it becomes disconnected from direct service delivery and is removed from understanding best practice, as well as the challenges and pitfalls.
- The increasing use of contractors and consultants has eroded the merit based employment principles of the APS.
- The rebuilding of the public service will not occur while there is heavy reliance on the use of contractors and consultants
- More funding and additional staff are needed to improve the quality of outcomes.
- There should be a cap on contractors and consultants to ensure investment in staff and steps should be taken to bring in-house any work that has been outsourced, instead use it to rebuild public sector capacity.

### Effects on Commonwealth agencies' (and APS more broadly) capability and capacity

The Australian Public Service plays a vital role in Australian society and Government. All Australians benefit from a public sector that can meet the big national challenges and deliver quality public services.

Four in five Australians want government to retain the skills and capability to deliver services directly.<sup>38</sup> Australians do not just want more effective government; they want a more active government with the courage to take on ideas.<sup>39</sup>

However, the Government's cutting of more than 14,000 APS jobs and increased use of consultants, contractors and labour hire is causing serious damage to the APS. Essential skills are being lost, and the capacity of the APS is being hollowed out, while valuable funding, in a highly constrained resources environment, is being wasted on these more expensive external providers.

Terry Moran, the former Secretary of the Department of Prime Minister and Cabinet, has noted that there has been the overuse of consultants and the public service has been stripped of specialist capability and service delivery experience. He added, *"If it were a patient it would be in palliative care. Successive governments haven't nurtured the APS: they've gutted it."*<sup>40</sup>

CPSU members report the contractors are completing ongoing work, not just fixed-term projects, with several reporting career progression being limited as labour hire staff are brought in to fill higher vacancies rather than allowing more junior staff to act.

As noted previously in this submission, there have been a number of major reports which have all found that the use of contractors and consultants has driven the deskilling of the APS ICT.

More recently, the former Digital Transformation Office CEO Paul Shetler has gone on the public record to say that:

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38 What do Australians Want? Active and Effective Government Fit for the Ages (2017, December). Centre for Policy Development. Retrieved from <https://cpd.org.au/2017/12/what-do-australians-want-discussion-paper-december-2017/>

39 Terry Moran AC. (2017, 21 November). 'Back in the Game' IPAA Victoria Fellows' Oration. Retrieved from <https://cpd.org.au/wp-content/uploads/2017/11/Terry-Moran-AC-IPAA-Victoria-Oration-21-November-2017.pdf>

40 Terry Moran AC. (2017, 21 November). 'Back in the Game' IPAA Victoria Fellows' Oration. Retrieved from <https://cpd.org.au/wp-content/uploads/2017/11/Terry-Moran-AC-IPAA-Victoria-Oration-21-November-2017.pdf>

*“Over the last 40 years, as we’ve outsourced technology, there’s been a progressive deskilling of the public service. The reliance on consultants is remarkable and the amount spent on them is eye watering. That’s just not necessary if we re-skill the public service...”*

Paul Shetler also stated that ICT failures have been *“further complicated and exacerbated by the lack of technical and contract management expertise in government. (Too frequently, we actually ask vendors to tell us what they think we should buy.)”*

Outsourcing as a driver of deskilling is not a new nor novel finding. The 2008 Gershon Report recommended a reduction in the use of external contractors in favour of building internal APS capacity.

Many of these technical ICT capability gaps in the Australian Public Service have resulted from an over-reliance on external ICT contractors — particularly for more complex, high-value ICT work.<sup>41</sup>

Paul Shelter has noted that *“Government is one of the last industries that thinks it can outsource wholesale.”*<sup>42</sup> Core business should be in-sourced. Dealing with your end users and understanding your end users is your core business.<sup>43</sup>

#### Effects on Commonwealth agencies’ (and APS more broadly) performance and delivery outcomes

The professional and technical capacity of many agencies has been severely eroded as core functions have been outsourced. The Department of Human Services is a case in point.

Dealing with social security debts is an incredibly sensitive job that should be done by well-trained public servants. The introduction of labour hire staff to a highly trained and skilled DHS workforce has begun to result in deskilling and a loss of departmental capacity. CPSU members in DHS have reported plummeting morale as non-ongoing staff find their jobs at risk of being replaced by labour hire employees, and long-term staff leave the department.

