Australian Government
Digital Transformation Agency

dta

Joint Committee of Public Accounts and Audit

ANAO Report no 5 (2022-23): Digital Transformation Agency's Procurement of ICT Related Services

Digital Transformation Agency (DTA) Submission

Commonwealth procurement: Inquiry into Auditor-General Reports 6,15, 30, 42 (2021-22) and 5 (2022-23)

Introduction

This submission is intended to provide the Joint Committee of Public Accounts and Audit (the Committee) with:

- A status update on remediation actions within the DTA to address the Australian National Audit Office (ANAO) audit recommendations;
- An outline of additional improvements being implemented and the journey of cultural and behavioural changes underway; and
- Additional information relating to the DTA's whole of government Digital and ICT sourcing.

Background

On 21 September 2022, the ANAO published its final report into the *Digital Transformation Agency's Procurement of ICT-related Services.* The report made nine recommendations in total. Eight of which related to identified opportunities for the DTA to improve its procurement framework, practices, and behaviours and one recommendation for the Department of Finance's consideration. The DTA accepted all eight recommendations, the details of which, including their remediation actions can be found at **Attachment A** of the Submission.

The DTA acknowledges there is a need to improve the procurement framework and processes and most importantly, the organisation's compliance with that framework. This work is progressing well and will be discussed in more detail throughout the Submission.

DTA responses to ANAO Recommendations

Introduction of escalated, centralised controls

On 17 June 2022, the DTA implemented a centralised process of procurement control. This control is driving full adherence to the DTA's procurement framework through centralised evaluation and authorisation of procurements prior to their release to the market. This new process delivers three core improvements including: educating staff undertaking procurements; ensuring records are appropriately kept for all procurements; and verifying control-area weaknesses identified through the ANAO audit are effectively covered.

A copy of the procurement controls checklist can be found at **Attachment B**.

This control does not operate as a delegation under the *Public Governance, Performance and Accountability Act 2013* (PGPA). However, it ensures the proposed procurement:

- o   has an appropriate procurement plan and evaluation criteria in place
- o   approach to market and the accompanying method of procurement are correct, and
- o   conflicts of interest are captured prior receipt and evaluation of responses.

Once satisfied, the control passes to the financial delegate to allow them to exercise their relevant s23 (3) and s23 (1) authorities. Delegates, or their nominated contract managers, then award the contracts; including publishing to AusTender, notification of unsuccessful suppliers, and active contract management to the point of closure.

Education and performance management

The DTA has been investing time and effort into educating staff on procurement policies and obligations. Commencing from the 2022-2023 performance cycle, mandatory education and training for Fraud Awareness and Commonwealth Resource Management training are now formally linked to satisfactory performance of employees' substantive position. Employees will be deemed as not meeting expectations until such time as they have completed the mandated training.

Retrospective assessments

To ensure that the failures identified in the performance audit don't re-occur, the DTA has commenced a retrospective review, by exception, of historic procurements (up to June 2022 when the new control was implemented). This is being done in two ways, both focused on identifying potential areas of deficiency in procurements not sampled by ANAO.

1. Staff can raise procurements from within the previous 18 months that they feel may benefit from a retrospective assessment that applies new centralised controls against historic procurements. The Head of Corporate, supported by the Procurement team, will then conduct a review of the procurement and identify any subsequent actions on any issues identified.

2. Analysing historic procurements with similar risk characteristics the ANAO identified in their performance audit samples. For example, high value procurements; limited tender issues and high levels of contract variation.

The retrospective assessments will inform additional monitoring activities that may be required within the DTA's procurement framework, such as further compensating controls to mitigate procurement risk.

A sample of procurements (underway or completed) will be reviewed bi-annually to identify any potential areas of non-compliance, ineffective contract management, or areas of increased risk based on scope changes or cost increases. If any of these are identified, responsible delegates will be formally issued with a notice of non-compliance. The notice will outline the findings and what is required to be corrected. Repeated instances of non-compliance will result in a review of an individual's ability to hold or exercise financial delegation and the ability to undertake procurements will be ceased until such time as appropriate corrective actions or training have been satisfactorily completed.

