



**Submission to Joint Committee of Public Accounts
and Audit inquiry into Australian Government
Procurement Contract Reporting**

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Overview

We welcome the Joint Committee of Public Accounts and Audit inquiry into Australian Government Procurement Contract Reporting.

The 2017 Australian National Audit Office report provides valuable insight into government procurement activity. The Department of Finance reports the Government entered into \$47.4 billion of contracts with external providers of goods and services (including consulting services) in 2016-17. However, the effectiveness and efficiency of this spending rarely receives public scrutiny.

The Grattan Institute has a strong interest in the effectiveness and efficiency of government spending. Commonwealth budgets haven't come close to balancing for nine years. Genuine budget repair will require the Government to constrain spending as well as increase revenue. Making sure the Government is achieving 'value for money' in its procurement is an important component of keeping spending in check.

The ANAO report raises several red flags regarding public sector compliance with the spirit and letter of the Commonwealth Procurement Guidelines. These warrant further investigation by the Department of Finance.

There are also aspects of the AusTender database that limit its effectiveness as an oversight tool:

- The full value of a contract is attributed to the year in which the contract commences. Some agencies – particularly the Department of Defence – enter into very large multi-year contracts. The resulting 'lumpiness' in the data makes it difficult to draw conclusions about how procurement spending is changing over time.
- Project cost and time overruns are not recorded. We know such overruns are common, particularly on major projects. But because the database does not record contract history, it is not useful in providing oversight on this key aspect of performance.
- Consulting expenditure is supposed to be separately identified in the database, but the definition is applied inconsistently across departments and time. This makes it difficult to draw conclusions about trends in consulting spending.

We recommend that the AusTender database be amended to include information on changes to contracts that relate to project costs or timing. We also recommend that the Department of Finance undertake an audit of agency compliance with its definition of consulting, and work with agencies to ensure a more consistent approach.

The impact of the use of consultants on the capacity and capability of the public service is difficult to assess. However, there is some indication that APS experience is increasing: the average age and tenure of APS staff has risen over the past decade.

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1 Trends in Australian Government procurement

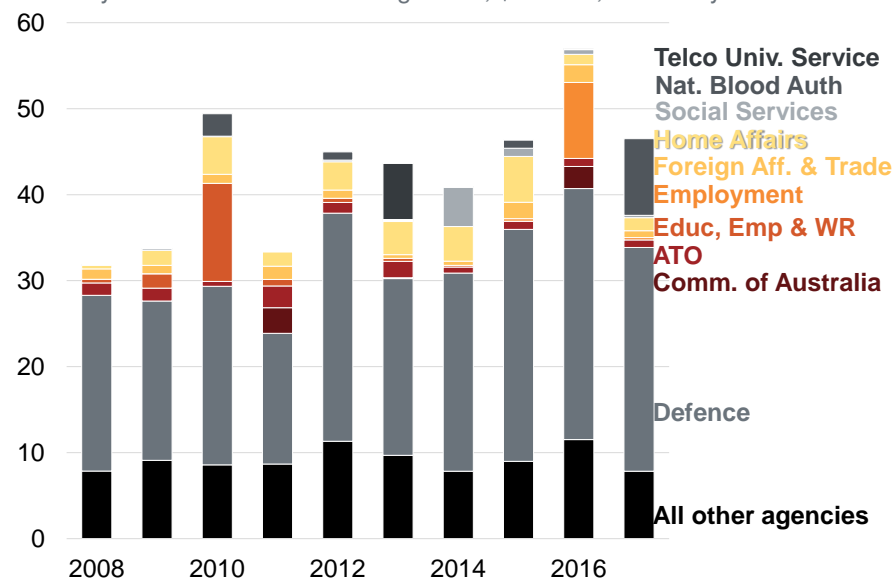
The total value of Australian Government procurement (consulting plus non-consulting contracts) reported in AusTender varies considerably from year to year. But there is some upward trend evident over the past decade: the average value of contracts in the five years to 2011-12 was \$39 billion; it increased to an average of \$47 billion for the five years to 2016-17 (Figure 1.1).

Yet the AusTender system is not well-suited to analysing trends in spending. The value of a contract in the system is recorded against the start-year of the contract. But there are some very large multi-year contracts in the database, which create considerable ‘lumpiness’ in the data. For example, total contract values in 2010 were nearly \$50 billion – much higher than in 2009 or 2011 – partly because of \$10 billion in contracts commenced by the Department of Education, Employment and Workplace Relations (DEEWR) in that year. DEEWR commenced another set of large multi-year contracts in 2016 (Figure 1.1).

