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2030 and  
beyond: getting  
the work of  
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done

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# **2030 and beyond: getting the work of government done**

**An ANZSOG research paper for the  
Australian Public Service Review Panel**

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Janine O'Flynn, The Australia and New Zealand School of Government  
and the University of Melbourne

Gary L. Sturgess, The Australia and New Zealand School of Government  
and the University of New South Wales

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## Members of the Commissioning and Contracting reference panel

- Professor Helen Dickinson, Professor of Public Service Research, University of New South Wales, Canberra
- Professor Jean Hartley, Professor of Public Leadership, Open University Business School, England
- Dr Barbara Allen, Senior Lecturer, Victoria University Wellington, New Zealand
- Professor Carsten Greve, Professor of Public Management and Governance, Copenhagen Business School, Denmark
- Dr Tanya Allport, Director of Research, Te Whānau O Waipareira, New Zealand
- Mr Luke Houghton, Asia Pacific Lead Partner – Infrastructure and Capital Projects, Deloitte, Sydney, Australia
- Mr Geoff Leeper PSM, Yarabee Consulting, Australia.

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# 1 THE AUSTRALIAN PUBLIC SERVICE OF THE FUTURE

## 1.1 The Independent Review of the Australian Public Service

The Independent Review of the Australian Public Service (the APS Review) is developing a program of transformational reform to ensure the APS is:

*apolitical and professional, agile, innovative and efficient – driving both policy and implementation through coherent, collaborative, whole-of-government approaches ... [with] the capability to meet core responsibilities and deliver functions, and to understand and deploy technology and data to drive improvement*<sup>1</sup>

Achieving this vision involves questions about the purpose of the APS, what government does, and how it goes about doing it. It also involves looking to current and future states.<sup>2</sup> Australia is not alone in exploring these questions; similar processes are underway in the United States of America, Canada, and New Zealand.<sup>3</sup> These are being driven by the complex reality of governing and the realisation that we work in complex, interwoven systems where boundaries are fuzzy, and governments engage with many other actors to achieve outcomes.<sup>4</sup> How to steward this more disarticulated state<sup>5</sup> has become one of the most pressing questions facing governments. How we answer these questions, however, must be anchored in the experience and aspirations of all Australians.

In this paper we explore how these questions relate to the practice of commissioning and contracting. And we consider how the APS of 2030 should deploy these tools in pursuing outcomes.<sup>6</sup> We set out a vision for an APS that is more strategic and where a much wider range of tools are used to deliver on outcomes. An APS that has transitioned from a procurement mindset to adopting approaches that allow it to fully leverage the potential within the APS, and with those it works with. The APS will need access a fuller and more appropriate set of contracting tools, consider a broader set of relationships, and have the capability to design and steward complex systems, in pursuit of outcomes for all Australians.

Our analysis points to a range of enduring and emerging challenges that demand attention. The future state we sketch out demands fundamental change. By starting this journey now, the APS can improve current practice and provide the foundations for bold new ways of working in the future.

## 1.2 APS 2030: The future state of commissioning and contracting

By 2030, the APS will be bolder, innovative, and adaptable in delivering value to all Australians.

The APS will be forward-looking and focused on designing systems that enable action: clearly defining desired outcomes, activating change when the system underperforms, and identifying barriers to, and opportunities for, beneficial change.<sup>7</sup> These are the critical roles of strategic commissioning and system stewardship which will enable the APS to harness a broader set of capabilities through more diverse ways of operating.<sup>8</sup>

The APS is not broken; however, it needs to transform approaches to commissioning and contracting to be able to fulfil this vision. This transformation requires a series of transitions in system architecture, organisational design and people. This change will take time, energy, and investment.

There is no one-size-fits-all approach to the work of government. To become ‘agile, innovative and efficient’<sup>9</sup> the APS needs a more diverse toolkit, and it needs to shape environments and systems in which actors can exercise

judgement about the best approach for the task at hand. To do it so, the APS needs to devolve decision-making, build trust and embed a robust integrity framework, in order to support new approaches to commissioning and contracting.

By 2030, the APS will be able to operate in many new and different ways, being guided by important strategic principles.

- The APS will make decisions about engaging with others based on the best option for the circumstances. These decisions will be made based on a much broader appreciation of the notion of contracting, and well-honed capabilities.
- The APS will have a more flexible approach to organisational boundaries. This will be underpinned by a more adaptive approach to how APS organisations work with external providers.
- The APS will have developed, and continue to develop, the capability to work with a broad set of parties.
- The APS will be committed to the design and stewardship of systems, not just the management of specific contracting arrangements.
- The APS will have a commitment to transparency in contracting and commissioning. This will be anchored in integrity regimes that build trust in relationships, between parties, and with the Australian community.

### 1.3 Scope and structure of the paper

In developing this paper, we were asked to consider: why commissioning and contracting matter in the APS; how the APS should think about its relationships with external parties; what functions might be contracted and when; what new approaches might assist in addressing enduring challenges; and what capabilities the APS will need.

We are primarily concerned with contracting for services, including advisory services, which involve ongoing engagement between government and providers rather than discrete transactions, such as the purchase of goods from suppliers in the market. The procurement of defence equipment involves complicated forms of engagement with suppliers over some years, as does contracting for the design and construction of physical facilities. While these arrangements have some similarities to service contracting, they are not the primary focus of this paper. We focus most of our attention on the complex, often bespoke, arrangements which account for around three-quarters of expenditure rather than the large number of small transactional purchases.<sup>10</sup>

The structure of the paper is as follows:

- Section 2 explains why commissioning and contracting matter
- Section 3 focuses on getting the work of government done
- Section 4 considers the core work of government
- Section 5 sets out a broader framework for contracting
- Section 6 identifies challenges faced by the APS
- Section 7 explains strategic commissioning
- Section 8 presents a path to 2030



## 2 COMMISSIONING AND CONTRACTING MATTER

The APS seeks outcomes for Australians through complex systems of organisations, rules and relationships.<sup>11</sup> How the APS goes about designing and stewarding these systems matters.<sup>12</sup> Not only because of how much is spent, but because the current approach constrains the achievement of outcomes and the creation of value. We make the case that the APS of 2030 needs to be more strategic in how it stewards this complex interwoven system<sup>13</sup> towards purpose, value and outcomes.

### 2.1 Scale and scope

#### Commissioning

Some 50-60 percent of the Australian government's spending on goods and services for the public is commissioned through external providers<sup>14</sup> – state and territory governments, government business enterprises, and private and not-for-profit organisations.<sup>15</sup> Rather than acknowledging and exploring the opportunity which exists to shape and to manage the supply side, the APS tends to think in terms of social transfers, whether that relates to households or to state and local governments.

But with some social transfers (disability support and, we would argue, medical and pharmaceutical benefits), the Australian government has substantial capacity to influence and responsibility for shaping the supply side. And we submit that these transfers can be distinguished from personal benefits payments, where households purchase goods and services on their own account. The National Disability Insurance Scheme (NDIS) is a current example – more than \$13bn has been allocated for participant plan expenses in 2018-19 under the NDIS.<sup>16</sup> Strictly speaking these are transfer payments, but the government is deeply engaged in the design of a new delivery system and will continue to be involved in activities that are about stewarding this complex system over the long-term. While around half of the funding comes from the states and territories, and the National Disability Insurance Agency (NDIA) will use direct procurement for a small proportion its budget, the Agency is responsible for facilitating outcomes and ensuring that a healthy, innovative and sustainable 'market' of providers develops.<sup>17</sup> How the APS does this will matter.

#### Procurement and contracting

The amount spent by the Australian government in 2017-18 just on purchasing goods and services from private and not-for-profit providers was in the order of \$90-100bn – around three times the amount spent on direct employment.<sup>18</sup>

A total of 73,458 procurement contracts were signed for goods and services in that year, with a total value of around \$71bn.<sup>19</sup> There has been significant variation from year to year, and an increase in the average annual value of contracts over time. Over the ten years from 2008-09 to 2017-18, the average annual total value of new contracts was \$47.3bn spread over an average number of 73,945 new contracts each year.<sup>20</sup>

The overwhelming majority of the contracts signed by the Australian government are small – in 2017-18, 95% of contracts had a value of less than \$1 million, and 62% had a value of less than \$80,000. These are not the main focus on our paper. However, 333 contracts (0.5% by number) accounted for almost three-quarters of the total by value.<sup>21</sup> Here we see much more complex arrangements in place.

Comparing the scale of contracting by the Commonwealth government with that of other nations is not directly possible, because the available data covers all levels of government. What we do know is that the value of

procurement by all levels of government in Australia has changed little in recent years. As a proportion of general government expenditure, it rose from 35.2% in 2007 to 35.4% in 2015;<sup>22</sup> as a proportion of GDP, it rose from 12.1% to 13.1%.<sup>23</sup> Australia, then, is close to the OECD average of 13.2% (as a proportion of GDP); but somewhat higher as a proportion of government expenditure (35.4% compared with the OECD average of 30.3%), although significantly lower than others such as Japan and the Netherlands.

In 2017-18, the largest single category of contract award<sup>24</sup> was the procurement of commercial, military and private vehicles, and accessories and components. This represented almost 38% of the total; the largest proportion being for military vehicles and air and water craft. The next largest category was 'management and business professionals and administrative services' at 15%.<sup>25</sup>

Spending on jobactive, the government's employment services program, was more than \$1.5bn in 2017-18 (estimated at \$1.4bn 2018-19).<sup>26</sup> Spending on immigration detention has also been substantial - contracts with a total value of around \$13bn have been signed with a variety of different providers. Annual figures are difficult to establish.<sup>27</sup>

## Future scale and scope

Over the last ten years, the largest contracts awarded, by value, including amendments and extensions were: six Department of Defence contracts for aircraft and watercraft, health services and accommodation, two arrangements for the fractionation and supply of blood; an agreement for the supply of universal service obligations in telecommunications; and one for the procurement of immigration detention services.<sup>28</sup>

The emergence of large domestic and international providers specialising in the provision of facilities management, logistics, business processes and IT support – to the private sector as well as the public sector – has contributed to a shift of support services to external providers, and while the boundary will change from time to time, this trend will not significantly reverse. The APS has decided, for a range of reasons, that such services need not be provided in-house.

Some areas of contracting have attracted considerable attention. Three stand out in recent times:

- Labour hire: it has been claimed that labour hire in the APS has increased substantially, although data for this are difficult to validate. The Deputy Chair of the Public Accounts Committee has claimed that over the period 2013-14 to 2016-17, spending on 'temporary personnel services' almost tripled to \$741 million.<sup>29</sup> Some departments and agencies have agreed that this is driven in part by the imposition of staffing limits (the Average Staffing Level or ASL), but financial constraints also play a role.<sup>30</sup>
- Consultancies: there has been some debate over the total value of consultancies in the APS. The ANAO estimates the total value of consultancies and management advice in 2016-17 at around \$680m, but noted underreporting.<sup>31</sup> Based on data from AusTender, the value of consultancy contracts awarded in that year was \$545m. In a recent submission to the Joint Committee of Public Accounts and Audit, the Department of Finance reported that 'the use of consultancies, as a proportion of total contract notices by value', has remained fairly stable at around 1%, having fallen from a peak of 1.6% in 2008-09.<sup>32</sup>
- Specific services: some services such as immigration detention contracts have attracted considerable attention regarding the conduct of outsourcing processes, the management of contracts, and a lack of transparency.<sup>33</sup> These accounted for 2.7% of the total contractual commitments of government.<sup>34</sup>

When we look to the future, it is unlikely that the proportion of goods and services commissioned from external providers will be reduced a great deal. The Australian government will continue to engage with the states and territories, with government business enterprises, and with not-for-profit providers, for the delivery of policy outcomes funded through grants. It is unlikely to produce the huge volume of military equipment required by Australia's defence forces, to manufacture the multitude of goods currently purchased from the market, or to undertake the design and construction of buildings itself. It is not likely that there will be a great deal of change in the 95% of contracts worth less than \$1 million. How it goes about doing this, however, may change profoundly.