Implementation of further payment controls

In February 2022, the DTA's Finance, Procurement and Assurance team, in conjunction with the DTA's shared services provider (Service Delivery Office or the SDO), implemented enhanced matching controls on invoices to reduce the risk payment processing errors**.** Details of the operations of the controls and the process can be found at **Attachment C.**

Finally, DTA's 2022-23 Internal Audit Work Program includes an independent review of the operation of DTA's payment controls to ensure they are operating effectively. This will take place prior to the end of the 2022-23 financial year.

Outstanding debt recovery

The performance audit identified a duplicate payment of approximately $0.380m to a supplier, Delv. At the time of the report being tabled the DTA were working with Delv regarding repayment arrangements. On 18 October 2022, a proposed repayment plan was presented and agreed to that will see the full recovery of the overpayment within the next 12 months.

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Management Framework

To assist in further embedding and supporting the operation of the DTA's procurement framework, the DTA is focused on strengthening its overarching Management Framework. The Management Framework covers all policies, standards, and processes across the domains of people, risk, finance (including procurement), technology, and security. In the 2022-2023 financial year, each domain will be reviewed and updated so that all aspects of effective management of the DTA are easy to find, easy to follow, current and effective.

Record keeping and accompanying improvement actions

A key theme emerging from the performance audit was a lack of record keeping for the sampled procurements. The DTA has since developed a Procurement Checklist. The checklist outlines required supporting documents business areas and delegates must provide to the Corporate Procurement team. Supporting documents will be permanently held in a central repository with each relevant procurement. This minimises risks following personnel changes and poor recording keeping practices.

A hybrid model of training and targeted communications will continue to be run into the future, and as part of the overarching management framework the DTA's induction program will be strengthened to ensure that key information is provided to all new starters who join the DTA.

Additional Information Relating to DTA's Whole of Government Digital and ICT Sourcing

While the DTA is not responsible for Recommendation 5 from the Performance Audit report, we remain committed to openness and transparency.

The DTA's Digital Marketplace was the first panel to provide full public transparency on all panel opportunities, including if an opportunity is open to all, or a limited number of, suppliers.

The DTA is working to further enhance the transparency of its whole-of-government digital and ICT procurement, building a publicly available Insights page that will have data on the use of the panels. This data includes contracts awarded, their value, and the participation of small-to-medium and First Nations' enterprise.

The DTA has built prompts into the workflows on BuyICT.gov.au to remind entities that it is better practice to approach at least three sellers for an opportunity, unless there is a valid exemption for limited tender under the CPRs.

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We believe that this approach achieves a reasonable balance between ensuring compliance with the CPRs while still enabling government and industry to be agile and responsive to the context in which we are operating.

There has been suggestion that every procurement should be made available to all sellers on a marketplace for it to be considered competitive. Given the number of registered sellers, this will have adverse outcomes for the duration of procurement, cost of procurement, and use of resources across both government and industry. The DTA notes that the inclusion of sellers should remain commensurate to the size and context of the opportunity.

While the DTA will promote multiple responses from entities utilising panel arrangements, value for money baselines are undertaken when panels are formed and the DTA is investigating opportunities to periodically validate value for money through benchmarking.

Small-to-medium and First Nations' enterprises have provided feedback that they will often forego opportunities with large numbers of sellers invited. This is because responding to opportunities takes considerable resources and financial cost, often with little return, where their inclusion on an opportunity was only to 'tick a box'.

DTA whole-of-government Digital Sourcing Responsibilities

The performance audit conducted by the ANAO was not a review of the DTA's whole-of-government digital sourcing responsibilities. As such, the ANAO's findings do not impact whole-of-government agreements, panels, marketplaces, and BuyICT platform.