In the past six years there have been a number of these very large contracts to provide services over a number of years. The National Blood Authority entered a nine-year, \$9 billion agreement with the Australian Red Cross Society for blood and blood services in 2016. The Telecommunications Universal Service Management Agency entered a 20-year, \$6 billion agreement with Telstra for universal service obligations in 2012. And the Department of Defence has a number of large multi-year contracts for accommodation and equipment, as Table 1.1 on the following page shows.

Since 2015, the ‘Big 4’ consulting firms have won almost \$500 million in Australian Government contracts each year, around double the average between 2011 and 2014, and four times the average in 2008 and 2009. The increase is the result of an increase in the number and typical size of the contracts.

Figure 1.1: Some agencies have infrequent, but large multi-year contracts
Value by start date and selected agencies, \$ billions, financial years



Notes: Agencies shown are those in the top three by contract value for any year between 2008 and 2017. Agencies have change names and configuration between 2008 and 2017, and are reported as listed in AusTender. Contract values are assigned to the year the contract commences rather the year of expenditure. Values are not adjusted for inflation.

Source: Grattan analysis of AusTender (2018).

Table 1.1: There have been many very large, multi-year contracts in recent years

| Agency Name | Year | Value | Description | Title | Supplier Name |
|--|-------------|-----------------|---|---|---------------------------------------|
| National Blood Authority | 2017 | \$8,851,700,000 | Agreement for the supply of blood and blood products and services | Comprehensive health services | Australian Red Cross Society |
| Telecommunications Universal Service Management Agency | 2013 | \$6,383,850,000 | Standard Telephone Service (USO), Payphones (USO), Voice Only Customer Migration, Emergency Call Service and Migration of Public Interest services. | Components for information technology or broadcasting or telecommunications | Telstra Corporation Limited |
| Department of Defence | 2012 | \$4,032,546,949 | Defence housing and services | Real estate services | DHA – CENTRAL OFFICE |
| Department of Defence | 2012 | \$4,026,880,000 | Living in accommodation | Accommodation structures | PLENARY LIVING (LEAP 2) PTY LTD |
| Department of Home Affairs | 2010 | \$2,985,901,351 | Detention Services Contract – Immigration Detention Centres | Refugee programs | SERCO AUSTRALIA PTY LIMITED |
| Defence Materiel Organisation | 2008 | \$2,604,754,000 | AIR WARFARE DESTROYER – ABTIA CONTRACT | Marine transport | ASC AWD SHIPBUILDER PTY LTD |
| Department of Home Affairs | 2014 | \$2,576,868,872 | Operational, Maintenance and Welfare support services for the Manus and Nauru RPCs | Management support services | Broadspectrum (AUSTRALIA) PTY LIMITED |
| Commonwealth of Australia | 2016 | \$2,555,522,720 | Air Travel Services – Whole of Australian Government. | Travel facilitation | Air Travel Panel Providers |
| National Blood Authority | 2010 | \$2,441,560,000 | CSL Australian Fractionation Agreement | Comprehensive health services | CSL Limited |
| Defence Materiel Organisation | 2014 | \$2,269,265,443 | Monthly Services Fees – Tank Fleet Funding | War vehicles | GENERAL DYNAMICS LAND SYSTEMS |
| Department of Defence | 2013 | \$2,046,900,465 | Submarine Maintenance | Marine craft systems and subassemblies | ASC PTY LTD |
| Department of Home Affairs | 2015 | \$1,939,912,342 | Onshore Immigration Detention Services | Management support services | SERCO AUSTRALIA PTY LIMITED |
| Commonwealth of Australia | 2011 | \$1,938,954,770 | Domestic Air Travel Services | Travel facilitation | Domestic Air Travel Panel Providers |

Table 1.1 (continued)

| Agency Name | Year | Value | Description | Title | Supplier Name |
|-------------------------------|------|-----------------|---|---|------------------------------------|
| Defence Materiel Organisation | 2012 | \$1,913,566,101 | AIR9000PH8 Future Naval Aviation Combat System (Acquisition) | Military rotary wing aircraft | FMS ACCOUNT |
| Department of Defence | 2010 | \$1,831,340,336 | In-service support of Airborne Early Warning & Control capability | Management advisory services | BOEING DEFENCE AUSTRALIA LTD |
| Defence Materiel Organisation | 2008 | \$1,717,928,000 | AIR WARFARE DESTROYER – ABTIA CONTRACT | Marine transport | RAYTHEON AUSTRALIA PTY LTD |
| Department of Defence | 2016 | \$1,714,614,765 | Technical & Engineering Support | Aircraft | FMS ACCOUNT |
| Department of Defence | 2015 | \$1,681,414,284 | Estate Maintenance and operation Services | Building construction and support and maintenance and repair services | TRANSFIELD SERVICES (AUSTRALIA) |
| Department of Defence | 2010 | \$1,655,678,654 | Provision of new air combat capability | Aircraft | DMOJSF OFFICIAL AUSTRALIAN ACCOUNT |
| Department of Defence | 2008 | \$1,540,000,000 | HQJOC PROJECT-PRAECO PTY LTD. | Building construction and support and maintenance and repair services | PRAECO PTY LTD |

Note: Largest 20 contracts recorded in AusTender by start year.