## 3 GETTING THE WORK OF GOVERNMENT DONE

### 3.1 Why does government engage with external parties?

Private firms engage external providers for a wide range of reasons. The explanations provided by business executives remain relatively constant although there are industry-by-industry differences; similar reasons shape the practice of the APS. The principal ones are:<sup>35</sup>

- Reducing operating costs (through economies of scale from accessing specialist providers),
- Increasing predictability and control of operating costs,
- Sharpening business focus in the pursuit of competitive advantage,
- Increasing operational flexibility,
- Accessing external skills (either to solve short-term capacity issues or to access specialist skills),
- Improving service levels (or enhancing service quality),
- Reducing capital investment and exposure to the associated risks,
- Facilitating redesign of the supply chain,
- Resolving a major problem within part of the organisation.

Like private sector organisations, public sector organisations engage with other parties to address short-term capacity problems, access specialist skills, introduce innovations, and sometimes because they cannot access the capital needed. It is also the case that outsourcing, in particular and in some settings, has been driven by more political or philosophical views. In other words, a concern to reduce the scale and scope of the public sector, by focusing government on its 'core business'. This can often be combined with a view that the private sector, for example, is inherently better or more efficient than the public sector. There are few situations where the private sector is inherently 'better'. Where they do deliver better results, it is difficult to isolate the contribution of benchmarking as a result of market-testing, or the delegation of authority which accompanies the negotiation of a formal contract.<sup>36</sup>

In the APS, recent explanations support the short-term surge capacity argument in particular,<sup>37</sup> and that mixed workforces which combine contractors with permanent staff can be more effective.<sup>38</sup> Others claim that the growing use of labour hire/contract labour in particular is due to political decisions that constrain hiring of permanent staff—for example the Average Staffing Level or the efficiency dividend. And arguments have been made that increasing use of external providers, contract labour/labour hire increases costs, reduces oversight of government administration, and leads to a loss of knowledge.<sup>39 40</sup>

Similar arguments to those listed above also inform the engagement of professional consultancy services where advice is sought to guide policy decisions, drive organisational change, or undertake independent evaluation.<sup>41</sup> Here the case is often made that the public sector lacks the required capacity to do this or needs access to cutting-edge ideas.<sup>42</sup> In some cases, particularly in evaluations, officials may seek to engage external providers to provide the legitimacy of independence. Claims are made, however, that the growing use of external consultants is hollowing out the APS, eroding its policy capacity and undermining core competencies.<sup>43</sup> At the most extreme, it is claimed that "successive governments have gutted the APS, stripping it of specialist capability and service delivery experience, and causing the overuse and misuse of consultants".<sup>44</sup>

Governments work with other parties for a range of reasons. It is important to note that these relationships, and the environment around them are dynamic. This means that, for instance, needs and aspirations will change, and that decisions about who does what, and what they do will change. Some of these decisions may be determined by

political preferences for particular approaches, or concerns about poor provider performance or even the collapse of private providers.<sup>45</sup> And technological change may well have profound effects on how the APS gets the work of government done.<sup>46</sup> Having the ability to make these more dynamic decisions and knowing who to work with and when, is central to effective governance of complex systems.

## Using competition and contestability

In some areas the APS has a preference for competitive processes. Competition is not suitable for all of the work that government does. The system-wide rules and guidelines that shape this are based on assumptions<sup>47</sup> about the potential benefits that accrue to subjecting the service or function in question to competition – value-for-money improvements, risk transfer and increased transparency to central agencies and senior departmental executives (although not necessarily to the public at large).<sup>48</sup>

It is important to note that it is competition or the serious prospect of competition, not outsourcing or contracting out per se, that is seen to offer many of the potential benefits.<sup>49</sup> Market-testing is a particular competitive process where the focus is more on benchmarking performance. In principle, market-testing will be agnostic on who will eventually perform the tasks; therefore, in-house teams may compete in these processes.<sup>50</sup>

The evidence on value-for-money through market-testing is mixed because many variables governments care about are hard to measure across activities and time. And because competitive tendering and contracting are used in different ways with various levels of contracting are used in different ways, with very different functions and services, and with varying degrees of competence.<sup>51</sup> There is also very limited empirical evidence which looks at the effects of market-testing of one service on another; the so-called ‘coupling effect’. Where this evidence exists, it shows a negative impact; for example, there is evidence that outsourcing ‘ancillary services’ (e.g. hospital cleaning) can negatively impact broader outcomes (e.g. hospital acquired infection rates and patient health outcomes).<sup>52</sup> We know very little of the extent to which competitive tendering and contracting successfully transfers risk (and what type) between parties. So, whilst certain financial risks and intermediate operational risks are transferred, it is clear that the ultimate risk of delivering policy outcomes and broader strategic risks remains with government. Some recent examples illustrate this point; for example, the Home Insulation Program,<sup>53</sup> and Vocational Education and Training.<sup>54</sup> And, as recent experiences in the UK have confirmed, government also bears risk when suppliers collapse.<sup>55</sup> There is very limited research on potential transparency gains from market-testing, but there is certainly demand from (potential) external providers for access to data and information to allow more substantive testing to take place. Central agencies have sometimes insisted on market-testing where they have lost confidence in the performance data provided by line departments and agencies.<sup>56</sup>

An alternative to actual market-testing is contestability. Here, public sector organisations have used the credible threat of competition rather than actual competition.<sup>57</sup> Contestability approaches are concerned with barriers to entry and exit and use performance benchmarking.<sup>58</sup> This aim being to ensure that internal or external parties continue to face the incentives that competition can bring to bear.<sup>59</sup> For instance, a combination of performance benchmarking and intervention regimes can be used to replace in-house management teams that cannot deliver on agreed outcomes. The APS Contestability Programme<sup>60</sup> launched as part of the 2014-15 Budget is an example of such an approach<sup>61</sup> and the ANAO has estimated it will deliver net savings of more than \$5b over the forward estimates.<sup>62</sup> These benefits accrued mainly through clarity and alignment of functions that occurred through the review process, rather than outsourcing of functions.<sup>63</sup> Evidence shows that contestability regimes or benchmark competition may significantly improve performance<sup>64</sup> provided that performance benchmarking is not misused.<sup>65</sup>

## APS’ capacity to manage relationships with external parties

Questions about the capacity of the APS to manage processes and relationships were raised in submissions to the APS Review. For example, how well purchasing and contract management skills have developed over time,<sup>66</sup> and whether the APS was taking on board lessons based on past practice, numerous reviews, and the experience of other jurisdictions.<sup>67</sup> Some made the case that increasing use of consultants, contract labour, and outsourcing of

services was eroding capability over time.<sup>68</sup> Similar concerns have been raised internationally. This has especially been the case where there have been major scandals or provider failures.<sup>69</sup>

The evidence base for such claims is weak. In other words, we simply don't know.<sup>70</sup> There is no sustained assessment of capability across the APS. The APS experimented with high-level capability reviews for only a short time before it was discontinued.<sup>71</sup> And there is little evidence that individual APS organisations undertake reviews of capability, or long-term assessments of skills and competencies for engaging with other parties. This is an area that needs considerable attention if we are truly seeking to ensure that the APS is fit-for-purpose. Here, the APS can borrow and adapt the work of others - the NZ Procurement Capability Index, for example, which provides an assessment of an agency's procurement capability across a range of areas.<sup>72</sup>

## 3.2 How does the APS engage with others?

In Australia, the terms commissioning, contracting and outsourcing are often used interchangeably. These terms are inter-related, and we suggest that one way of understanding the differences is as follows: commissioning is a strategic framework for determining needs and aspirations and then developing ways to achieve these; contracting involves a range of tools that join two or more parties together; and outsourcing is a specific tool that is used when government moves specific in-house services to external providers (see Appendix A: Terms and definitions for a table of relevant terms).

Currently, the APS has a deeply embedded procurement mindset. This has been shaped, in part, by long experience of outsourcing. To be more strategic, however, the APS needs to develop a much broader conception of contracting; to see contracting as a range of tools and relationships that can enable the achievement of purpose.<sup>73</sup> Once we see contracts along a spectrum from relational to transactional, we can envisage a much more diverse set of options for action. For example, contracts might be used to create a joint venture with external parties, or to insource managerial or other technical expertise. It is not necessary that contracting be used in conjunction with competition, although in government this is usually the case.

A broader view of contracting is as a toolkit for designing relationships to deliver specific ends. This allows us to think more holistically about integrating purpose and action. If we accept this conception of contracts, we can move towards thinking more carefully about commissioning. The practice of commissioning is concerned with how government goes about assessing needs, planning, designing and prioritising services (and other activities), authorising and funding, and evaluation. Commissioning also involves, but is not limited to, the oversight of services, regardless of who provides them,<sup>74</sup> because it may involve delegation or entrustment to other parties, whether they be internal or external to the organisation.

If strategic commissioning better enables the integration of purpose and action, then a broader conception of contracting gives us some of the tools to think about a much-elaborated set of relationships and ways getting the work of government done. These, of course, sit alongside others which need to be considered (e.g. grants or transfers). Such language, however, moves us far beyond the current state. Indeed, there is considerable evidence that in Australia, the language of commissioning is being used as a substitute for procurement and/or outsourcing, rather than the more strategic integration of purpose and action we describe here.<sup>75</sup> Setting out clearly what is meant by commissioning will be an important part of moving towards the future state that we are setting out here.

## 4 THE CORE WORK OF GOVERNMENT

### 4.1 Identifying the core work of government

We were asked to consider the question of what is 'core' to the APS in preparing this paper. This question has preoccupied politicians, public servants and academics over many years; the answer, of course, has changed over time and is context dependent. By this we mean that the answer to what is core has been answered in different ways at different points in history, and by different nation states.

The concept of 'core business' has been pursued in a number of different ways:

- Minimalism – here the focus is on government doing the least possible. For example: the prior options framework (UK);<sup>76</sup> core activities and responsibilities (Australia);<sup>77</sup> and the yellow pages test (USA, Australia).<sup>78</sup>
- Essentialism – here the focus is on what functions government must do, and do well, to significantly contribute to public value. For example: enabling agencies (UK);<sup>79</sup> and steering not rowing (USA).<sup>80</sup>
- Preservation – here the focus is on what to preserve in an era of austerity or fiscal conservatism. For example: Program Review (Canada).<sup>81</sup>

Another perspective is to consider what is inherently governmental. That is, what functions are so inherently tied to public interest through the exercise of discretion and mission criticality that they must be performed by a public servant. The US Federal Activities Inventory Reform Act<sup>82</sup> is an excellent example and the subsequent guidance related to the Act clarifies this further over time.<sup>83</sup>

These calculations, however, are very different to considerations of identifying 'core competencies' as business strategists might be more inclined to do. Here, they are more concerned with improving the firm's competitive advantage rather than reducing its role, as has been the case in the frameworks set out above.<sup>84</sup> Some experts have sought to extend these ideas to public sector activity set out associated tests to apply.<sup>85</sup>

### 4.2 The core work of government: System design and stewardship

Trying to determine what is 'core' assumes that it is possible, even optimal, to draw hard boundaries around what government should do. This is much more easily said than done. Indeed, prominent scholars reject such differentiation based on the current reality of governing. They point to the increasingly complex, interconnected, or interwoven nature of government activity where government works with many actors to achieve outcomes.<sup>86</sup> In doing so, they sketch out a much more disarticulated state<sup>87</sup> where boundaries are fuzzy at best, unclear at worst, and where stewarding this activity is one of the most challenging aspects of governing.<sup>88</sup>

This makes the answer to the 'core' question straightforward: the core work of government is stewarding these complex systems towards purpose and outcomes. The activity of doing this is, of course, much more complicated. We discuss this below and then explain why the future APS might adopt more of a contingency approach, which we will explain in more detail. This provides us with a valuable way of connecting strategic commissioning and system stewardship.