The DTA remains committed to ensuring that these whole-of-government digital and ICT procurements continue to be established, maintained, and refreshed in a manner that is open, transparent, and in accordance with relevant policies and governance measures. A list of consolidated feedback received through engagement with buyers and sellers of common pain points of digital procurement is at **Attachment D**.

Attachment A - Summary of Performance Audit recommendations and DTA's relevant improvement activities

ANAO Recommendations	DTA Response/action

1. The Digital Transformation Agency implement a system of risk management that ensures procurement risks are being monitored, managed, and escalated appropriately.	The DTA has implemented:
	1. As a compensating control, effective 17 June 2022, the Head of Corporate was authorised as a central point of control for all planned procurements before approaches to market are undertaken by delegates to ensure:
	
	    - The approach to market is appropriate and there is a procurement plan in place prior to proceeding
	    - Conflicts of interest, including NIL responses, are formally captured in a central register
	    - Procurement risks are identified and either mitigated or escalated to the delegate for consideration and action
	    - Budget availability is confirmed
	    - Appropriate records are retained and captured by the Corporate Procurement team
	
	2. Since September 2022, a Procurement Checklist is required to be completed and accompany each procurement. The completed checklist will be captured with the relevant procurement and kept as an appropriate record.

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ANAO Recommendations	DTA Response/action
2. The Digital Transformation Agency: a) implement a strategy to ensure all officials complete its fraud awareness and mandatory procurement and finance training; and b) strengthen its processes to ensure that potential fraud and probity breaches are investigated in accordance with its policies and that appropriate follow-up action is taken.	The DTA has implemented a requirement that: **1.** All officers with financial delegation have completed fraud awareness and Commonwealth Resource Management training for the 2022-23 financial year by the end of October 2022. **2.** All officers are required to demonstrate completion of their mandatory training during the 12-month performance management cycle. **3.** As of 20 October 2022, two face-to-face sessions have been run on fraud and corruption awareness with a focus on key areas of risk for all staff. These sessions will continue to be run bi-monthly in addition to the availability of online courses at any time. **4.** The DTA is currently reviewing its processes with a focus on making these more robust and has sought from the Department of Finance, its processes and documentation with a view to leveraging these as a model process. Updated fraud and probity policies will be released by the end of November 2022.

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ANAO Recommendations	DTA Response/action
3. The Digital Transformation Agency: a) establish an internal control to ensure that officials directly involved in procurements make activity-specific declarations of interest; and b) maintain a register of declared interests.	**1.** As part of the remediation action in response to Recommendation 1, the Head of Corporate, as the central point of control, is ensuring activity-specific declarations of interest are made for all procurements after 17 June 2022. It is intended that this control will transition directly to delegates at the point at which improved procurement practices are demonstrated by the business areas and officials involved in procurements. **2.** A central register that captures all declared interests has been created and is held on DTA's appropriate record management platform.

ANAO Recommendations	DTA Response/action
4. The Digital Transformation Agency align its approach to market processes with the Commonwealth Procurement Rules, with a focus on: a) estimating the expected value of a procurement before a decision on the procurement method is made; b) establishing processes to identify, analyse, allocate and treat risk; and c) maintaining a level of documentation commensurate with the scale, scope and risk of the procurement.	**1.** The Procurement Checklist requires the completion of researching potential suppliers and estimating costs prior to seeking delegate approval to proceed. **2.** As part of the update to risk assessment processes, the DTA is currently planning to build on the ability to identify risks more readily through a more detailed procurement process and capturing of relevant information at the planning stage. **3.** The Procurement Checklist also sets out the requirements for documentation maintenance, in addition to the establishment of a central register for declarations of interest as well as any other correspondence related to relevant procurements captured through the Worfklow Ticketing software, Zendesk.
5. *The Australian Government implement reporting requirements for procurements from standing offers, such as panels, to provide transparency on whether an opportunity was open to all suppliers and, if not, how many suppliers were approached*	*For Department of Finance consideration* **1.** The DTA has updated guidance to include multiple panel participants in entity tenders. **2.** The DTA is building out additional transparency reporting on procurements using panels and whole of government agreements including methods utilised, contracts awarded, their value, and the participation of small-to-medium and First Nations' enterprise.