Source: Grattan analysis of AusTender (2018).

2 Is the Australian Government getting value for money in procurement?

2.1 Red flags in the ANAO report warrant further investigation

The Commonwealth Procurement Rules (CPR) have a number of safeguards designed to ensure that the public is receiving value for money in procurement. But analysis in the 2017 ANAO report raises several red flags about compliance with these checks and balances.

First, the ANAO report finds that there is an increase in contracts – and a substantial increase in short-term contracts – commencing in June, the final month of the financial year.¹ This may reflect public servants seeking to exhaust their budget for the year so as to maintain their budget allocation in future years. This type of ‘use-it-or-lose-it’ mentality risks diverting focus from the requirements to ensure value for money, as set out in the procurement rules.

Second, the ANAO report identifies examples of contracting behaviour consistent with agencies avoiding the additional rules – including requirements to approach the market – for procurements over \$80,000.² There is a relatively high number of contracts just below the \$80,000 threshold.³ And since 2012-13 there have been more than 1,500 ‘contract pairs’ – contracts by the same entity for goods or services from the same supplier in the same quarter individually worth less than \$80,000 but collectively worth more – where neither contract was put to open tender.⁴

1. ANAO (2017, pp. 28–29).

2. For any procurement at or above \$80,000, non-corporate Commonwealth entities must follow a set of additional rules – including conducting an open approach to market – as outlined in Division 2 of the Commonwealth Procurement Rules.

3. ANAO (2017, p. 31).

4. *Ibid.* (pp. 32–34).

Splitting contracts to avoid these requirements is prohibited under the procurement rules.⁵ The ANAO points out that further analysis would be required to establish whether these reflect discrete procurements, data errors, or because a single procurement had been split into smaller contracts to fall below the threshold.⁶

The Department of Finance should use the ANAO report as a basis for more detailed investigation of whether there is systematic flouting of the CPRs. The Department should conduct such a review annually, using the types of screens for potential non-compliance set out by the ANAO.

2.2 Limited accountability for cost and time overruns

A further concern regarding ensuring value for money in procurement is the limited public accountability on timing and cost overruns for government contracts.

Cost and time overruns are common in these contracts. The ANAO report showed that 17 per cent of non-Defence contracts were amended for one or both of value and end-date within 12 months. Where value was amended, it was increased by more than 50 per cent on average. And the average time extension was more than six months.⁷

The Grattan Institute has previously published estimates on overruns on transport infrastructure projects. It found that over the past 15 years these projects cost an average of 24 per cent more than initially estimated.⁸

5. Department of Finance (2018).

6. ANAO (2017, p. 34).

7. *Ibid.* (pp. 55–58).

8. Terrill et al. (2016).

There is no public record of contract amendments in AusTender.⁹ AusTender would be a more useful oversight tool if it contained a record of contracts values and end-dates. This would provide better accountability for agencies and their suppliers in delivering on their contract obligations. Over the longer term it would give agencies better information about the past performance of particular suppliers when assessing offers.

9. AusTender flags the contract as amended with a brief description, but does not provide enough detail for analytical purposes. The ANAO report indicates that most amendments were increased costs or extended end-dates.

3 Consulting contracts: trends and definition issues

The Australian Government’s use of consulting services has not obviously increased over the decade. But there are a number of issues with the way in which the definition of consulting is applied which call into question this type of time series analysis.

3.1 Trends in consulting contract values

The ANAO report showed an increase in consulting spending since 2013, with spending reaching nearly \$700 million a year in 2016-17, compared to less than \$400 million in 2012-13 and 2013-14.