The scale and scope of the APS's engagement with other parties, only part of which we have captured here, demands that the system design and stewardship, and strategic commissioning becomes the core focus for the APS.

This also requires the APS to ensure that it retains and develops its strategic policy capacity. The APS must be able to do policy development itself, drawing on expert external advice where appropriate. Just as the APS needs to ensure it is an 'intelligent buyer' it must retain and protect its strategic policy capacity as core capability.

## A diversity of delivery systems

In practice, governments deliver through a wide range of systems; only some of these have market-like characteristics. Very few of the 'markets' for public services that are discussed in the APS are markets in the sense that microeconomists think of them. Some may have market-like qualities, and some may even be quasi-markets<sup>89</sup> where private sector ideas blend with public sector funding and regulation.<sup>90</sup> But referring to them as markets may lead policymakers to imagine that they are dealing with a self-organising system that requires only limited intervention based on principles of market failure. Such thinking does not reflect what actually happens in these systems.

Examples of systems with market-like qualities are plentiful, for example:

- Choice/voucher systems – such as food stamps, rental assistance, private school grants, and the NDIS where system stewards need to make fundamental decisions about eligibility rules, funding formulae, rules about competition, and supplier accreditation amongst other decisions.<sup>91</sup>
- Clearing houses – such as multi-partite kidney exchanges which rely on complex algorithms to match demand and supply, not price signals.<sup>92</sup>

Here government must pay considerable attention to system architecture and stewardship to maintain focus on outcomes, and ensure important principles of efficiency, effectiveness, and equity guide action.

Even where much of the delivery of services is done by other providers, the core role of government is system stewardship. In some cases, we can use notions of supply chain management rather than markets as is being considered in areas such as ICT procurement.<sup>93</sup>

## Commissioners managing the supply side; managing the demand side

If we think about the complex networks through which APS organisations get the work of government done as integrated systems rather than open markets, then strategic commissioning comes to the fore. Commissioners must have oversight and competence in the various commissioning tasks we have explained; not relinquish responsibility for outputs and outcomes once a social transfer has been made or a contract has been awarded. Commissioners need to understand the capacity and the capability, the culture and the motivation of actors on the supply side, whether services are delivered by public, private or not-for-profit providers. Commissioners, then, may (and should) have a vital role in developing the ecosystems to increase diversity, building capacity to ensure competency, and structuring the value chain to ensure sustainability and avoid being exposed to a small number of very large suppliers.

Size matters, but sometimes how it matters can be unclear. For example, the emergence of large domestic and international providers of IT support and logistics has enabled the APS to shift substantial work to others. At the same time dominant providers can distort provider markets in various ways creating major problems for government and others.<sup>94</sup> In this way, government needs to proactively guard against becoming what some have called a 'subscriber state' where large, global providers hold power and governments subscribe to their service offerings.<sup>95</sup>

Strategic commissioning approaches also afford opportunities to shape the demand side in two ways. First, through understanding needs and aspirations and deep engagement with communities. The ultimate outcome may very well allow service beneficiaries greater choice, empowering certain participants in the system to engage with more highly-specialised providers or rethinking the values upon which approaches are based. Different examples include



the National Health Service ‘internal market’ (UK);<sup>96</sup> and the Australian Tax Office Single Touch Payroll System.<sup>97</sup> In such cases, the boundaries between public and private can be extremely complex.

And second, through strengthening the role of the commissioner who will often act on behalf of others. This involves designing incentives, structures and systems within public sector organisations that give power and influence to commissioners, and also developing the individual and organisational knowledge, skills and competencies needed to commission effectively. Careful attention has been given to these aspects of the demand-side of commissioning in the UK, especially in the National Health Service,<sup>98</sup> and also in commissioning policy outcomes in NZ.<sup>99</sup>

Government may also use its role as strategic commissioner in pursuit of broader social and economic outcomes, in this way it might shape both demand and supply side considerations<sup>100</sup> Interesting examples here include: requirements to increase spending on businesses run by women (USA);<sup>101</sup> policies to prime the Indigenous business sector, create employment, and increase demand for Indigenous products (Australia);<sup>102</sup> policies to promote growth in small and medium enterprises (Australia);<sup>103</sup> and Māori commissioning models (NZ).<sup>104</sup>

### **From procurement to stewardship**

The APS must transition towards system design and stewardship and mature beyond the current mindset (where the focus is on transfers, grants and procurement). This recognises the current reality of the complex interwoven system where government works with a variety of different systems and actors. These systems need a form of stewardship that goes beyond attempts to create and shape markets, to stewardship that recognises the nature of systems government is dealing with.<sup>105</sup> The reality is that connections exist between departments or agencies, across federal-state boundaries, and across public-private boundaries. Similar points were raised in the submission from Carey et al (2019) who map out the importance of moving from market stewardship to systems stewardship.<sup>106</sup>

This stakes out a more strategic role for government and calls into play new directions for reform to ensure the APS has the capability to do so. It also means rethinking how we conceive of the APS, its role, and how it goes about carrying that role out.

## 5 TO CONTRACT BETTER WE NEED A BROADER FRAMEWORK

### 5.1 Expanding the idea of contracting

Contracting is concerned with a much more diverse set of tools for developing relationships between parties; not just outsourcing or procurement. These tools range from formal, legalistic instruments through to norms-based approaches; in other words, contracting can be transactional or relational, or somewhere in between.<sup>107</sup> Our assessment is that the current rules embed a procurement mindset.<sup>108</sup> From this perspective, contracting is seen as a set of tools for operationalising outsourcing or procurement decisions, rather a toolkit filled with a diverse range of instruments for getting the work of government done. Outsourcing might (but need not) be one application.<sup>109</sup> Getting beyond a procurement mindset means expanding our awareness of how contracting can be used.<sup>110</sup>

Decisions about what approach to contracting should be used in any particular case are complicated, but a general principle is that contractual forms should reflect function. Where, for example, government procurement rules mandate a highly transactional approach to procurement and contract management, then it may well be inappropriate to contract for the delivery of a complex human service by an external provider.<sup>111</sup> Such mismatches are often the source of poor contracting outcomes.<sup>112</sup> Contract design, then, matters.

The question of what tools should be deployed depends on a range of factors, including: the complexity of the service in question, the ways in which service elements have traditionally been bundled, the level of agreement on outcomes, the maturity and capability of the supply side, resources and capability of the organisation, the need for capital investment, and issues of asset specificity.<sup>113</sup> Considering these as one-off decisions, where government decides and then delegates significant responsibility without careful consideration, is risky.<sup>114</sup>

In our view, the APS needs to embrace a broader notion of contracting and think differently about how it makes these decisions. A more strategic framework is needed to facilitate the stewardship role and manage these complex systems.

### 5.2 Decision-making frameworks

There are established decision frameworks to guide questions of what to contract, when, and how. However, these tend to be partial and will not suit the demands of a more strategic approach. These have influenced current practice in important ways.

For example, economic theories<sup>115</sup> provide important foundations of the current procurement mindset:

- Agency theory – here it is assumed<sup>116</sup> that interests will diverge, that information will be unevenly distributed, that agents that are engaged to perform tasks<sup>117</sup> on behalf of the principal will act opportunistically, and that it will be difficult for the principal to monitor them. To attenuate these ‘agency’ costs, principals must focus on optimal design of contracts, paying particular attention to task specification, incentives, and often the use of competition to discipline agents. Interpreted narrowly, agency theory can reinforce more transactional approaches.
- Transaction cost economics – here similar assumptions of human behaviour are made but considerations of asset specific investment,<sup>118</sup> contractual incompleteness<sup>119</sup>, and uncertainty<sup>120</sup> are drawn into the calculation. To attenuate the range<sup>121</sup> of ‘transaction costs’<sup>122</sup> that will occur in contracting, the principal needs to design

governance structures that fit. These span from classical contracting which is best governed by impersonal markets, through to more relational contracting governed by norms and trust. This helps us decide on where to draw the boundaries of the organisation and can provide a richer set of options.

These approaches can help in deciding on contracting approaches and practices and have been influential in framing reform and regimes in many countries.<sup>123</sup> Agency theory, for instance, can result in narrow views of relationships, push us towards detailed specification, close monitoring, compliance and competitive processes, and the use of incentive-based contracts. Many outsourcing models have roots in this approach. And even though transaction cost economics opens us a broader vision of contracting, these ideas tend to be used to frame outsourcing, rather than partnerships. A good example is jobactive, which has been described as being highly transactional, compliance-based, micro-managed, and fixated on process rather than outcomes.<sup>124</sup> The recent report *I Want to Work*<sup>125</sup> has laid out an ambitious vision to move away from transactional approaches towards relationships and trust and towards more relational contracting models.

## A contingency framework

More comprehensive approaches to decision-making integrate these ideas and extend them into much broader sets of actors and options. Here we draw especially on the work of Alford and O'Flynn<sup>126</sup> as a way of linking together notions of strategic commissioning with system stewardship. This contingency-focused approach provides a framework for deciding how to go about working with others. Similar approaches have been developed by the Institute for Government (UK)<sup>127</sup> and the Cabinet Office (UK).<sup>128</sup>

Here the calculation is simple: government organisations should enlist external providers when the benefits outweigh the costs of doing so.<sup>129</sup> Weighing up these costs and benefits, however, is complicated and requires competencies across a range of areas. Their framework is more comprehensive because it identifies and assesses both benefits and costs and goes beyond traditional concerns of service costs and benefits.<sup>130</sup> In addition to service benefits and costs, the contingency framework accounts for relationship<sup>131</sup> and strategic<sup>132</sup> benefits and costs. As such it can help public managers to weigh up these factors that determine what will bring the greatest value to the public.

Being more strategic starts with the fundamental questions of purpose: why are we doing this? And what value are we seeking to produce? This orients us to purpose, needs and aspirations rather than processes and tasks. In other words, the framework helps us to integrate purpose and action; or what, why and how. They also address the relationship between means and ends and build in values such as fairness, equity, legitimacy, and integrity. And they invoke tools such as value chain analysis to map out outcomes, value creation, and the various parties and activities that can take us towards purpose.

They develop decision rules to guide managers, starting with clarity of purpose and then moving towards what and who. In moving through this they ask:

1. Is there a compelling strategic reason why this activity should be kept in-house?
2. Are there any external parties that might contribute to this purpose?
3. Does the external provider offer (or seem likely to able to provide) net service benefits?
4. Do the relationship management costs outweigh other net benefits?

Answering these questions can help guide action and push public managers away from a procurement mindset towards a more holistic and strategic approach to commissioning. It will also help in addressing both the enduring and new challenges that are faced by the APS. It is important to note, however, that the deciding stage will produce various approaches for producing, and that the 'deciding' role is often carried out by different people to those that manage relationships.<sup>133</sup>

## 6 CHALLENGES CONFRONTING THE APS

### 6.1 Enduring challenges

To develop directions for reform we undertook an analysis of Audit Office reports from Australia and the UK and also a number of other government-commissioned studies. Our analysis suggests that while some Australian government departments and agencies have good practice, others struggle with the fundamentals.

