

Technology Services Procurement Review

DISCUSSION PAPER - SUMMARY OF
SUBMISSIONS

BACKGROUND

On 29 October 2019 the Department of Treasury and Finance released the Technology Services Procurement Review - Discussion Paper (Discussion paper) for consultation.

The Discussion paper outlined the intention to review existing procurement arrangements for technology services administered by Treasury. Specifically, the Discussion paper noted that the focus of the review is the operation of and potential alternatives to, the:

- Government Information Technology Conditions (GITC); and
- ICT Professional Services Panel (Panel).

The Discussion paper sought feedback on proposals outlined in the paper and posed four specific questions:

- Do you support replacing the Government Information Technology Conditions with an alternative set of contract terms?
- Do you support changes to the ICT Professional Services Panel?
- Do you have any comments or suggestions about replacing the ICT Professional Services Panel with a multi-use list arrangement?
- Do you have any other comments about the procurement of technology services by the Tasmanian Government?

The consultation period closed on 29 November 2019.

SUMMARY OF SUBMISSIONS

There were a total of 27 submissions received in response to the Discussion paper. Of these 10 were from Tasmanian State Government agencies, one was from Tasmanian Local Government, two were from a Commonwealth Government Entity and the remaining 14 were from external organisations and individuals.

The following provides a list of the submissions:

State Government (Agencies or individuals)

- Department of Education
- Department of Health
- Tasmanian Inland Fisheries
- Department of Premier and Cabinet
- State Archivist Office
- Tasmanian Integrity Commission
- Department of Police, Fire and Emergency Management
- Department of Primary Industries, Parks, Water and the Environment (Lands Tasmania)
- Tourism Tasmania
- Department of State Growth

Other Government Entities

- Local Government Association of Tasmania
- Commonwealth Digital Transformation Agency (*2)

External Organisations

- Oakham Contracting
- getbusi
- Amazon Web Services
- TasICT
- Telstra Enterprise
- Eaglecrest
- Continuesec Pty Ltd
- Anderson Morgan
- Splashback
- Salesforce
- Virtual InfoTech
- GMC Advisors

Individuals

- Geoffrey Day
- James Newton

Overall the submissions were very supportive of the intention to review both the GITC contract and the ICT Professional Services Panel. There was general agreement that the existing arrangements no longer reflect the dynamic and agile nature of the ICT industry.

RESPONSES TO THE DISCUSSION PAPER QUESTIONS

The Discussion paper asked respondents to consider four specific questions related to the proposed approach for both the GITC and the Professional Services Panel and sought general observations about the procurement of technology services by the Tasmanian Government. The tables below provides a summary of the responses:

Table I - Discussion paper questions

Discussion paper questions	Yes	No	N/A
Do you support replacing the Government Information Technology Conditions with an alternative set of contract terms?	19	2	6
Do you support changes to the ICT Professional Services Panel?	19	2	6

The Discussion paper presented two options for the replacement of the existing Panel. The following table summarises the level of support in the paper for the options presented.

Table 2 - Responses to solutions proposed in Discussion paper

Suggestions for replacement of the ICT Professional Services Panel		
Mandatory Panel Option	Multi-use List Option	N/A
2	13	12

The following section provides a summary of some of the observations provided in the submissions relating to the four questions posed in the Discussion paper.

DO YOU SUPPORT REPLACING THE GOVERNMENT INFORMATION TECHNOLOGY CONDITIONS WITH AN ALTERNATIVE SET OF CONTRACT TERMS?

The a majority of the submissions support the review and replacement of the current GITC. The submissions note the following characteristics of the existing framework in support of the requirement for a review:

- The framework is complex, protracted and is difficult to understand.
- It is out of date and is no longer fit for purpose.
- It does not cater for new and emerging technologies such as cloud-based software and software as a service and can require significant modification of the contract terms to be used for these services which can cause significant delays.
- The current liability arrangements are too high in many situations. There should be flexibility and discretion available for agencies to vary this amount based on a risk assessment for the services being procured. This would alleviate the ongoing impost of insurance premiums on suppliers and associated costs on low-moderate value contracts.
- The current framework is generally inflexible, inhibits choice and innovation.