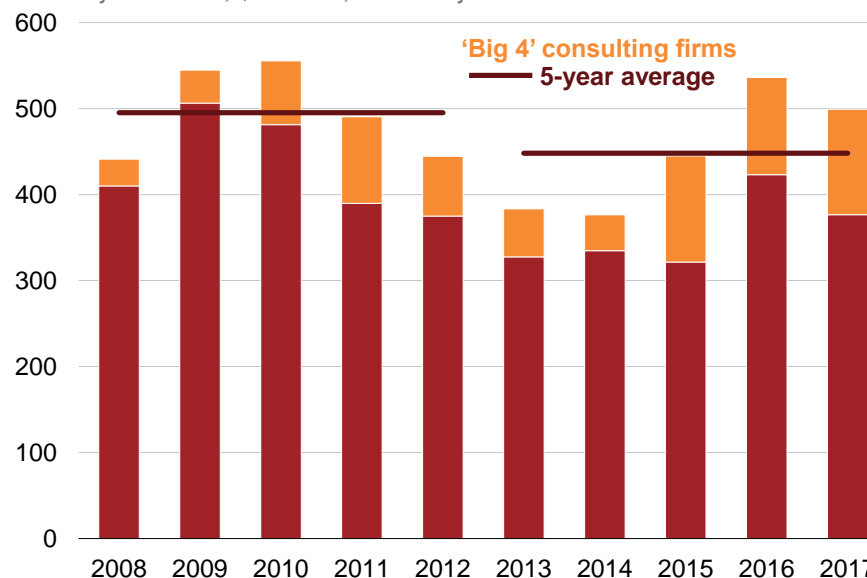
However, using the revised AusTender estimates and looking over a longer period, there has been no obvious increase in consulting spending over the decade. The average value of consulting contracts in the five years to 2011-12 was \$495 million, compared to \$448 million for the five years to 2016-17 (Figure 3.1).

The ‘Big 4’ consulting firms have received a somewhat larger share of the value of consulting contracts since 2014-15.¹⁰ In 2017 the ‘Big 4’ were awarded a quarter of all consulting contracts by value.

However, there are a range of issues with the classification of consulting services that make drawing any conclusions on trends in spending from this data difficult.

Figure 3.1: Consulting contract values show no trend over the past decade, but the ‘Big 4’ have increased their share

Value by start date, \$ millions, financial years



Notes: Includes all contracts with consultancy flag = “Yes” reported in AusTender as at 3 January 2018. The ‘Big 4’ consulting firms are Deloitte, KPMG, Ernst & Young, and PricewaterhouseCoopers. Firms matched on name (including variants) and ABN. Contract values are assigned to the year the contract commences rather than by the year of expenditure. Values are not adjusted for inflation. Data from the revised 3 January 2018 AusTender data release.

Source: Grattan analysis of AusTender (2018).

10. The ‘Big 4’ are Deloitte, KPMG, Ernst & Young, and PricewaterhouseCoopers.

3.2 Concerns about the classification of ‘consulting’ services for AusTender reporting

3.2.1 Inconsistent definitions of consulting expenditure

The ANAO report points to concerns about consistency of definition adopted by departments when flagging certain contract expenditure as ‘consulting’ expenditure.

Guidance issued by the Department of Finance indicates that contracts should be reported as consultancies when:

- the contract is to the value of \$10,000 or more, involving the supply of services (excluding employment contracts under the Public Service Act 1999 and Commonwealth legislation)
- the contract involves the development of an intellectual output that assists with agency decision making
- the intellectual output represents the independent views of the service provider (as opposed to the agency’s views)
- the output is the sole or majority element of the contract, in terms of relative value and importance.¹¹

These criteria seem clear. However, the ANAO analysis suggests that similar types of services, and services from the same providers, are classed as consultancies under some contracts but not under others.¹²

Our analysis highlights similar issues. ‘Management advisory services’ is the largest category by value of consulting services provided to the Commonwealth Government (Figure 3.2 on the following page).

11. Department of Finance (2014).

12. ANAO (2017, pp. 21–25).

However, most contracts for ‘management advisory services’ are not classified as consulting contracts (Figure 3.3 on the next page).¹³

Narrowing the analysis to just the ‘Big 4’ consulting firms, only around a quarter of the value of their contracts with the Australian Government are flagged as consulting contracts.¹⁴ And even in the management advisory category, less than half of their contracts with the Government by value are assigned as consultancy services (Figure 3.4 on page 12). This is higher than average for other firms, but lower than we might expect given the Department of Finance definition.

Probity advice services are specifically identified in the Department of Finance guidance as an example of consulting services.¹⁵ But since 2014, most contracts were not flagged as consulting contracts when they were over \$10,000 and were with the ‘Big 4’ consulting firms and had ‘probity’ within their descriptions (Figure 3.5 on page 13).

This reinforces the concerns articulated by the ANAO about the identification of consulting expenditure by agencies.

3.2.2 Revisions since the ANAO report was released

The inconsistency in the identification of consulting activities is perhaps best illustrated by the \$180 million downward revision in the value of consulting contracts for 2016-17. This occurred after the ANAO report was released (Figure 3.6 on page 13).¹⁶ Specifically, the June 2017 AusTender data specified Commonwealth Government agencies

13. AusTender reports contracts using the United Nations Standard Products and Services Code (UNSPSC) to categorise Commonwealth Government procurements.