It is not possible, with current data, to assess the scale of these challenges. It is also the case that the ANAO assesses performance against existing frameworks and that these too have a fairly narrow view of contracting. Indeed, these are primarily focused on procurement and outsourcing.<sup>134</sup> To better assess the scale of these challenges we need more comprehensive ways of cataloguing information and easier access to it. To better understand how well the APS does, however, we need to develop more flexible and fit-for-purpose methodologies for assessing APS organisations and their activities.

The ANAO has repeatedly stressed the importance of there being ‘an informed government buyer’<sup>135</sup> which it describes as:

- Understanding the supply market conditions, characteristics, capacity and capability for a planned procurement, including the types of services and products available, industry-pricing structures and any future changes in the industry or related technologies that could reasonably be anticipated; and
- Having the capacity and technical knowledge to describe the entity’s requirements to potential suppliers and evaluate, independently of suppliers, whether they can meet the requirement.<sup>136</sup>

In some ways, these functions might be seen as part of the procurement, but since they involve the acquisition of deep background knowledge of the market, and the development of knowledge and capability around government’s ongoing needs, they might be more appropriately seen as part of the broader commissioning capabilities.

### Selecting the approach and preparing for engagement with others

Understanding the nature of the task and being able to articulate desired outcomes are critical to contracting practice in the APS. Selecting the best approach for the task is important to delivering desired outcomes. Our analysis showed that there is sometimes a failure on the part of parties to understand the service or task that is to be procured.<sup>137</sup> And the ANAO has reported on several tenders where the agency failed to appreciate the complexity of the procurement and the associated risks.<sup>138</sup>

Effective contracting requires consideration of the full set of options for working with others, yet some agencies appear to have decided on form before function. This means they are selecting the contract model or the payment regime well in advance, without ascertaining whether there is capability in the market to deliver the service in question under those conditions.<sup>139</sup> And in designing the procurement method, the ANAO has long identified that APS organisations have a preference for limited tenders, which may not offer the same assurances as to value-for-money.<sup>140</sup>

Time is a critical factor in developing relationships, and effective contracting requires due consideration of a range of factors. However, our analysis shows that contracting is sometimes compromised through being rushed in the early stages – insufficient time is allowed for service specification and for procurement in general.<sup>141</sup> This tendency to underestimate the significance of the commissioning phase is not confined to the Australian government: in the

UK, a succession of reports over 25 years have warned about the dangers involved in not taking the necessary time to commission and procure service delivery.<sup>142</sup>

Analysis also shows that some APS organisations have unrealistic expectations about cost, apparent disregard for the funding envelope and flawed assumptions about potential economies of scale.<sup>143</sup> These findings indicate that, at least in some cases, there is a naïve or undeveloped understanding of the complex systems the APS is part of, and the potential for various tools to deliver desired outcomes. And this can flow through to decisions about who to work with. Private providers have spoken of a tendency to award tenders based on the lowest price and the maximisation of risk transfer as opposed to value-for-money. This has been a serious problem within the UK government in recent years, where competitive tendering was used to drive down cost as a part of the government's austerity measures. Contrary to what had been expected, this resulted in some very large and experienced public service providers signing contracts that were undeliverable at the funding levels they had agreed, and the collapse and near-collapse of some very large companies.<sup>144</sup> It may impact the ability of important parts of government to do their jobs effectively.<sup>145</sup>

This links to another important point; there little evidence that the structure of the supply chain is routinely taken into account in the process of designing and managing systems.<sup>146</sup>

In a succession of reports over recent years, the ANAO has also criticised the methodologies adopted by agencies in negotiating with short-listed bidders, and the capabilities of the officials concerned.<sup>147</sup>

## Selecting who to work with

While the ANAO has noted successful examples of market engagement through a Request for Information (RFI), the failure to do so has been listed as a source of later difficulties in a number of procurements.<sup>148</sup> They have also listed over-specification of requirements and provider experience, unrealistic expectations about cost, and providing inaccurate information as to the scope of services.<sup>149</sup>

More seriously, they have criticised the lack of good process and a failure to follow procurement guidelines in designing and applying evaluation criteria.<sup>150</sup> They have repeatedly criticised the lack of effective competition in selecting providers:

*A key contributing factor in achieving value for money through a procurement process is the extent of competition within and market testing conducted as part of the process.*

*Competition in a procurement process encourages respondents to submit more efficient, effective and economical proposals. It also ensures that the purchasing entity has access to comparative services and rates, placing it in an informed position when evaluating the responses.*<sup>151</sup>

And there has been ongoing criticism of failure to adequately manage probity risks, with undeclared conflicts of interest and issues with post-separation employment among the most disturbing.<sup>152</sup>

In 2017, the Australian government's ICT Procurement Taskforce reported that government agencies found procurement processes 'outdated, cumbersome and unable to meet their needs', while businesses selling ICT goods and services to government found the process 'costly and confusing'. The taskforce reported 'Limited capability and the risk averse nature of the Australian Public Service with a focus on compliance, a fear of failure, poor collaboration and industry engagement'.<sup>153</sup>

## Managing relationships

Managing relationships is central to delivering outcomes, however the ANAO has also made a number of pointed comments about the quality of contract management in the APS. Common themes include: lack of key documentation; failure to establish a systematic approach for recording information and maintaining records; lack of clarity around roles and responsibilities; shortcomings in training contract management staff; poor governance;

failure to adopt a systematic approach to monitoring performance; poor management of performance on the part of providers including the failure to impose abatements; and, negotiation of variations without adequate documentation.<sup>154</sup>

Once again, this problem has not been confined to Australian governments. In the UK, the National Audit Office (NAO) has also addressed the lack of contract management in recent years.<sup>155</sup> For a long time, contract management was not recognised as a distinct set of capabilities, different from procurement, and in spite of the large number of complex public services that were outsourced in the UK from the late 1980s, the NAO concluded in 2014 that had been an overemphasis on making savings, rather than developing contract management capabilities.<sup>156</sup>

Since that time, much greater attention has been given to contract management, with the Crown Commercial Service recently publishing several pages of 'Contract Management Principles'.<sup>157</sup> But the initial response to the NAO's challenge in many departments and agencies was the aggressive enforcement of performance indicators and the deliberate exploitation of financial abatements as a new source of revenue. This resulted in a narrow focus on compliance on both sides, with providers appointing lawyers as contract directors in some cases.<sup>158</sup>

## 6.2 New challenges in the APS

In addition to the issues we have identified in our analysis above, the APS faces new challenges, at least ones that may be new to the public sector.

### Supply chains and ecosystems

Adopting approaches that are centred on system stewardship and strategic commissioning forces us to think differently about the work of government. In some of the most complex and high expenditure areas of government activity, procurement mindsets are unhelpful. Instead the APS needs to think in terms of ecosystems, networks and supply chains.

Over recent decades, large private sector organisations have increasingly been involved in the design and management of complex supply chains, not just procurement. Most of the research into supply chain management (SCM) has focused on the manufacturing sector, but large private sector service providers, such as the banks, now think about their role in developing 'ecosystems' to allow them to pursue their mission.<sup>159</sup>

Here organisations are much more purposeful about nurturing systems. They create partnerships with a relatively small number of strategic suppliers; they define their contributions at different tiers in the value chain; they ensure that they operate within their defined roles so that providers collaborate rather than compete; they create and manage governance structures. Thus systems-level stewardship is embedded across the ecosystem. Those responsible for managing these 'ecosystems' use a language which is utterly different from that of procurement and outsourcing: they speak of agile sourcing rather than outsourcing, strategic partnerships rather than procurements, and structuring and developing systems of multiple suppliers with complementary roles rather than just managing a series of bilateral relationships with external suppliers.<sup>160</sup>

In some aspects of ICT these ideas are permeating government. For example, in the 2017 report by the government's ICT Procurement Taskforce which referred to the need to 'iterate often and fail fast', to apply 'a strategic business partnerships approach' and enable SMES to compete fairly, to create a pathway for the industry to pitch innovative solutions.<sup>161</sup> This is some distance from the way in which contracting is currently understood within government, but in looking forward to commissioning and contracting in 2030 and beyond, and particularly in the way in which the APS undertakes digital transformation, we submit that there will be need to rethink the foundations of the varnished 'tender box' approach which has dominated the public sector of the Westminster tradition since the late 18<sup>th</sup> century.

## Expanding the option set

The APS could move beyond the ‘tired debate of public versus private’ and ‘steward a supply side revolution’ through shaping an environment of increased diversity through system stewardship.<sup>162</sup> The APS exercises relatively limited options in terms of how it engages with others. In transitioning toward a strategic commissioning approach, we need to consider a much broader set of ways of doing, and different relationships types. Similar developments are occurring elsewhere. For example, a major review of social services in New Zealand,<sup>163</sup> found that the public service, despite having many options, made limited choices; in-house provision and contracting out being the dominant modes. This constrains the likelihood of getting a good match and delivering better outcomes. Growing the option set and stewarding systems, therefore, became important roles for government. This allows for better matching in getting the work of government done.

Governments use different approaches to achieve outcomes in system stewardship, developing ecosystems, and strategic commissioning (we provide a summary of options in Appendix B: Models for engaging with other parties).

None of these tools will solve every challenge the APS faces. Some of them overlap, and many can be drawn together in potentially interesting ways. What emerges from these examples, however, are the various claims for innovation, trust-building, and relationships; they reflect a much broader notion of contracting that just outsourcing.

In expanding the option set, government also needs to place front and centre the realisation that the agility, innovation and flexibility that is demanded of the APS in 2030 may not emanate from within its organisational boundaries. Indeed, this is likely to be harnessed through developing new ways of working with others. We also note that the APS does not need to control or manage these developments; in its role as system steward, however, it can play an important role in shaping the enabling environment.

## 6.3 Getting relational

Commissioning approaches will require the APS to think more relationally rather than transactionally. The limitations of economic and legalistic views of contracts have been recognised for some time,<sup>164</sup> but the APS, like many others, has struggled with more relational approaches to contracting with external providers, and also with its engagement with citizens.

More relational approaches have been seen as a way to address more complex problems; the argument being that complexity demands higher levels of integration and connection at the local level, and deeper relationships with community.<sup>165</sup> And relational approaches have also been connected to notions of stewardship, especially in the wake of large-scale collapse of providers and or systems.<sup>166</sup> The integration of relational approaches with system stewardship has been most recently discussed by Tizard and Mathias<sup>167</sup> who see relational approaches as an antidote to the limitations of more transactional ones.

Whilst there has been plenty of talk over many years about more relational approaches in the APS – partnerships, community engagement, collaboration, partnership, client co-design, for example – this has not necessarily translated into widespread practice.<sup>168</sup> In part this is because more relational approaches will fundamentally challenge the frameworks that are currently used to audit and assess practice. In the current environment contract managers applying relational approaches would likely come under significant external scrutiny from the ANAO. New audit and assessment frameworks will be needed to ensure transparency and probity are safeguarded in pursuit of outcomes.

## 7 TOWARD STRATEGIC COMMISSIONING

### 7.1 Developing a more comprehensive understanding of commissioning

Commissioning is about achieving outcomes and involves processes of assessing needs, planning, prioritising and designing services, authorising and funding activities, and evaluation in pursuit of them. Because of this, commissioning also involves oversight regardless of who provides services or undertakes activities.<sup>169</sup>

Commissioning is seen as a strategic framework for deciding what government should do and how it might go about doing it; a way of combining means and ends.