There were other issues discussed in the submissions regarding the existing GITC, but in general it is agreed that a review is warranted. The individual submissions can be reviewed at *Appendix A - Submissions*.

DO YOU SUPPORT CHANGES TO THE ICT PROFESSIONAL SERVICES PANEL?

The majority of the submissions support the intention to undertake a review of the ICT Professional Services Panel.

The most common criticism of the existing panel identified is the inherent lack of flexibility and the inability to add new participants on a more regular basis. Most of the respondents would prefer to see arrangements with more frequent review, allowing new participants to be added more regularly.

Some of the consistent comments from the submissions are:

- that the panel precludes new entrants for a significant period and does not reflect the environment within the ICT industry;
- pre-qualification is impossible for technologies that emerge after the tender process has occurred; and

- that the existing arrangements encourage incumbency, are non-responsive and do not support the Government's objectives of finding innovative solutions to technology challenges.

Comments on mandatory panel option proposed in the Discussion paper

Only two of the submissions indicated a preference for the implementation of a mandatory panel option as proposed in the Discussion paper. Concerns regarding this option essentially mirrored those related to the existing arrangements. One respondent commented that:

'panel arrangements that have a market place style view hamper competition as the silent auction approach favours those who have the lowest prices, not the best service'.

DO YOU HAVE ANY COMMENTS OR SUGGESTIONS ABOUT REPLACING THE ICT PROFESSIONAL SERVICES PANEL WITH A MULTI-USE LIST ARRANGEMENT?

As demonstrated in Table 2, the proposal to replace the Panel with a multi-use list received strong support with half of the submissions providing support for this proposal. However a review of the feedback received in the submissions to this question demonstrates a mixed response.

A number of the submissions supported the potential replacement of the panel with some form of multi-use list / prequalification arrangement, comments included:

- *the multi-use list would allow for new entrants to be added more easily;*
- *the multi-use list option would provide greater flexibility for Tasmanian agencies to procure services that meet its needs;*
- *a multi-use list is preferred over a panel arrangement to allow for flexibility of emerging technology and new products;*
- *the approach outlined for the multi-use list is in all respects better aligned with the dynamic and fast moving nature of the ICT industry; and*
- *this initiative is strongly supported. The current arrangements make it more difficult for companies to compete.*

There were also a number of concerns raised with the proposal to replace the panel with a multi-use list, these included:

- *The federal Government have recently moved away from multi-use list type agreements with a preference for Panel arrangements where a seller's value for money is established once and used many rather than requiring ongoing assessments.*
- *Do not believe that a multi-use list is a better model than the mandatory panel arrangement.*
- *A multi-use list arrangement is not a path that will achieve favourable outcomes for Tasmanian Government agencies. ICT procurement is already complicated for public sector agencies. Therefore, asking them to use the market approaches outlined in the Treasurer's Instructions would be counter-productive when Professional Services are in-scope.*
- *Reluctant to see an arrangement implemented that placed an increased administrative burden on agencies and suppliers. Noting however that this option mitigates the issue of the lock out of new suppliers.*

- The papers list of advantages for a multi-use list are not significant improvements in comparison to using the Panel or normal procurement process.

The positive feedback received in relation to the proposed multi-use list is fairly consistent with the negative feedback regarding the existing and/or proposed Panel. There is a desire for a model that allows:

- greater flexibility to add new entrants;
- an ability to capture new and emerging technologies; and
- generally better align with the dynamic nature of the ICT industry.

All of the comments received in relation to this and to the previous two questions will be taken into account as the review progresses.

DO YOU HAVE ANY OTHER COMMENTS ABOUT THE PROCUREMENT OF TECHNOLOGY SERVICES BY THE TASMANIAN GOVERNMENT?