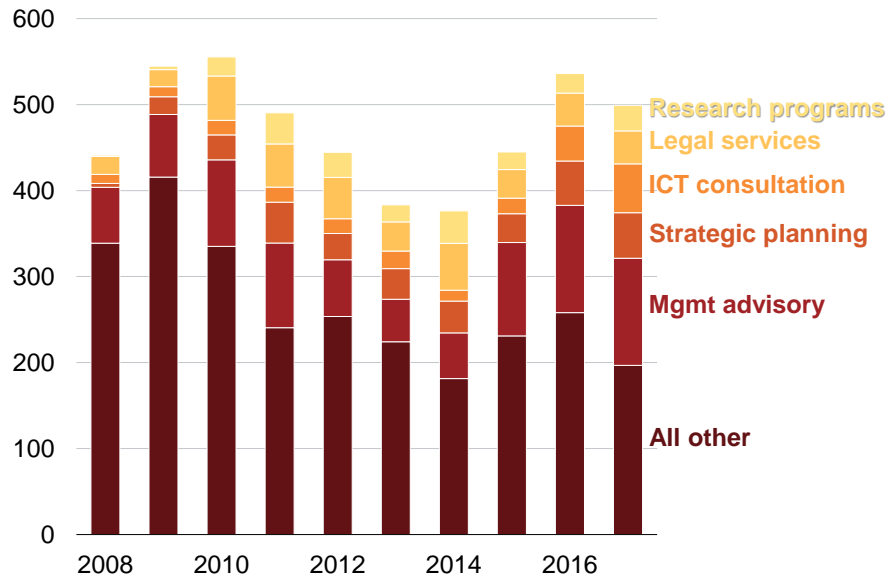
14. Grattan analysis of AusTender (2018).

15. Department of Finance (2014).

16. Change in the value of consulting contracts reported by AusTender between 17 June 2017 and the revised data by AusTender on 3 January 2018. The ANAO report used data published on 11 September 2017.

Figure 3.2: ‘Management advisory services’ is the largest value category of consulting services...

Value by start date and contract title, \$ millions, financial years

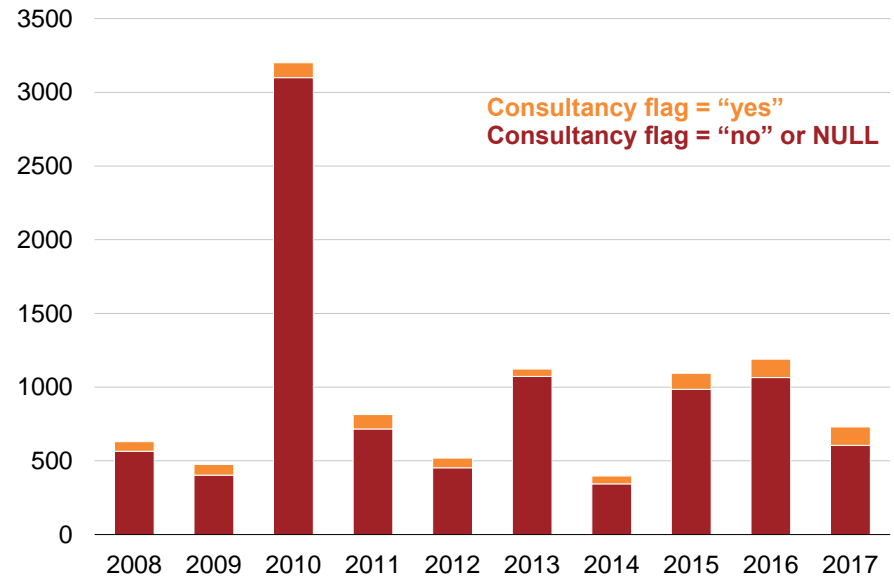


Notes: Includes all contracts with consultancy flag = “Yes” reported in AusTender as at 3 January 2018. Contract values are assigned to the year the contract commences rather than by the year of expenditure. Values are not adjusted for inflation.

Source: Grattan analysis of AusTender (2018).

Figure 3.3: ... but ‘Management advisory services’ is not usually flagged as consulting contracts

Value by start date and consultancy flag, \$ millions, financial years



Notes: Includes all contracts with consultancy flag = “Yes” reported in AusTender as at 3 January 2018. Contract values are assigned to the year the contract commences rather than by the year of expenditure. Values are not adjusted for inflation.

Source: Grattan analysis of AusTender (ibid.).