*Commissioning is quite simply the process the public sector uses to decide which service or products to buy in or deliver itself, to respond to the needs of local people. It involves making decisions about the capacity, location, cost and quality of services, as well as who will deliver them and how.*<sup>170</sup>

Australia is a relatively recent convert to the language of commissioning. This has a much longer history in New Zealand and the UK. Amongst commissioning scholars, there is discussion over whether Australia has really adopted a commissioning approach or simply used the language to rename outsourcing.<sup>171</sup> Another way to think about this is to differentiate between strategic and tactical commissioning; the former being system-wide and focused on longer-term considerations, while the latter is on individual actors and/or short-term processes.<sup>172</sup> In this way, Australia's commissioning focus to date may be largely tactical rather than strategic.

Commissioning can operate across various levels, from micro to systems level, and may be configured in different ways, from individual commissioning through to joint commissioning across government (see Appendix A: Terms and definitions for more).

### 7.2 Strategic commissioning

More recently, there are attempts to connect strategic commissioning and system stewardship.<sup>173</sup> Here, government is encouraged to focus on its role as steward of complex systems and (re)build trust where more transactional approaches have eroded this.<sup>174</sup> In this strategic role, government is expected to prioritise stewarding and sustaining healthy ecosystems where relationships can be leveraged to adapt to change.<sup>175</sup> The relational aspects of commissioning have long been emphasised; and there are often links made to partnerships.

Strategic commissioning emphasises engagement with communities and clients/users of services. This is because such engagement allows a richer understanding of aspirations and needs to be revealed, so that outcomes can be clarified, and better decisions made from the outset. Commissioning should be anchored to community needs and aspirations, not decisions made by government for communities, and may well be a catalyst for more local solutions rather than central decisions; partnership rather than paternalism.

Deep and authentic community engagement could underpin a transformation in the way in which the APS operates, however building this relational capital and trust takes time and effort. This will also require particular skills and competencies of public servants, and the development of different organisational capabilities. Across Australia there is certainly a recognition of the importance of working with communities to articulate needs and aspirations, and to shape how this is done within government. To do this, the APS will need to be much more relational.<sup>176</sup>

Much more comprehensive commissioning models are developing in other parts of the world. Here commissioning is not just focused on 'outcomes' but on community values and ways of working. These approaches are a positive



challenge to the notion of community engagement as an input into a very governmental process; instead they put community-based ways of working and values front-and-centre to craft high-quality solutions. For example, in New Zealand where Māori models of commissioning are developing.<sup>177</sup> In models where strategic commissioning is tied to system stewardship, it may very well be the case that government commissioning is about communities, rather than government, doing more things.

Commissioning approaches operate across a vast range of activities and levels in government and have been embedded (or not) in very different ways across policy fields. In assessing the evidence on commissioning to date, Dickinson (2014) draws out four critical points about commissioning:

1. It is important to be clear about what is meant by commissioning as part of relationship building and sustaining activity;
2. Commissioning is about thinking strategically rather than an extension of outsourcing;
3. Commissioning is a process that involves multiple parts and can operate across a range of levels;
4. Clarity of usage is important to ensure commissioning does not loss value over time.

### 7.3 Commissioning models

There are many models of commissioning; most involve stages or are presented as logical cycles. As Dickinson reminds us, commissioning is an art not a science,<sup>178</sup> and as such these models are ideal types rather than a sequence of steps to follow in turn. Many organisations adopt a cyclical approach in describing their practice; for example, the Commissioning Framework developed by the West Australian Mental Health Commission:

*Commissioning is the cyclical process of planning, purchasing, managing, monitoring and evaluating services with the aim of ensuring that every available dollar is allocated in the optimal manner. Under a commissioning model, the authority responsible for commissioning is independent of the agencies that provide services. This ensures that the commissioning authority is free to purchase services from the provider that is best placed to deliver them, irrespective of whether the provider is a public, for-profit or not-for-profit organisation.*<sup>179</sup>

An important part of being more strategic about means and ends is making decisions about what government will no longer do. This is the process of decommissioning where unneeded, underperforming, failing or obsolete services and activities are discontinued.<sup>180</sup> Where more strategic approaches are adopted, decommissioning is seen as ‘a natural part of the commissioning process’;<sup>181</sup> a part of the cycle of commissioning. However, stopping activity and winding up services is often more political than technical, and this has especially been the case where closures reflect austerity, or where vested interests may be negatively impacted.<sup>182</sup> However, creative decommissioning can be focused on closing the old and creating the new; not just on stopping specific activities, but used to drive innovation and transformation:

*a strategic process that combines efforts to innovate and decommission – actively challenging incumbent service models and mind-sets and supporting the development of (and investment in) new approaches. It is an entrepreneurial, creative activity that anticipates future demand and actively develops the market of providers.*<sup>183</sup>

Decommissioning may become much more relevant as governments adopt technologies that will reshape work within the APS, but also with external parties. For example, the adoption of tech-based interfaces with users may mean call centres would be decommissioned in the future.

Commissioning in the Australian context has often been used interchangeably with procurement and/or outsourcing, although in its broadest sense, commissioning includes the full set of activities, from assessing the needs of a community through to service delivery, and evaluating outcomes, and is frequently applied in in-house delivery. In this more strategic commissioning framework, contracting provides a toolkit in the commissioning process. Importantly, commissioning and contracting are means to ends; instruments that help public managers engage in the activities of deciding what to do and then carrying out the activity required to do it.

## 7.4 Commissioning capabilities

Strategic commissioning requires us to rethink the capability question. As we have mentioned, there is currently concern that the APS does not have the required capability to manage relationships with other parties. This is not, however, a uniquely Australian problem. In relation to commissioning, the international evidence suggests that governments tend to underinvest in the competencies and capabilities needed to underpin effective commissioning practice.<sup>184</sup> Dickinson<sup>185</sup> argues for the development of in-house expertise to ensure that government organisations can be effective and strategic commissioners. What these specific capabilities might be is difficult to pin down. But these are two distinct parts to this story. The first relates to the strategic aspects of determining needs, engagement, prioritising, evaluation and so on, that are part of the commissioning process. The second relates to decisions about approaches and the management of complex portfolios of relationships that commissioning approaches involve.<sup>186</sup> Effectively transitioning to a strategic commissioning approach requires capability across both and at different levels; individual competencies, organisational capabilities, and systems.

## 7.5 Strategic commissioning and system stewardship: Toward integrated approaches

The APS of 2030 needs to take a more integrated strategic, system-wide approach to thinking about relationships, commissioning and contracting. This will rely on a strategic commissioning approach which allows us to better connect purpose and action. This is because now, and in the future, public sector organisations rarely have control over the whole process of deciding and producing what needs to be done to achieve desired outcomes; 'invariably [they have] to call on effort, information or compliance from other parties.'<sup>187</sup>

Integrated approaches are concerned with the full set of relationships and recognise that transactional and relational approaches are part of a continuum of forms that shape practice. Thinking about the relationship between government organisations and external parties using the idea of portfolios helps us to see the broader set of actors, modes of coordination, and costs and benefits that we need to take into account.<sup>188</sup> This also pushes us to consider a set of interrelated questions: what we should do; how will we go about doing it; and who should we work with and in what arrangement? Integrated approaches seek to get beyond fragmented and narrow models, towards more system-wide perspectives.

In a more integrated approach, APS organisations would be more comfortable working in a broader range of ways; in transactional ways with some providers, in more relational ways with others. The APS would be able to work effectively with clients, but also as part of complex multi-party networks or steering supply chains. Within each of these they enact different types of relationships and use various modes of coordination to connect together. In many cases these connections have been made using relatively narrowly defined contracts, highly specified, tightly monitored, and built on transactional foundations. And these may well be suitable in some cases; but not all.

Developing fit-for-purpose approaches required a more contingent mindset. This integrates different ways of thinking, moves beyond a one-size-fits-all approach, and demands an ability to manage in multiple ways across a complex portfolio of relationships. System-level stewardship<sup>189</sup> is critical to effective portfolio management, taking a longer-term, strategic perspective to ensure a focus on the pursuit of purpose and public value. It also involves focusing on building or rebuilding trust in systems where more transactional approaches may have eroded this.<sup>190</sup> This, in our view, includes notions of stewarding and sustaining healthy systems where relationships are at the centre.

As Alford and O'Flynn<sup>191</sup> argued in their work:

*... in the end, public sector organizations must develop the capability to manage these complex portfolios and networks of external providers. And not simply as discrete providers engaged in a narrow part of the service delivery story, but as interconnecting webs of providers focused on the production of public value.*

## 8 THE PATH TO 2030: DIRECTIONS FOR REFORM

Looking forward to 2030, the Australian government will continue to engage with independent or external providers in a variety of ways – through specific purpose payments to the states and territories, through grants to community and not-for-profit organisations, and through the funding of government business enterprises and other arms’-length agencies; through social transfers to individuals and households in systems where government has both the ability and the responsibility to shape the supply side; and through contracting with private and not-for-profit providers for goods, works and services.

To ensure that the engagements with external providers deliver public value, we submit that the APS needs to shift its sourcing framework fundamentally in three different ways:

- In relation to services sourced from private and not-for-profit providers, the APS should shift from a procurement or outsourcing framework to one focused on contracting.
- The APS must acknowledge the opportunities and the responsibilities which it has for the design and stewardship of delivery systems
- When it engages with external providers for the delivery of public services, the APS should employ a strategic commissioning approach, as opposed to funding through transfers, grants or contracting

Based on the existing and emerging evidence on commissioning we expect to see a wide range of benefits from the adoption of this framework. A commissioning approach will push government to ask hard questions about what it should be doing, and how it should go about doing it. This provides important opportunities to question established ways of delivering programs and more broadly carrying out the work of government. It will also require agreement on what good standards of commissioning look like; these have been developed in other countries, such as the UK, where they are being used in some places to help guide commissioning in practice.<sup>192</sup>

According to the NZ Productivity Commission<sup>193</sup>, and from reviews of existing evidence<sup>194</sup>, potential gains may come from questioning and clear articulation and prioritisation of outcomes. And when government does rely on contracting, a commissioning approach should drive attention to questions of contract design, through the employment of a broader range of instruments. Thinking more about how these portfolios of relationships impact on each other and also outcomes is centre stage with commissioning. Recently released findings show how important these coupling effects can be; poor contract design, for example, might very well generate lower costs, but also undermine achievement of the very outcomes government cares about.<sup>195</sup> The existing narrow, fragmented and transactional approach to contracting does not build in these learning loops. Where more integrated approaches are in place, and commissioners adopt more system-level perspectives, we would expect to see more of an outcomes focus, and better management of the full set of relationships.

Transitioning from a procurement to a commissioning approach would create a much deeper engagement with potential providers, communities, clients, users, and other stakeholders. Deeper engagement will drive better articulation of needs and aspirations, present new options for how to go about achieving these, and provide the foundation for co-design and co-production where appropriate. Evidence from the UK shows that high performing commissioning organisations build legitimacy through engagement and trust.<sup>196</sup> A good example is in the NHS Central London Clinical Commissioning Group User Panel which provides patient voice into every stage of the commissioning cycle, improving decision making and ensuring a patient focus.<sup>197</sup>

Emerging examples from New Zealand demonstrate the innovation and self-determination benefits of engagement with communities, citizens, and clients through commissioning approaches that are premised on ‘by Māori, for Māori, with Māori’.<sup>198</sup> In a major report from the NZ Productivity Commission, the Whānau Ora<sup>199</sup> Commissioning

Agencies<sup>200</sup> were highlighted as a model for social service commissioning for NZ – client-centred, bottom-up with whānau<sup>201</sup> setting outcomes, undertaking planning, and choosing services and other actions to achieve outcomes. In the same report, the Social Sector Trials, using a different approach – a top down partnership approach between Iwi providers, government agencies, third sector agencies, and local government was a different commissioning model that was seen as promising and innovative.