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ANAO Recommendations	DTA Response/action
6. The Digital Transformation Agency improve its tender evaluation processes to: a) align them with the Commonwealth Procurement Rules; and b) incorporate evaluation criteria to better enable the proper identification, assessment and comparison of submissions on a fair and transparent basis.	**1.** The procurement checklist strengthens the DTA's requirements to develop appropriate evaluation plans and criteria prior to seeking delegate approval to approach to market. **2.** The DTA will assess its current tender evaluation processes and how these align with the Department of Finance's tender evaluation processes with a view to improving the processes going forward. This work is yet to commence in the context of dealing with more urgent implementation requirements of the report. **3.** Continued guidance is being provided by Corporate Procurement to staff undertaking procurement activities to ensure that evaluations are occurring on a consistent basis with the accompanying policy being updated in parallel.

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ANAO Recommendations	DTA Response/action
7. The Digital Transformation Agency improve its procurement processes to ensure decision-makers are provided complete advice, including information on risk and how value for money would be achieved.	**1.** The compensating central control that is currently in place through the Head of Corporate and the Corporate Procurement team is ensuring that as the DTA continues to focus on uplifting overall organisational capability and accountabilities in this regard, delegates in procurement processes are being made aware, consistently, of areas of risk and value for money supporting justification. **2.** The procurement checklist includes requirements for a completed risk register prior to delegate approval to approach market as well as value for money assessment as part of tender evaluation. **3.** The training sessions provided have also emphasised the need to improve understanding in this area.

ANAO Recommendations	DTA Response/action
8. The Digital Transformation Agency: a) improve its training and management of internal payment controls; and b) conduct an internal compliance review or audit within the next 12 months to verify the effectiveness of its payment controls	**1.** Since being implemented in February 2022, the AP Uplift program with the DTA's shared services provider, the Service Delivery Office has significantly reduced the need for manual data entry and increased the accuracy and ability to link invoices to relevant purchase orders. **2.** Month-end reconciliations and checks are being performed by the 7th working day after the month end as a checking process. **3.** The DTA's 2022-23 Internal Audit Work Program includes an internal audit focused on DTA payment controls to be conducted by the DTA's internal audit provider by Q4 of the 2022-23 financial year.
9. The Digital Transformation Agency strengthen its internal guidance and controls to ensure officials do not vary contracts to avoid competition or obligations and ethical requirements under the Commonwealth Procurement Rules.	**1.** The DTA Corporate Procurement team is currently reviewing all significant contracts to ensure these contracts are being managed effectively. **2.** In conjunction with work underway in the overarching training program for the DTA, improved procurement planning and recordkeeping, strengthening of internal guidance and the provision of consistent advice, the DTA will monitor and report on behaviours in the context of risk that do not present as consistent with ethical requirements under the CPRs.

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Attachment B – DTA's internal procurement checklist (introduced in September 2022)

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Procurement Checklist

Title of Procurement

Drafters note: comments in red are for information when completing this checklist. Remove if other comments are needed against that item. **SAVE A NEW VERSION BEFORE EDITING.**

DTA Reference No.	Click or tap here to enter text.
Proposed Contract Start Date	Click or tap to enter a date.
Purpose of procurement	Click or tap here to enter text.
DTA Contact	Should be the person responsible for coordinating the procurement
DTA Contact details	Click or tap here to enter text.
Spending Delegate	Click or tap here to enter text.