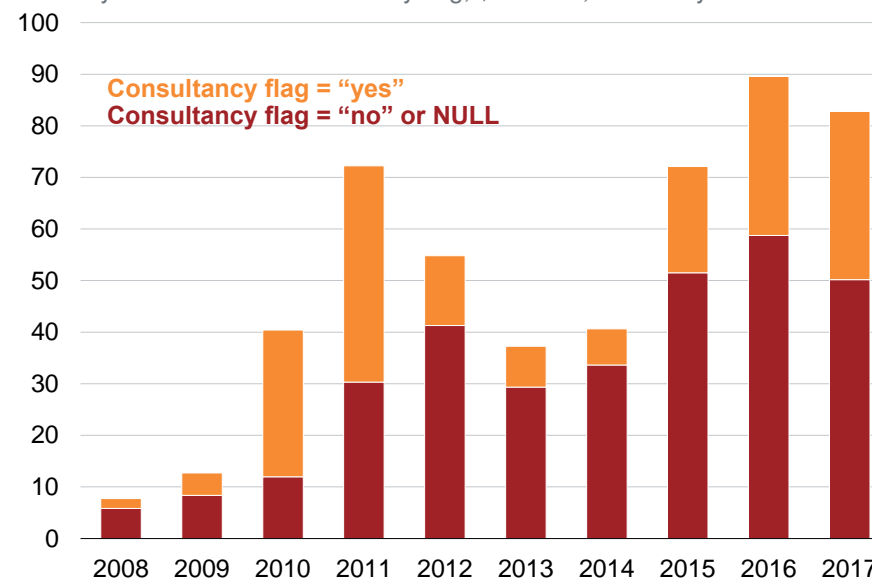
entered into \$681 million value of consulting contracts in 2016-17. With 13 days left in the financial year, it would be expected the final value of total consulting values would increase. But the most recent AusTender data shows the value of consulting contracts was only \$499 million for 2016-17.

Clearly some contracts were re-classified in the database as general contracts rather than consulting spending. Many of the reclassified contracts appear to be Department of Defence contracts for engineering services and building construction and maintenance services.¹⁷

The Department of Finance should audit compliance with the definition, and use the findings to work with agencies to improve their classifications. The Department should also re-examine its guidance materials in light of the types of errors identified by the audit.

Figure 3.4: Less than half of ‘Management advisory services’ are flagged as consulting for the ‘Big 4’

Value by start date and consultancy flag, \$ millions, financial years



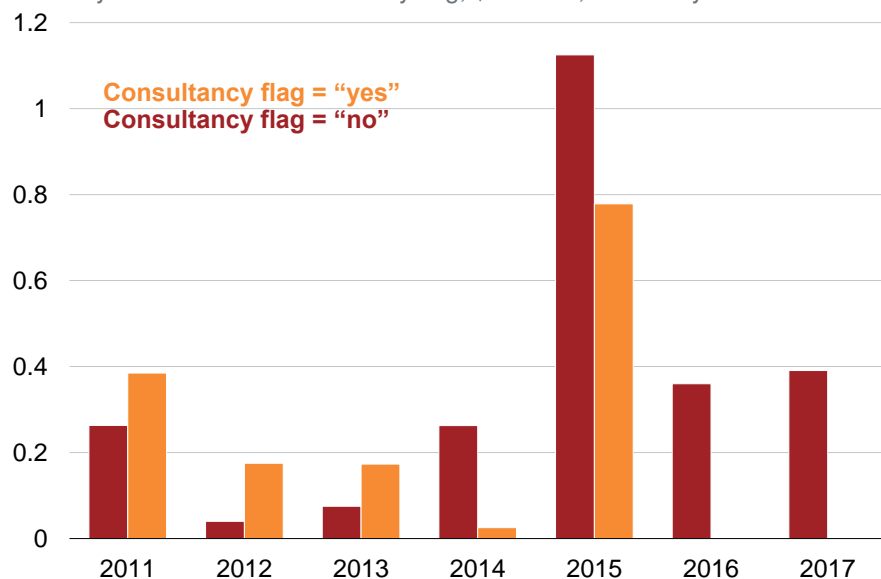
Notes: The ‘Big 4’ consulting firms are Deloitte, KPMG, Ernst & Young, and PricewaterhouseCoopers. Firms matched on name (including variants) and ABN. Contract values are assigned to the year the contract commences rather than by the year of expenditure. Values are not adjusted for inflation.

Source: Grattan analysis of AusTender (2018).