Transitioning toward stewardship will provide a broader, longer-term and more system-wide perspective. In some nations, the UK for example, this is underpinned by formal (legal) expectations to facilitate the development of ‘diverse, sustainable and high quality provider markets, aimed at supporting the policy ambition of promoting the wellbeing of the whole local population, not just those currently in receipt of support’.<sup>202</sup> But a focus on system design and stewardship will encourage a shift away from a primary focus on transfers, grants and contracts, and the exploration of alternatives to markets. At the local level in Wales, there are models of that demonstrate how local services can be improved where place-based systems develop with careful stewardship by government responding to local needs and underpinning local development.<sup>203</sup>

## 8.1 Contracting

Well-managed procurement, from early market engagement, through to tendering and negotiation, is essential to effective contracting. But it is not enough.

Under a broader contracting framework, greater attention would be paid at the outset to the range of sourcing options, and the selection and design of appropriate contractual instruments and procurement processes. And such a contractual framework would place greater emphasis on the management of contracts throughout their life.

The APS must move beyond the linear and sequential procurement arrangements which have long dominated public sector contracting, particularly when it comes to ICT procurement. With some services and functions, it should design and manage supply chains or ‘ecosystems’, rather than being confined to bilateral contractual arrangements.

The APS must also develop a mature understanding of relational contracting – the circumstances under which relationships are essential to the effective delivery of the function or service in question,

Agile sourcing and relational contracting will challenge traditional approaches to probity and integrity, which will require a serious investment in rethinking how these are addressed in a new environment.

## 8.2 System stewardship

The APS should embrace system design and stewardship as one of the most powerful tools through which policy is implemented in this domain. The Australian government has long been involved in the development of public service delivery systems at the national level: the NDIS is the most recent example and one of the most complex. It also intervenes in a variety of different ways in existing public service delivery systems at the regional and local levels. How well it engages with these delivery systems must be a matter of concern.

In the APS context, stewardship is seen to comprise several aspects: enhancing the value of public assets and institutions entrusted to them;<sup>204</sup> effective and efficient management of resources, and managing and maintaining trust, integrity and innovation.<sup>205</sup> And being proactive, forward-thinking, and focused on building capability for now, and for the future.<sup>206</sup>

Being fit-for-purpose does not mean being the same. More diversity is needed in how the APS designs and manages organisations and delivery systems; new rules are needed to enable this. A principles approach is likely to be more fit-for-purpose than universal rules.

### 8.3 Commissioning

Strategic commissioning involves clearly identifying and prioritising service outcomes and clarifying the resources necessary to achieve those results. It may include the development and redesign of the systems and structures through which these services will be delivered. It requires a mature engagement with delivery agents, particularly in commissioning the function or service up front.

It is clear that the APS does not currently have an evidence-based sense of current capability with regard to strategic commissioning. This is especially the case regarding the competencies<sup>207</sup> of those involved in ‘deciding’ what types of contracting will be used, and also of those who do the ‘managing’ of these relationships. There are existing typologies of competencies that might help the APS to think about this more systematically and start mapping these out (see Appendix C: Competencies for managing relationships).

Building the capability of the APS workforce will be critical to shifting the mindset and driving the practical reform required for a transformation of the APS with regard to strategic commissioning. Specialised training and development of skilled practitioners is required, and further attention needs to be given to draw together, digest, and deploy lessons on delivery system design and stewardship.

Effective system design and stewardship also requires substantial investment in digital platforms to empower commissioners, provide feedback, and enable greater transparency. Currently we do not have sufficient information on how the work of government is done, how well it is done, and who it is done by. Where this currently exists, it is either fragmented or partial. Greater learning, better risk assessment, market knowledge, decision-making, and improved transparency and trust rely heavily on access to information.<sup>208</sup>

The quality of leadership will play a fundamental role in establishing reform directions and ensuring effective implementation. Careful balancing is required between reaching for ‘a new world order of things while managing the day-to-day realities of the here and now.’<sup>209</sup> This combination of guardianship which ensures good governance and that values and standards are upheld, with positive change which breaks established norms and patterns, will help to reset the rules and relationships that will produce substantive and enduring changes in culture and practice.<sup>210</sup>

### 8.4 Directions for reform

We propose the following directions for reform for consideration by the APS Review panel. They are designed to span the priority areas regarding contracting, stewardship and commissioning identified above.

Given the limited timeframe of the current paper, the reform directions are set out at a high-level only and would require design work through a detailed implementation process.

The suggested directions for reform are:

1. The APS leadership, individually and collectively, should drive a shift in mindset across the public service, taking it from transactional to relational, procurement to contracting, and from transfers, grants and outsourcing to commissioning. An essential part of that will lie in authorising and resourcing the exploration of alternative approaches.
2. The APS should operate with principles-based approaches that reflect a broader understanding of contracting and which enable it to design and steward systems in ways that enable the achievement of outcomes, while ensuring that probity and transparency concerns are addressed
3. The APS should develop a clear framework for capability with regard to commissioning and contracting, and establish a baseline regarding current capability
4. The APS should develop digital platforms that enable effective system design and stewardship and strategic commissioning. These must be capable of capturing, analyzing and publishing new contract awards, particularly

the small number of high-value contracts; updating extensions and renewals; and reporting contract performance.

5. The APS should establish a small team of specialists at the heart of government as a centre of excellence in contracting (as opposed to just procurement) and system design and stewardship. This team would: advise on the development of policy and guidance; consolidate expertise that already exists within the APS, particularly in contract design and management; champion the professionalisation of contracting skills across government; and serve as an adviser to APS departments and agencies.
6. The APS should take the leadership in the establishment of an independent Centre for Public Service Commissioning, in conjunction with state governments and private and not-for-profit providers, to undertake applied research into delivery systems and the conditions necessary for their success. It would also develop training programs for practitioners based on this research agenda.<sup>211</sup>

If successfully implemented, we consider that these reform directions would enable the APS to have the capabilities and confidence to design, build, and actively manage systems to deliver goods and services efficiently and effectively, and support the outcomes that meet the needs and aspirations of Australians.

## APPENDIX A: TERMS AND DEFINITIONS

Terms	Definition	Example
Contestability	The credible threat of competition and/or replacement for failing to deliver on outcomes; relies on “robust performance benchmarking” of public or private providers or management teams <sup>212</sup>	<a href="#">Efficiency through Contestability Programme</a> , Australia <a href="https://www.finance.gov.au/resource-management/governance/contestability">https://www.finance.gov.au/resource-management/governance/contestability</a>
Contract	A relationship that binds parties together ranging from formal, legalistic instruments through to norms-based approaches <sup>213</sup>	<a href="#">Oliver Williamson on contracts</a> <a href="http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.196.9655&amp;rep=rep1&amp;type=pdf">http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.196.9655&amp;rep=rep1&amp;type=pdf</a>
Contracting out	The transfer of activity from the public sector to external parties, usually private or non-profit providers, and the use of contracts to govern these relationships <sup>214</sup>	<a href="#">jobactive</a> The contracting out of employment services, Australia <a href="https://www.jobs.gov.au/jobactive">https://www.jobs.gov.au/jobactive</a>
Commissioning	A process through which needs are assessed, public services are planned and prioritized, designed, authorized, funded, and evaluated; involves (in part) oversight of services regardless of provider. <sup>215</sup>	<a href="#">Commissioning Framework for Mental Health and Addiction</a> , New Zealand <a href="https://www.health.govt.nz/publication/commissioning-framework-mental-health-and-addiction-new-zealand-guide">https://www.health.govt.nz/publication/commissioning-framework-mental-health-and-addiction-new-zealand-guide</a>
Decommissioning	Where activities or services are discontinued as they are unneeded, underperforming, failing or obsolete <sup>216</sup>	<a href="#">Shropshire Council</a> , England <a href="https://shropshire.gov.uk/media/5847/decommissioning-guidance.pdf">https://shropshire.gov.uk/media/5847/decommissioning-guidance.pdf</a>
Individual or micro-commissioning –	Allocation of budgets to individuals who and direct their own spending for services <sup>217</sup>	<a href="#">National Disability Insurance Scheme</a> , Australia <a href="https://www.ndis.gov.au/understanding/what-ndis">https://www.ndis.gov.au/understanding/what-ndis</a>
Joined-up-commissioning	Involves the ways in which relevant organizations and communities can work together to best allocate resources; often involves pooling or aligning budgets <sup>218</sup>	<a href="#">Joint commissioning panel for mental health</a> , England <a href="https://www.jcpmh.info">https://www.jcpmh.info</a>
Multi-level commissioning	A range of activities that involve commissioning activities at different levels <sup>219</sup>	<a href="#">Good commissioning: principles and practice</a> (Children’s Services), England (see page 10) <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182307/good_commissioning_principles_and_practice.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182307/good_commissioning_principles_and_practice.pdf</a>
Recommissioning	Initiating a new commissioning process after a service has already been commissioned. Happens near the end of the agreed term or where there are changes to services or the relationship <sup>220</sup>	<a href="#">Mental health support services</a> , Victoria <a href="https://www.mhvic.org.au/images/documents/Mental_Health_reform_2013-14/2015_August_-_MHCSS_AOD_Recommissioning_Report.pdf">https://www.mhvic.org.au/images/documents/Mental_Health_reform_2013-14/2015_August_-_MHCSS_AOD_Recommissioning_Report.pdf</a>



Terms	Definition	Example
Strategic commissioning	The range of activities used in assessing and predicting needs of a population, matching desired outcomes with the necessary resourcing within a strategic framework, the consideration of available options, planning services and working cooperatively to put these in place, and, monitoring and evaluating outcomes <sup>221</sup>	<a href="http://www.dudleyccg.nhs.uk/wp-content/uploads/2013/04/Strategic-Commissioning-Plan.pdf">Dudley Clinical Commissioning Group</a> , National Health Service, England http://www.dudleyccg.nhs.uk/wp-content/uploads/2013/04/Strategic-Commissioning-Plan.pdf
External providers	Any entities outside the government organisation that produce all or some of a service <sup>222</sup>	Other government organisations, non-profit organisations, for-profit organisations, clients, volunteers, regulatees
Externalisation	Any arrangement where one or more external providers produce all or some of a public service <sup>223</sup>	<a href="https://www.oecd.org/governance/observatory-public-sector-innovation/innovations/page/welcometoutrechthowcitizensandthehumanrights-cityworktogethertocoordinatehelpforrefugees.htm">Welcome to Utrecht</a> , The Netherlands (coproduction) https://www.oecd.org/governance/observatory-public-sector-innovation/innovations/page/welcometoutrechthowcitizensandthehumanrights-cityworktogethertocoordinatehelpforrefugees.htm
Outsourcing	The externalisation/procurement of activity that used to be, or may have been, delivered in-house. Involves the whole of the production being granted to an external party or parties <sup>224</sup>	<a href="https://www.anao.gov.au/work/performance-audit/management-smart-centres-centrelink-telephone-services-follow-up">Centrelink call centre services</a> , Australia https://www.anao.gov.au/work/performance-audit/management-smart-centres-centrelink-telephone-services-follow-up
Partnership	A relationship characterised by joint decision-making, production and adaptation; contrasted to principal-agent relationships that often underpins outsourcing <sup>225</sup>	<a href="https://acfid.asn.au/about/partnership-government">ACFID-DFAT partnership agreement</a> , Australia https://acfid.asn.au/about/partnership-government
Procurement	The process of identifying external providers and negotiating terms <sup>226</sup>	<a href="https://gettingthedealthrough.com/area/33/jurisdiction/23/public-procurement-united-states">Getting the Deal Through</a> , United States of America https://gettingthedealthrough.com/area/33/jurisdiction/23/public-procurement-united-states
Purchasing	The process of buying and funding suppliers when services are to be delivered by external parties <sup>227</sup>	<a href="https://www.purchasing.tas.gov.au/buying-for-government">Buying for Government</a> , Tasmania https://www.purchasing.tas.gov.au/buying-for-government
Supply chain management	The management of networks of relationships within a firm and between organisations and business units. These relationships are managed to facilitate the flow of materials, services, finances and information <sup>228</sup>	<a href="http://sovz.cz/wp-content/uploads/2016/11/supplychainmanagementguide.pdf">Office of Government Commerce</a> , UK http://sovz.cz/wp-content/uploads/2016/11/supplychainmanagementguide.pdf