Done	Item	How/when/who
Plan		
☐	Research potential suppliers and anticipated whole of life costs	*The Indigenous Procurement Policy (IPP) "mandatory set aside" applies when the value of your procurement is estimated to be above $80,000 but below $200,000.* *If you estimate your procurement is in this range, you must check whether an Indigenous Small to Medium Enterprise (SME) can deliver the goods or services on a value for money (VFM) basis before approaching the market.*
☐	Identify your approach to market method (such as which panel to use)	*Contact Corporate Procurement for assistance.*

Done	Item	How/when/who
☐	Check with your spending delegate and the Budget team to ensure you have budget to engage a supplier	
☐	Develop a procurement and evaluation plan	
☐	Complete a risk register	*More information on the risk management process can be found here*
☐	Prepare your approach to market documentation	*Contact Corporate Procurement if you're unsure what templates to use.*
☐	Complete a conflict-of-interest declaration, even if no conflicts exist	*Ensure you declare any potential conflicts of interest throughout the procurement process even if you are just in planning stages.* *If you identify any perceived or actual conflicts of interest, raise this with the delegate so they can decide the on the most appropriate course of action.*
Approach to Market Approval		
☐	Seek approval from the Delegate on the procurement and evaluation plan	
☐	Send approvals, approach to market, and conflict of interest declarations to Corporate Procurement for review and clearance	*High risk/high value procurements, or procurement process outside DTA policy, require clearance from the Head of Corporate*
Approach Suppliers		
☐	Send RFQ to suppliers	*Corporate Procurement will approach the selected suppliers for a response/quote via the relevant mechanism following clearance of approach to market documentation*
☐	Answer questions from suppliers	*Corporate Procurement will send you supplier questions. You must answer all questions.*
Evaluate Responses		
☐	Complete an updated conflict of interest declaration, if required	*If you identify any perceived or actual conflicts of interest, raise this with the delegate so they can decide the on the most appropriate course of action.*

Done	Item	How/when/who
☐	Check if responses are compliant with terms and conditions of participation	*This may be referred to as conditions of participation and mandatory requirements. If not compliant, document and advise suppliers*
☐	Evaluate suppliers against technical criteria	*Do technical evaluation first so the price doesn't influence your decision*
☐	Evaluate price	*Compare pricing of suppliers to determine who is providing the best price*
☐	Conduct value for money assessment	*Evaluate the technical scores against price and risk to determine who represents best value for money. NOT ALWAYS CHEAPEST*
☐	Complete an Evaluation Report	*Make sure you take notes and outline this to the spending delegate to demonstrate how you came to your decision. Ensure this is in line with the Evaluation Plan*
Evaluation Approval		
☐	Send the draft Evaluation Report to Corporate Procurement for quality assurance check	
☐	Seek endorsement from all panel members on the Evaluation Report	
☐	Seek spending delegate approval of Evaluation Report	
☐	Send the approved Evaluation Report to Corporate Procurement	
Contract		
☐	Develop contract	*Corporate Procurement will develop the contract in consultation with you.*
☐	Execute contract (both parties sign)	*Corporate Procurement will sign on DTAs behalf.*
Onboard Specified Personnel		
☐	Enter all specified personnel into HR Onboard	*All specified personnel **must** be entered and processed in HR Onboard before they can commence work.*

Done	Item	How/when/who
Notify unsuccessful suppliers		
☐	Notify other suppliers they were not successful	*This is mandatory under the CPRs*
☐	Hold debriefs to provide feedback (where requested)	*This is mandatory under the CPRs*

Done	Item	How/when/who

Attachment C – Internal payment processes and controls

For a payment to be successfully processed and completed, the following steps need to be satisfied:

1. Suppliers and vendors are required to submit invoices directly to the SDO via email or e-invoice. Invoices received by the DTA are also provided to the SDO so that all invoices are captured through a central process
1. Using SDO's e-invoicing capabilities, all e-invoices must have a purchase order number to be accepted for further processing. This ensures processes are consistent with SDO's requirements and fewer errors or lost invoices occur.
2. There is a standard vendor management process through SDO and requires mandatory information to include in creation/update/deletion of vendors. This reduces the risk of invalid or incorrect vendors.
3. The SDO's Vendor Information Management (VIM) system performs scans to ensure invoice number, purchase order number, ABN and amounts are matched. If amounts are not matched within the VIM, processing does not proceed until the difference is resolved with the vendor and the DTA.
4. No invoices are progressed to payment until goods receipting occurs. This is managed by DTA's Finance team through the SDO confirmation/goods receipting process. Written confirmation (emails) is required from DTA business units before processing. These emails are kept as evidence of receipt and approval and held centrally.
5. Standard VIM reports and reminders from SDO in relation to invoices received but not yet goods receipted are provided to the DTA Finance team. This report identifies any information missing and exception reasons for DTA to action on. This ensures no invoices are processed without the required information.
6. Request to pay actions also require similar information related to vendor invoice amounts, purchase orders and exception comments to be included, prior to delegate approval. Following delegate approval, the SDO will action the request and ensures all required information is provided prior to actioning.
7. DTA's Finance team also reviews transactions recorded monthly as part of month-end processes to ensure no anomalies or unusual payments occur. Any issues that are identified are followed up and investigated accordingly.

Attachment D - Common digital procurement pain points for government buyers and industry sellers

In our role managing whole-of-government ICT procurement arrangements, the DTA often receives feedback from individuals involved in procurement (both Buyers and Sellers). We currently have more than 11,000 active users across government and industry who access our marketplaces and whole-of-government agreements through BuyICT.gov.au.

For the purpose of this inquiry, the DTA has collated feedback it has received through engagement with our Buyers and Sellers and offers it to the JCPAA as an insight into the constraints or motivations that may be driving some of the procurement behaviours that are before you for consideration.

Below is a collection of feedback provided from buyers and sellers collected over the past 5 years:

Theme	ICT Procurement Pain Points
Strategic capacity	• Project areas tend to focus on solutions, i.e. finding a technology product, while procurement officials focus on process, i.e. finding an appropriate procurement mechanism to buy the product. Procurement functions are often viewed in a transactional context by project areas, rather than a partner in achieving agency outcomes. • Inputs to decision-making are inconsistent across government, but the perception among procurement officials is that decisions tend to be operational, rather than strategic. • Procurement officials consider digital and ICT to be an important procurement specialisation that should be acknowledged and supported through additional specialist training and professionalisation of the workforce. On the job learning, and exposure to mentoring have been identified as important to procurement officials achieving expertise in their field. Given agencies' procurement functions are often centralised, procurement officials don't have the business or technical knowledge to influence agency project areas about which sellers to approach for solutions. Agency-level rules around the types of sellers to engage may not be appropriate for digital procurements. For example, while some agencies mandate engagement of small and medium vendors in any approach to market, there are sometimes no

	sellers who satisfy both size and capability requirements. Additionally, Senior executives may have a limited understanding of digital technologies and their opportunities, which can result in risk-averse decision making and result in poor procurement outcomes. • Often Agencies are responding at short notice to the direction of their relevant Minister's, at short notice without sufficient time to complete robust strategic procurement planning.
Research, market comparisons and risk	• In light of probity requirements, agencies are unsure how best to engage with industry before they approach the market, which constrains their ability to understand technologies and market innovations. • Procurement officials are hesitant to gain market insights from industry sellers outside of formal request for information, quotation or tender process. In some agencies, buyers are under the impression it's not permissible for them to speak directly to sellers outside of a formal approach to market framework. This can affect an agency's ability to understand new market technologies and innovations and skew approaches toward sellers with the resources to respond to formal market approaches. It can also lead to poor understanding of the market and the development of poor requirements documentation. • Strict adherence to the letter (rather than intent) of policies and rules, creates inefficiencies and delays in procurement processes to the significant frustration of sellers.
Documentation development	• Government agencies lack a consistent approach to procurement templates and workflows. This results in difficulties for agencies to maintain best practice in procurement and increases bureaucracy and inefficiencies. This is particularly noticeable as procurement officials move between agencies where new processes and templates must be learnt. It also hampers government attempts to build 'one size fits all' procurement platforms. • Lengthy procurement processes can impede agencies' access to market skills and technology, which are lost to more nimble organisations.