17. Grattan analysis of AusTender (2018) and AusTender (2017).

Figure 3.5: Probity services are not consistently flagged as consulting even by the 'Big 4'

Value by start date and consultancy flag, \$ millions, financial years

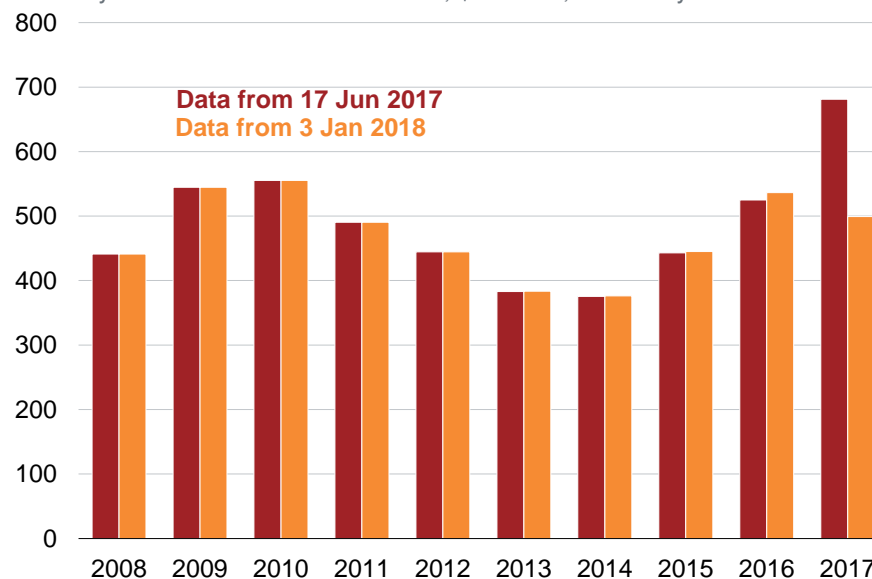


Notes: Probity services identified through a word match in the contract description. Only includes contracts of greater than or equal to \$10,000 value by one of the 'Big 4' consulting firms. Contract values are assigned to the year the contract commences rather than by the year of expenditure. Values are not adjusted for inflation.

Source: Grattan analysis of AusTender (2018).

Figure 3.6: Use of the consultancy flag has been substantially revised after the ANAO report was published

Value by start date and download date, \$ millions, financial years



Notes: Includes all contracts with consultancy flag = "Yes" reported in AusTender as at 17 June 2017 and 3 January 2018. Contract values are assigned to the year the contract commences rather than by the year of expenditure. Values are not adjusted for inflation.

Source: Grattan analysis of AusTender (2018) and AusTender (2017).

4 Costs and benefits of using consultants, and implications for the public service

The release of the ANAO report triggered a broader discussion about the costs and benefits of consultant use in the public service, including the implications for the skills and experience within the service.¹⁸

4.1 Why are consultants used?

Consulting services may be an efficient way to bring in specialised skills and expertise – particularly to manage workflow if requirements are ‘lumpy’, if niche skills are required from time-to-time, or if independent advice is required (e.g. legal or probity services).

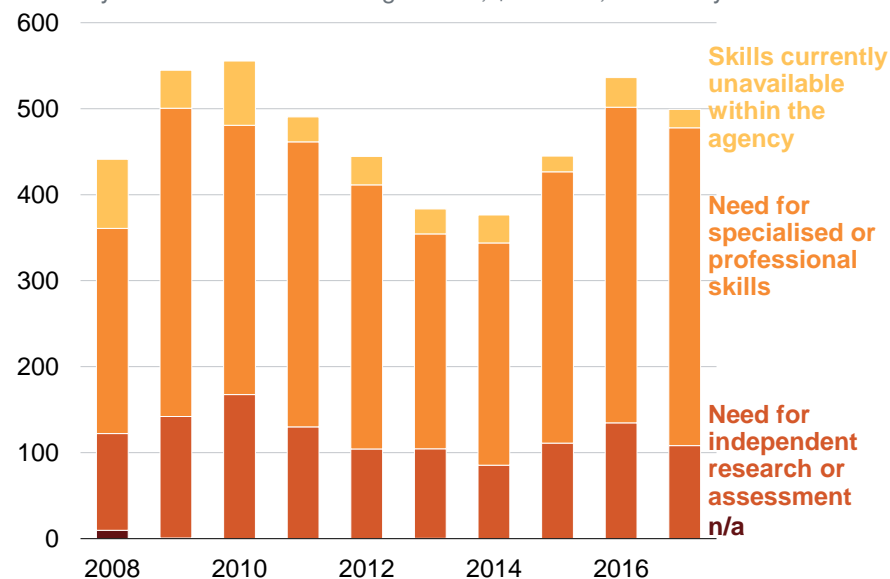
On the other hand, the use of consultants would be a concern if the work is ongoing and a suitably qualified public servant could do the same work for less money. This can only be assessed by evaluating individual contracts and the scope and cost of the work.