A prime recent example of the impact on performance and delivery outcomes is the establishment of the Serco call centre in Melbourne, handling compliance work usually undertaken by trained APS officers. This core APS function comprises the provision, approval and auditing of federal benefit payments to DHS customers. As a growing number of simple enquiries are being resolved online, Serco staff are receiving increasingly complex confidential enquiries, involving direct customer contact and the handling of sensitive data.

In addition to the associated confidentiality concerns, DHS employees and customers have reported mistakes routinely made by Serco call centre staff, including reported earnings being processed incorrectly, overpayments being made to customers and incorrect debts being raised. These incidents directly disadvantage vulnerable DHS customers, and then have to be rectified by trained APS staff, resulting in inefficient double-handling.

The CPSU has kept a record of reported incidents of DHS customers being transferred back and forth between multiple Serco call centre operatives, without receiving adequate answers to their queries. One customer reported being on the phone to this call centre for two hours and transferred between operatives a total of seven times during that period. The call was eventually transferred back to the same staff member who initially answered it.

DHS is far from the only example of how outsourcing has affected the delivery of core APS functions.

Following the integration of the Australian Customs and Border Protection Service and the Department of Immigration and Border Protection, a large number of ICT functions that had been performed by Customs employees were outsourced to Unisys as Unisys held ICT contracts with the Department of Immigration. Members report that since these functions have been undertaken by

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41 Digital Transformation Agency (2017) ICT Procurement Taskforce. Retrieved from <https://ict-procurement.digital.gov.au/>

42 Australian Public Service Commission (2015, 23 October). Digital transformation in the APS. Retrieved from <https://stateoftheservice.apsc.gov.au/2015/10/digital-transformation-in-the-aps/>

43 Stephen Easton (2017, 2 August) Paul Shetler: forget high tech fantasies if you can’t answer the phones. The Mandarin. Retrieved from <http://www.themandarin.com.au/82114-shetler-forget-high-tech-fantasies-cant-answer-phones/>

Unisys they experience significant delays in lodging tickets and delays for resolution. Members have also reported that Unisys staff would need to contact the remaining ICT staff from ex-Customs in order to resolve a number of issues due to their lack of knowledge of the specificities of ex-Customs systems and processes.

The over reliance on external advice carries substantial risks for agencies. Paul Shetler noted, “*Too frequently, we actually ask vendors to tell us what they think we should buy.*” It is point that rings true from the 2016 Census failures, where it seems clear that the ABS did not have the expertise to assess the quality or suitability of the advice and products from their external supplier.

Crises such as the so-called ‘Robo debt debacle’ not only undermine the public’s faith in these institutions – they are also a reflection of an underlying neglect of these institutions that form the foundations of our community.

Furthermore, the separation of policy, regulation and service delivery functions has significant implications for government.

If a Department solely become a contract manager it becomes disconnected from direct service delivery and is removed from understanding best practice, as well as the challenges and pitfalls. The result is that the capacity of the Department to understand and respond to ‘on the ground’ challenges are significantly eroded, affecting policy development. The erosion of capability means that there is a high risk that the public sector designs and develops associated policy in a vacuum, without a working understanding of how service delivery operates to achieve lasting outcomes.

The increasing use of contractors and consultants have also eroded the merit based employment principles of the APS. A recent example was the employment of a program manager in the Industry Department using procurement rules, rather via a competitive recruitment round that APS employees could apply for.<sup>44</sup>

The CPSU also notes the recent State of the Service report findings that APS employees report increased cronyism and green lighting. 5% reported witnessing corrupt behaviour in 2016-2017, a significant increase from the 2.6% who witnessed corruption in 2013-14 and the 3.6% of respondents in 2014-15.<sup>45</sup> Cronyism was by far the most common form of corruption witnessed, accounting for almost two-thirds of all responses, followed by nepotism (26%), and “green-lighting” (21%), a term for decisions that improperly favour a person or company, or disadvantage another.<sup>46</sup>

CPSU members have reported to their union that concerns about cronyism have increased as the numbers of contractors and consultants has increased – with the particular concern arising where contractors/consultants are seen to try to increase the numbers of their colleagues in the APS.

#### Opportunities to address any issues identified

For all of the above reasons, CPSU submits that it is now urgent to reduce the use of external providers and rebuild APS staff numbers and skills.