	• Agencies would benefit from knowledge sharing of product and contract management but often fail to identify and reuse work already completed by other agencies. • Procurements heavily favour the purchase of specific products or services, rather than focusing on outcomes needed to solve business problems. • Project areas, which frequently establish requirements, often don't involve procurement areas until late in the procurement process. Quality of approaches to market vary considerably, which leads to poor responses, or worse, exclusion of sellers that otherwise have the capability to solve agency problems. • Box-ticking behaviours, combined with a lack of consideration for long-term outcomes, result in compliance-driven approaches over outcomes-driven approaches especially where officials conducting procurement are provided with insufficient timeframes for delivery.
Approaching the market	• Sellers are disadvantaged from inconsistent procurement practises across government, as they invest significant effort understanding and responding to a variety of procurement templates and agency needs. • Sellers find the proliferation and duplication of government procurement pathways a significant drain on resources. It is often only large sellers that have enough expertise and time to maintain memberships to many government panels, which limits market competition and access for small-to-medium enterprises. Buyers and sellers also confuse where to conduct and respond to procurements given the number of government-supplied platforms, each with their own specific purpose. Platforms to navigate for government procurement include AusTender, agency ERP systems, BuyICT and GovPanels amongst others. • Some government panels aren't refreshed frequently, leading to a lack of currency, relevancy and lockout of new and innovative solutions. • There is no government-wide accepted definition of a small-to-medium enterprise (SME). Definitions often assess number of employees or annual turnover but may not consider company ownership. For example, a seller that meets both an employee and turnover definition may be

	owned by a large multinational corporation. The variety of definitions makes it difficult for agencies to approach the right sellers and apply procurement rules.
Assessing responses	• Incumbent sellers' reputation, quality of work and knowledge of an agency's environment will significantly influence agencies' capacity to move to new providers. • Approaching a significant number of sellers (when not commensurate with the risk of the procurement) can leave procurement officials inundated with questions, responses and evaluations, leaving them overwhelmed - particularly given their already-strained resources. • Often Agencies have already decided on the outcome of a procurement process before responses have been received (ie – they have decided to re-engage an incumbent but are undertaking a procurement process to appear compliant with CPRs).
Negotiate and award	• Contract negotiations are often conducted by project teams and seek procurement involvement at the end, negotiations would benefit from more input from digital sourcing professionals early on in the procurement process. • It is difficult to write appropriate contracts to support new and innovative ways of working (e.g. Agile projects). • Agencies are required to seek multi-year funding for projects upfront, which favour traditional project methodologies over projects that focus on delivering minimum viable products and that will only continue if successful. • Following the selection of a preferred solution, agencies and sellers regularly outsource contract negotiations, at great expense to both parties. Sometimes legal costs for contract drafting and negotiations exceed the costs of the products or services being procured by the agency. For sellers to remain profitable, they must eventually factor the added expense of doing business with government agencies, driving up costs of services for government. There is a considerable gap in agency

	capabilities to draft legal documents, with the task often falling to procurement officials, who lack legal training and expertise. • Agencies commonly fail to notify sellers of procurement outcomes, for fear they will lose the upper hand in negotiations with preferred sellers, even if sellers have been excluded early from a procurement process. There is often confusion between project teams and central procurement officials about who is responsible for notifying sellers of outcomes. Failure to notify sellers of outcomes within appropriate timeframes means sellers spend valuable time following up agencies for updates and set aside resources from use for other projects.
Manage and deliver	• Agencies tend to under-prioritise contract management as a skill-set that is vital to the success of any digital sourcing activity.
Evaluate outcomes	• Procurement teams don't have concrete measures, performance indicators, or processes to assess the success of procurements and lack time to effectively evaluate outcomes and improve future practices. • Procurement officials tend to work at or beyond their capacity, with peak workloads around end of financial year.
Renew	• Agencies are missing out on opportunities to innovate because they renew contracts with tried and tested sellers or don't have the confidence or skills to adopt new technology.