The AusTender data shows that consultants are primarily used for their specialised skills or their independence. Agencies are no more likely than a decade ago to use consultants because their staff are lacking the relevant skills (Figure 4.1). Between 2013 and 2017, only 6 per cent of consulting contracts were due to ‘skills [being] currently unavailable within the agency’. Between 2008 and 2012, 11 per cent of consultants were contracted because of a lack of suitably skilled staff.

4.2 Is there a risk of hollowing out the public service?

There are concerns that over-use of consultants will erode public service capacity. This might be because important skill sets are not being developed in-house, or because the best and brightest leave if the most interesting policy development work is being outsourced.

Figure 4.1: Consultants are primarily used for their specialised expertise
Value by start date and consulting reason, \$ millions, financial years



Notes: Includes all contracts with consultancy flag = “Yes” reported in AusTender as at 3 January 2018. Contract values are assigned to the year the contract commences rather than by the year of expenditure. Values are not adjusted for inflation.

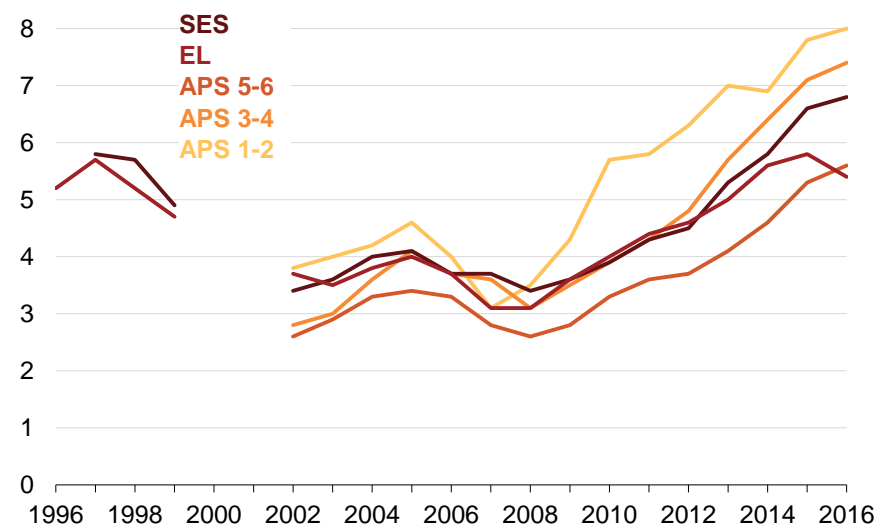
Source: Grattan analysis of AusTender (2018).

18. Tadros (2018); and Leigh (2018).

An assessment of public service capacity over time is clearly a challenging exercise and well beyond the scope of this submission. However, there is at least some evidence that public service experience is *increasing*. The median tenure of public servants has increased over time, including at the most senior levels, as shown in Figure 4.2. The average age of ongoing public service employees has risen from 34.4 in 1984 to 43.5 in 2016, and the median years of public service experience has risen, including in the senior ranks.¹⁹

Figure 4.2: Public servants have the highest experience in their role on record

Median length of service at level (years)



Notes: Some data points missing prior to 2002. Median length of service at each level includes prior ongoing and non-ongoing service undertaken before the current period of employment. Periods of temporary assignment are excluded.

Source: Grattan analysis of Australian Public Service Commission (2017).

19. Median years of service in the public service rises from 10 years for APS levels 4 to 6, to 21 years for SES 2 and 27 years for SES 3. Australian Public Service Commission (2017).

5 Conclusion and recommendations

In its current form, the AusTender data cannot provide a reliable picture of trends in government procurement spending or use of consultants. Improving reporting processes and compliance with existing definitions would help make the data more useful in this regard. Given the inconsistencies with defining consulting spending in particular, the Department of Finance should conduct an audit of compliance with its definition. The information it collects could be used to improve the guidance materials and provide feedback to agencies on their classifications.

The ANAO's analysis suggests that the existing data is helpful in identifying 'red flags' regarding public sector compliance with the spirit and letter of the Commonwealth Procurement Rules. The type of screening analysis undertaken by the ANAO – for example, identifying 'contract pairs' that may have been entered into to circumvent the additional obligations for procurement over \$80,000 – should be done annually by the Department of Finance, with more detailed follow-up to determine potential breaches of the CPR.

Finally, the AusTender data collection should be extended to document changes to the value and timelines of contracts. A record of these changes would increase accountability – by allowing identification of projects with cost and time overruns – while also assisting agencies in scrutinising offers against suppliers' past performance.

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