In doing so, the Government’s goal should be to provide the community with world-class public services. Achieving that goal requires:

- Reducing the reliance on external vendors and contractors
- Placing a cap on agency expenditure on consultants and contractors, banning labour hire and reinvesting the savings to build APS staff and internal capacity

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<sup>44</sup>Public Eye (2017, 5 December). Job for the boy? The public service is giving up on the merit principle. We'll all regret it. Canberra Times. Retrieved from <http://www.canberratimes.com.au/national/public-service/job-for-the-boy-the-public-service-is-giving-up-on-the-merit-principle-well-all-regret-it-20171204-gzyg75.html>

<sup>45</sup> Australian Public Service Commission (2018, 8 January). APS Values and the Code of Conduct. Retrieved from <https://stateoftheservice.apsc.gov.au/2018/01/aps-values-code-conduct-2/>

<sup>46</sup> Australian Public Service Commission (2018, 8 January). APS Values and the Code of Conduct. Retrieved from <https://stateoftheservice.apsc.gov.au/2018/01/aps-values-code-conduct-2/>

- Ending the staffing cap and a long-term commitment from Government with associated funding
- Applying the merit principle of the Public Service Act.

As Terry Moran argued in his IPAA Victoria Fellows' Oration, "reinvesting in policy memory and capability, encouraging frank advice, and improving service delivery know-how is the way forward if the APS is to think for itself and be the crucible for reform that it can and must be for Australia to thrive."<sup>47</sup>

**RECOMMENDATION:** Rebuild public sector service delivery and policy development capacity through:

- Identifying public sector work that has been outsourced or contracted out and should now be brought back in house; and
- Identifying savings in the use of consultants and contractors, and then reinvesting those savings into rebuilding public sector capacity.

**RECOMMENDATION:** Strengthening the capability of the APS to offer stewardship and frank advice in the public interest by increasing the number of secure permanent jobs in the public service, through eliminating the use of labour hire in the public service, and reducing the use of contractors, casual and non-ongoing positions, and increased funding

**RECOMMENDATION:** The Commonwealth reconsider digital transformation as an opportunity to improve services, rather than an opportunity to cut costs, by:

- investing in staff;
- reducing its reliance on ICT contractors and consultants;
- providing adequate funding in the Budget to invest in ICT systems and training that support digital government service delivery; and
- involve and utilise staff and the wider community in the development and delivery of public services.

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<sup>47</sup> Terry Moran AC. (2017, 21 November). 'Back in the Game' IPAA Victoria Fellows' Oration. Retrieved from <https://cpd.org.au/wp-content/uploads/2017/11/Terry-Moran-AC-IPAA-Victoria-Oration-21-November-2017.pdf>

## Jurisdictional comparison and lessons

### Key points

- The experience of the United Kingdom highlights the danger of Government relying on 'too big to fail' providers.
- Insourcing is an alternative to outsourcing
- There should be a consideration of the 'whole life' costs of contracts, the effects on staff and service quality and other social and economic impacts.

The impact of a reliance on privatisation, outsourcing and contracting out is clearly on show in the United Kingdom, where problems with outsourcing are now clearer than ever. Outsourcing has fragmented services when serious complex issues require joined up responses and there have been a host of contract failures.<sup>48</sup> It challenges the idea that competition among public service providers will necessarily lead to improved services at lower costs.<sup>49</sup>

The creation of 'public service markets' in the United Kingdom has led to an oligopoly situation where providers like Serco and G4S are seen as 'too big to fail'.<sup>50</sup> The British National Audit Office has acknowledged that it can be difficult to maintain competitive pressure through the different stages of a contract. It concluded that complex contracts can diminish competition when the contract begins and expensive variations can reduce cost-effectiveness.<sup>51</sup> The collapse of Carillion, a major provider of support services to the National Health Service, highlights the danger of this situation where *"the government has effectively created outsourcing monopolies whose primary expertise is in extracting value from the public sector."*<sup>52</sup>

The manifest problems in the United Kingdom are seeing the start of a move towards insourcing, the returning of previously outsourced services, to public sector control. The service area most commonly subject to insourcing is administrative services such as benefits, human resources and ICT.<sup>53</sup> Four core reasons why services have been returned in-house have been poor performance, a drive for quality and value for money, strategic governance and local policy drive and the workforce.<sup>54</sup>