## APPENDIX B: MODELS FOR ENGAGING WITH OTHER PARTIES

Approach	Explanation	Example
Social enterprises	Social enterprises use commercial methods and business models to achieve social and/or environmental outcomes; an umbrella term for a variety of forms	<a href="https://www.thebigissue.org.au">The Big Issue</a> , global <a href="https://www.thebigissue.org.au">https://www.thebigissue.org.au</a> <a href="https://cleanforce.com.au">Clean Force</a> , Australia <a href="https://cleanforce.com.au">https://cleanforce.com.au</a>
Mutuals	Public service mutuals are spin-offs from government where groups of former employees' takeover activity formerly done in-house.	<a href="https://www.mycsp.co.uk/about-mycsp/the-partnership-model/">MyCSP</a> , United Kingdom <a href="https://www.mycsp.co.uk/about-mycsp/the-partnership-model/">https://www.mycsp.co.uk/about-mycsp/the-partnership-model/</a> <a href="https://www.bi.team">Behavioural Insights Team</a> , United Kingdom <a href="https://www.bi.team">https://www.bi.team</a>
Cooperatives	Jointly-owned and democratically-controlled enterprises to pursue common needs and aspirations; social enterprises.	<a href="http://www.wathaurong.org.au">Wathaurong Aboriginal Co-operative</a> , Kulin Nation, Australia <a href="http://www.wathaurong.org.au">http://www.wathaurong.org.au</a>
Self-Managing or Independent Professional Teams	Professional services style model; independent teams of professionals combined with client self-support	<a href="https://www.buurtzorg.com">Buurtzorg Health Care</a> , The Netherlands <a href="https://www.buurtzorg.com">https://www.buurtzorg.com</a>
Prime Contractor	Multi-tier contracting model where government engages a prime/lead contractor to manage subcontractors	<a href="https://www.gov.uk/government/publications/the-work-programme">The Work Programme</a> , UK (archived) <a href="https://www.gov.uk/government/publications/the-work-programme">https://www.gov.uk/government/publications/the-work-programme</a>
Integrator	External parties design and manage supply chains for delivery	<a href="https://hippyaustralia.bsl.org.au">Home Interaction Program for Parents and Youngsters (HIPPY)</a> , Australia <a href="https://hippyaustralia.bsl.org.au">https://hippyaustralia.bsl.org.au</a>
Agile sourcing	Methodology for design and delivery of projects usually for short time horizons; iterative design process; problem/challenge focused; used for IT projects	<a href="https://18f.gsa.gov/what-we-deliver/alaska-dhss">Alaska Department of Health and Social Services</a> , public eligibility system, USA <a href="https://18f.gsa.gov/what-we-deliver/alaska-dhss">https://18f.gsa.gov/what-we-deliver/alaska-dhss</a>

Approach	Explanation	Example
Modular contracting	An approach to contract that breaks complex projects into smaller parts; Often combined with agile sourcing models	<a href="https://modularcontracting.18f.gov/projects/ca-child-welfare">California Department of Health and Human Services</a> , modernisation of the child protection system, USA https://modularcontracting.18f.gov/projects/ca-child-welfare
Social impact/benefit bond	Financial instrument to join together multiple parties in pursuit of outcomes; investors receive returns based on achievement of outcomes	<a href="https://www.socialventures.com.au/work/newpin-social-benefit-bond">Newpin social benefit bond</a> , family restorations, New South Wales, Australia https://www.socialventures.com.au/work/newpin-social-benefit-bond
Arm's Length Bodies	Organisations operated at a distance from mainstream departments and provided with increased discretion and autonomy	<a href="https://www.instituteforgovernment.org.uk/sites/default/files/case%20study%20next%20steps.pdf">Next Steps Initiative</a> , UK https://www.instituteforgovernment.org.uk/sites/default/files/case%20study%20next%20steps.pdf
Joint Ventures	Formal arrangement between public sector organisation and other organisation/s	<a href="http://www.viopath.co.uk/about-viopath">Viapath</a> , joint venture between two NHS trusts and a private management company for the delivery of pathology services, UK http://www.viopath.co.uk/about-viopath
Management Insertion	Insourcing of management capability into existing public sector organisation with aim of transforming practice	<a href="https://www.serco.com/media/608/608.original.pdf?1473250522">Defence Business Services</a> , Ministry of Defence, UK https://www.serco.com/media/608/608.original.pdf?1473250522
GOCOs	Government-owned but contractor-operated activities	<a href="http://www.npl.co.uk">National Physical Laboratory</a> , UK http://www.npl.co.uk

## APPENDIX C: COMPETENCIES FOR MANAGING RELATIONSHIPS

Main task	Type of relationship				
	Contracting to other organisations	Collaboration with other organisations	Calling on volunteers	Enlisting regulatees as contributors	Clients as co-producers
Moving to/away from externalisation	Big picture/systems thinking Creativity Judging people	Big picture/systems thinking Creativity Judging people	Big picture/systems thinking Creativity Judging people	Big picture/systems thinking Creativity Judging people Segmentation	Big picture/systems thinking Creativity Understanding client needs Segmentation
Managing the relationship	Output-clarity Negotiation skills Communication skills Ability to structure incentives Understanding of accountabilities Creativity Systems thinking Ability to monitor performance	Outcomes orientation Negotiation skills Communication skills Building trust Tolerance of diversity Ability to motivate Understanding of accountabilities Creativity Big picture thinking Diplomacy	Outcomes orientation Negotiation skills Communication skills Building trust Tolerance of diversity Ability to motivate	Understanding regulatory outcomes Negotiation skills Communication skills Building trust Tolerance of diversity Ability to motivate Understanding of accountabilities	Client focus Communication skills Building trust Tolerance of diversity Systems thinking

## ENDNOTES

- 1 Independent Review of the APS (2018a). [APS Review, We Want the Service to Succeed](https://www.apsreview.gov.au/news/we-want-service-succeed). 11 December. Available from: <<https://www.apsreview.gov.au/news/we-want-service-succeed>>.
- 2 The APS Review Panel engaged Boston Consulting Group to carry out scenario planning to identify possible future states. See: Independent Review of the APS (2018b). [Imagining the Future](https://www.apsreview.gov.au/news/imagining-future). 30 November. Available at <<https://www.apsreview.gov.au/news/imagining-future>>.
- 3 For example reviews are underway in the United States of America through Grand Challenges being facilitated by the National Academy of Public Administration; in New Zealand through the review of the States Services Act; in Canada through the [Ontario Public Service of the Future](https://www.ontario.ca/page/ontario-public-service-future-2018-action-plan) process <<https://www.ontario.ca/page/ontario-public-service-future-2018-action-plan>>. These are all focused, in different ways, on what government so do and how it should go about doing this in the future. See: National Academy of Public Administration (n.d.). [Grand Challenges in Public Administration](https://www.napawash.org/grand-challenges-in-public-administration). Available from: <<https://www.napawash.org/grand-challenges-in-public-administration>>; State Services Commission (n.d.). [State Sector Act – Long Form](https://www.havemysay.govt.nz/option-2/). New Zealand Government. Available at: <<https://www.havemysay.govt.nz/option-2/>>; Government of Ontario (2018). [OPS of the Future: 2018 Action Plan](https://www.ontario.ca/page/ontario-public-service-future-2018-action-plan). Available at: <<https://www.ontario.ca/page/ontario-public-service-future-2018-action-plan>>.
- 4 Kettl, D. F. (2016). [Escaping Jurassic Government](https://medium.com/@Brookings/escaping-jurassic-government-5968356dcb0d). The Brookings Institution. August 5. Available at: <<https://medium.com/@Brookings/escaping-jurassic-government-5968356dcb0d>>.
- 5 George Frederickson referred to an increasingly fragmented and disarticulated state caused by jurisdictions losing boundaries, the state losing the ability to deal with complexity due to these fuzzy boundaries, and the redefinition of what is meant by public as more and more actors became involved in governing. Frederickson H.G. (1999). The repositioning of American public administration. *PS: Political Science and Politics*. 32 (4), pp. 701-711.
- 6 In developing this paper, we were asked to consider the following five questions: (i) Why do commissioning and contracting in the Australian Public Service matter? (ii) How should government think about its relationships with external parties? (iii) What functions might be contracted and when? (iv) What new approaches might assist in addressing some of the enduring challenges? (v) What capabilities are needed?
- 7 This definition of system stewardship is taken from: New Zealand Productivity Commission (2015a). [More Effective Social Services](https://www.productivity.govt.nz/sites/default/files/social-services-final-report-main.pdf). August. Wellington. Available at: <<https://www.productivity.govt.nz/sites/default/files/social-services-final-report-main.pdf>>.
- 8 There are various ways that we can think about systems. A simple definition is provided by the OECD: ‘systems can be defined as elements joined together by dynamics that produce an effect, create a whole, or influence of the elements of a system’ (page 5). In this paper they also explain various types of systems: ‘There are many ways to define systems: from geographic proximity (local, regional, national and international) or in terms of production, market (e.g. a sectoral system including all upstream and downstream producers and the characteristics of the markets which they serve) or technological affinity (technological systems)’ (page 16). See OECD (2017b). [Systems approaches to public sector challenges](https://www.oecd.org/media/oecdorg/satellitesites/opsi/contents/files/SystemsApproachesDraft.pdf), Paris: OECD Publishing. Online at: <<https://www.oecd.org/media/oecdorg/satellitesites/opsi/contents/files/SystemsApproachesDraft.pdf>>.
- 9 Independent Review of the APS 2018a.
- 10 For contracts with a value of less than \$200,000, which represents the majority of purchases, there is an obligation to use the Approach to Market methodology and the Commonwealth Contract, which are part of the Commonwealth Contracting Suite. There has also been a great deal of standardisation in non-mandatory forms for contracts valued at less than \$1 million. Introduced in recent years by the Department of Finance. Information on Approach to Market is provided at: Department of Finance (2014). [Buying for the Australian Government](https://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/reporting-requirements/notification-approach/principles.html). 10 July. Available at: <<https://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/reporting-requirements/notification-approach/principles.html>> and for more on the Commonwealth Contracting Suite see: Department of Finance (2019). [Commonwealth Contracting Suite](https://www.finance.gov.au/procurement/commonwealth-contracting-suite/). Commonwealth of Australia. 30 January. Available at: <<https://www.finance.gov.au/procurement/commonwealth-contracting-suite/>>.