The Discussion paper asked the above question to elicit additional information and comments regarding the procurement of technology services. The respondents raised a number of issues and considerations regarding the procurement of technology services. A number of the items raised are considered to be within the scope of the current review and will be taken into account as the review progresses, while some are not considered within scope and may be considered outside of this review process. The following table provides a summary of a number of the issues raised, either in direct response to the question or generally within the submissions, and identifies them as being either in scope or out of scope.

Topic	In or out of scope
<u>Panel Fees</u> <ul style="list-style-type: none"> • The Panel Fee should not be paid by the vendor, if there needs to be internal cost recovery between Agencies then this should be handled directly, there is overhead for everyone to track, report and pay where the funds could be directly transferred between Agencies. • The service fees charged to suppliers through the central technology contracts should be reviewed. The Department feels that these fees are barriers for industry in providing efficient and more cost-effective services to agencies. • Need for an immediate reduction or abolishment of the 2% commission payable by Industries to Agencies on C150 contracts. 	In Scope (Professional Services Panel Only)
<u>Administration of Whole of Government technology contracts</u> <ul style="list-style-type: none"> • Suggest a review of the administration of Whole-of-Government technology contracts be undertaken in relation to establishing one lead agency for all technology contracts. 	Out of Scope
<u>Accessibility</u> <ul style="list-style-type: none"> • Consideration should be given to Accessibility requirements suitable for public procurement of ICT products and services Product Designation: AS EN 301 549 whereby suppliers must demonstrate how their technology meets this standards Functional Performance Requirements (FPR). 	In Scope

Topic	In or out of scope
<u>Inclusions in GITC replacement to better reflect effective records management</u> <ul style="list-style-type: none"> The Office of the State Archivist have made a number of suggestions for the GITC replacement to better address government records requirements. 	In Scope
<u>Contract terms to reflect value and risk of the procurement</u> <ul style="list-style-type: none"> Consideration of whether there could be a choice of contract forms which reflect the risk of the individual procurement. 	In Scope
<u>Internal data management systems</u> <ul style="list-style-type: none"> Expenditure on the development of internal data management systems that are data silos only visible within Government. A review of this kind of expenditure is required. 	Out of Scope
<u>Consideration of approaches undertaken by others</u> <ul style="list-style-type: none"> Several respondents including the Digital Transformation Agency have recommended that we consider the practices undertaken by DTA (ie DTA Marketplace) as part of the review process. A couple of the respondents have suggested that we investigate the potential for Tasmania to participate in the DTA Market place. Potential opportunity to explore Local Government Association panel arrangements for use by State Government purchasers. Consider Commonwealth Whole of Government arrangements for the purchase of Cloud services. Consideration of practices in other jurisdictions, such as the NSW approach to allow spending on testing new ideas and concepts prior to embarking on tender processes. Consider access to Commonwealth whole of government contracts with specific multi-national vendors (eg Amazon Web Services) 	In Scope
<u>Considerations of local presence and capability</u> <ul style="list-style-type: none"> Companies listed on the Panel must be able to demonstrate a local presence and capability, as per the local benefits test. Changes to the panel should make it easier for locally owned businesses, not branches of mainland organisations to get visibility. Suggestion to change wording so that Tasmanian companies are identified as having the majority of their staff in the state rather than just having staff in the state. 	In Scope

CONCLUSION

The submissions received in response to the discussion paper have demonstrated that there is a desire to see change to both the current GITC and the Panel.

Treasury will continue to work on projects to review and amend procurement arrangements for technology services administered by Treasury.

- Government Information Technology Conditions (GITC); and
- ICT Professional Services Panel (Panel).

The reviews will take account of the feedback received in the submissions.

Treasury's intention is to ensure that alternative standard contracts and revised panel arrangements are in place before the expiration of the term of the ICT Professional Services Panel contracts on 30 June 2021. Treasury will consult further as the review continues.