The lesson from the United Kingdom is that there is a need to understand in what circumstances using contractors and consultancies works, there should be a consideration of the 'whole life' costs of contracts, the effects on staff and service quality and other social and economic impacts. Further, moving away from a reliance on outsourcing to deliver core public sector work will require a significant expansion of public service capacity.<sup>55</sup>

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48 David Walker and John Tizard (2018, January). Out of Contract: Time to move on from the 'love in' with outsourcing and PFI. The Smith Institute

49 TT Arvind, Lindsay Stirton (2018, 2 February). Carillion, Capita and the costly contradictions of outsourcing public services. The Conversation. Retrieved from <https://theconversation.com/carillion-capita-and-the-costly-contradictions-of-outsourcing-public-services-91030>

50 Alan White (2012, 3 December). The rise of the shadow state: the truth about outsourcing. New Statesman. Retrieved from <http://www.newstatesman.com/politics/2012/12/rise-shadow-state-truth-about-outsourcing>, (accessed 26 June 014)

51 National Audit Office, op. cit, pp.14

52 Grace Blakeley (2018, 1 February). The problem with outsourcing is not Carillion but the market itself. New Statesman. Retrieved from <https://www.newstatesman.com/politics/economy/2018/02/problem-outsourcing-not-carillion-market-itself>

53 APSE (2009, January), Insourcing: A guide to bringing local authority services back in house.

54 APSE (2009, January) Insourcing: A guide to bringing local authority services back in house.

55 David Walker and John Tizard (2018, January). Out of Contract: Time to move on from the 'love in' with outsourcing and PFI. The Smith Institute

**APPENDIX A – Department of Finance list of services generally considered to involve a consultancy**

Examples of consulting services	Examples of general contracting services
Type of project	Type of assignment
<ul style="list-style-type: none"> <li>• investigating an issue or problem</li> <li>• diagnosing a problem</li> <li>• undertaking defined research</li> <li>• design, analysis and reporting of formal market research studies</li> <li>• carrying out an independent review</li> <li>• business process analysis, design and other advice</li> <li>• undertaking independent evaluations</li> <li>• evaluation of programme performance and recommendations regarding changes</li> <li>• providing independent advice</li> <li>• providing independent information</li> <li>• developing advertising and marketing campaigns</li> <li>• providing advice on training needs and developing training plans</li> <li>• legal services, such as: - general legal advice (not related to litigation or potential litigation or given incidentally in connection with the development of contracts or other legal documents); - advice on the application of legislation and on development of new legislation; and - legal audit, probity and process advice, in relation to contracting out or tendering</li> <li>• reviews of, and the provision of advice on, occupational health and safety matters</li> <li>• provision of internal audit services</li> <li>• probity adviser/audit services</li> <li>• undertaking risk assessments</li> <li>• analysis of technology needs and development of software and hardware specifications</li> <li>• change facilitation advice</li> <li>• undertaking business and property valuations</li> <li>• development of a framework for benchmarking</li> </ul>	<ul style="list-style-type: none"> <li>• individuals undertaking operational work within the entity under temporary external labour hire arrangements</li> <li>• conducting a recruitment activity</li> <li>• provision of travel services, including travel booking</li> <li>• provision of communications services, eg telephones</li> <li>• provision of information technology support services</li> <li>• development of software in line with already developed specifications</li> <li>• printing and copying services</li> <li>• scribe services</li> <li>• provision of cleaning and waste removal services</li> <li>• indoor plant maintenance services</li> <li>• provision of security services</li> <li>• delivery of training</li> <li>• writing of manuals and guidance materials covering existing processes</li> <li>• legal services, such as:             <ul style="list-style-type: none"> <li>○ conveyancing;</li> <li>○ development of contracts or other legal documents (and any incidental advice given relating to such work);</li> <li>○ litigation services (including any drafting or advice connected with litigation or potential litigation); and</li> <li>○ drafting of legislation and legislative instruments</li> </ul> </li> <li>• data processing</li> <li>• project management</li> <li>• interpreter services</li> </ul>



**APPENDIX B – Department of Finance process flowchart**