- 11 For a similar discussion on New Zealand see: New Zealand Productivity Commission (2015c). *More Effective Social Services*. August. Wellington, page 68. Available at: <<https://www.productivity.govt.nz/sites/default/files/social-services-final-report-main.pdf>>.
- 12 See OECD (2017b) for an in-depth discussion of systems in the public sector.
- 13 Kettl 2016.
- 14 We use the definition of external providers developed by Alford and O'Flynn (2012) which includes other parts of government. [Alford, J. and O'Flynn, J. (2012). *Rethinking Public Service Delivery: Managing with External Providers*. Palgrave.]
- 15 This excludes general revenue assistance to the states and territories, and social transfers where government has no role in shaping the supply side, some specific purpose payments and some grants to private and non-profits: Department of the Treasury (2018b). *Consolidated Financial Statements for the year ended 30 June 2018*. Commonwealth of Australia. December, p.76; Department of the Treasury (2018a). *Australian Government Budget Outcome 2017-18*. Commonwealth of Australia. p.55. Information concerning expenditure just on services is not available.
- 16 Department of Social Services (2018). 'Portfolio Budget Statements 2018-19'. *Budget Related Paper No. 1.15: Social Services Portfolio*. Commonwealth of Australia. Table 3.4. Available at: <[https://www.dss.gov.au/sites/default/files/documents/05\\_2018/social\\_services\\_portfolio\\_budget\\_statements\\_2018-19.pdf](https://www.dss.gov.au/sites/default/files/documents/05_2018/social_services_portfolio_budget_statements_2018-19.pdf)>.
- 17 National Disability Insurance Agency (2018). *Annual Report 2017-18*. Commonwealth of Australia. Available at: <<https://www.ndis.gov.au/about-us/publications/annual-report#annual-report-2017-18>>.
- 18 This refers to annual expenditure on goods and services as opposed to the value of new contracts signed. It is difficult to be precise, but this range acknowledges that some items in 'supply of goods and services' might not be regarded as having been commissioned. However, with Medicare and the Pharmaceutical Benefits Scheme, for example, the government has considerable influence over the shape of the supply side.
- 19 Contract awards for construction seem to be generally classified under services.
- 20 Department of Finance (2019). *Statistics on Australian Government Procurement Contracts* (extracted from AusTender 28 August 2018). Commonwealth of Australia. Available at <<https://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/>>.
- 21 Ibid.
- 22 This is the latest year for which comparable data are available.
- 23 OECD (2017a). Size of public procurement. *Government at a Glance 2017*. OECD Publishing. Paris: OECD. Available at: <<https://stats.oecd.org/Index.aspx?QueryId=78413>>.
- 24 This is based on new contracts signed that year.
- 25 Department of Finance (2019). *Statistics on Australian Government Procurement Contracts* (extracted from AusTender 28 August 2018). Commonwealth of Australia. Available at <<https://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/>>.
- 26 Department of Jobs and Small Business (2018). *Entity Resources and Planned Performance*. Commonwealth of Australia, p.23. Available at <[https://docs.jobs.gov.au/system/files/doc/other/2018-19\\_jobspbs\\_department.pdf](https://docs.jobs.gov.au/system/files/doc/other/2018-19_jobspbs_department.pdf)>.
- 27 Various attempts at cost identification have been made. See for example: Phillips, J. and Spinks, H. (2016). Permanent Migration. *Immigration and Border Protection Overview*. Australian Parliamentary Library. Available at: <[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/BudgetReview201718/Immigration](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201718/Immigration)> or Save the Children and Unicef (2016). *At What Cost: The human, economic, and strategic cost of Australia's asylum seeker policies and the alternatives*. Available at: <<http://www.unicef.org.au/Upload/UNICEF/Media/Documents/At-What-Cost-Report.pdf>>.
- 28 Information on the largest contracts is based on information provided on AusTender, the Australian government's procurement information system. *AusTender* can be accessed at: <<https://www.tenders.gov.au/>>.
- 29 Easton, S. (2018). *No Evidence to Support APS Cap, No Idea How Many Contractors Fill the Void*. *The Mandarin*. Available at <<https://www.themandarin.com.au/88609-contract-reporting-no-evidence-to-support-aps-staff-cap/>>.
- 30 *Submissions received by the: Joint Committee of Public Accounts and Audit on Auditor-General's Report No. 19 (2017-18)*. Department of Prime Minister & Cabinet, No.18 and Australian Bureau of Statistics, No.25. Available at: <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Accounts\\_and\\_Audit/AGReport19/Submission](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AGReport19/Submission)>; *Joint Committee of Public Accounts and Audit Hearings on Auditor-General's Report No. 19 (2017-18)*. 23 March 2018/

Available at:

<<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommjnt%2Faa7c4ea5-06aa-42f9-af24-20fac0d66c06%2F0002;query=Id%3A%22committees%2Fcommjnt%2Faa7c4ea5-06aa-42f9-af24-20fac0d66c06%2F0000%22>>.

- <sup>31</sup> The ANAO noted that “Many consultancy suppliers publicly report consultancy as a substantial component of their business. Contracts with these suppliers and contracts in service categories, including ‘management advisory services’ and ‘information technology consultation services’, have the vast majority (by value) classified as not being consultancy. This may suggest entities have underreported consultancy contracts” s.5.7, page 25. ANAO (2017e). *Australian Government Procurement Contract Reporting*, Commonwealth of Australia. Sections 5.4; 5.6; 5.7. Available at: <[https://www.anao.gov.au/sites/default/files/ANAO\\_Report\\_2017-2018\\_19.pdf](https://www.anao.gov.au/sites/default/files/ANAO_Report_2017-2018_19.pdf)>.
- <sup>32</sup> Department of Finance (2018). *Submission to the Joint Committee of Public Accounts and Audit. Part A, February*. Commonwealth of Australia. Available at: <<https://www.aph.gov.au/DocumentStore.ashx?id=49ac91f2-227a-48b0-99f0-c512c2f62566&subId=563408>> p. 5.
- <sup>33</sup> See, for example the ANAO (2017a). *Offshore Processing Centres in Nauru and Papua New Guinea: Contract management of garrison support and welfare services*, Commonwealth of Australia. Available at: <<https://www.anao.gov.au/work/performance-audit/offshore-processing-centres-nauru-and-papua-new-guinea-contract-management>>.
- <sup>34</sup> Based on publicly available data and noting the previous comments on the challenges of identifying the full costs.
- <sup>35</sup> See, for example, Szymankiewicz, J. (1994). Contracting Out or Selling Out?: Survey into the Current Issues Concerning the Outsourcing of Distribution, *Logistics Information Management*, 7 (1), pp.28-35; Alexander, M. & Young, D. (1996). Outsourcing: Where's the value?, *Long Range Planning*, 29 (3), pp. 392:404 ; Sandor Boyson, S., Corsi, T., Dresner, M., Rabinovich, E. (1999). Managing Effective Third Party Logistics Relationships: What Does it Take? *Journal of Business Logistics*, 20 (1), pp.73-100; Fernie, J. (1999). Outsourcing Distribution in UK Retailing. *Journal of Business Logistics*, 20 (2), pp.83-95; Greer, C., Youngblood, S. A. & Gray, D.A. (1999). Human Resource Management Outsourcing: The Make or Buy Decision. *Academy of Management Executive*, 13 (3), pp.85-96; van Laarhoven, P. Berglund, M., Peters, M. (2000). Third-party logistics in Europe – five years later. *International Journal of Physical Distribution & Logistics Management*, 30 (5), pp.425-442; Barthelemy, J. Geyer, D. (2001). IT Outsourcing: Evidence from France and Germany. *European Management Journal*, 19 (2), pp.195-202; Wilding, R., Juriado, R. (2004). Customer perceptions on logistics outsourcing in the European consumer goods industry. *International Journal of Physical Distribution & Logistics Management*, 34 (8), pp.628-644; Gonzalez, R., Gasco, J. & Llopis, J. Information systems outsourcing reasons and risks: a new assessment, *Industrial Management & Data Systems*, 110 (2), pp.284-303.
- <sup>36</sup> Donahue, J. (1989). *The Privatization Decision: Public ends, private means*. New York: Basic Books; Reddington, E. (2004). *Good People, Good Systems*. London: The Serco Institute, p. 19.
- <sup>37</sup> The Australian Tax Office, for example, explains their reliance on labour hire and contractors as a response to surges in demand. Especially during the period July to October where the ATO where Australians are completing tax return (comments from Ms Frances Cawthra, Chief Finance Officer to the PAC on March 23 2018 as reported by: Dingwell, D. (2018). *APS bosses defend booming contractor spend as headcount remains unclear*. *Sydney Morning Herald*. 23 March. Available at: <<https://www.smh.com.au/public-service/aps-bosses-defend-booming-contractor-spend-as-headcount-remains-unclear-20180323-h0xutr.html>>). Similar ‘surge’ comments were made by representatives from the: Department of Human Services (2018). *Australian Government Contract Reporting – Inquiry*. Based on Auditor-General’s report No. 19. Submission 22. to the *Joint Committee of Public Accounts and Audit on March 23, 2018*. Available at: <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Accounts\\_and\\_Audit/AGReport19](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AGReport19)>.
- <sup>38</sup> Comments from the Department of Defence (DoD) include that ‘In any workforce it is fitting to have an integrated workforce that includes contractors to undertake highly specialised work, short term work and work that may require considerable organisational support that is not readily available internally’ – Department of Defence (2018). Strategic Reform Program Initiative Information Sheet, *Australian Government Contract Reporting – Inquiry*, based on Auditor-General’s report No. 19 (2017-18), Supplementary Submission 35.1. Available at: <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Accounts\\_and\\_Audit/AGReport19/Submission35.1](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AGReport19/Submission35.1)>.
- <sup>39</sup> McIlroy, T. and Tadros, E. (2018). *Labor to end public service caps, cut federal government use of consultants*. *Australia Financial Review*. August 9. Online at: <<https://www.afr.com/news/politics/labor-to-end-public-service-caps-cut-federal-government-use-of-consultants-20180808-h13os5>>.

- 40 Community and Public Sector Union (2018). [Community and Public Sector Union Principal Submission: Independent Review of the APS](#). July. Available at: <<https://contribute.apsreview.gov.au/submissions>>.
- 41 Bortz, M. (2018). [Reducing Government's Reliance on Consultants](#). *Pursuit*, May 24. Available at: <<https://pursuit.unimelb.edu.au/articles/reducing-governments-reliance-on-consultants>>.
- 42 Bortz 2018.
- 43 Bortz 2018. See also [Submissions to the Australian Government Contract Reporting Inquiry](#) (especially from the Centre for Policy Development): <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Accounts\\_and\\_Audit/AGReport19/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/AGReport19/Submissions)>.
- 44 Centre for Policy Development (2018). [Submission to the Australian Government Contract Reporting Inquiry](#). Available at: <<https://cpd.org.au/wp-content/uploads/2017/07/JCPAA-Inquiry-Submission-letter.pdf>>.
- 45 For example, in the aftermath of the collapse of Working Links, the largest provider of probation services in the UK, calls have been made to bring the service in-house. See for example '[The Ministry of Justice was wrong to outsource probation](#)': <<https://www.instituteforgovernment.org.uk/blog/ministry-justice-was-wrong-outsource-probation>>.
- 46 The recent work from Helen Dickinson on additive technologies: Dickinson, H. (2018). The Next Industrial Revolution? The Role of Public Administration in Supporting Government to Oversee 3D Printing Technologies. *Public Administration Review*, 78(6), pp.922-925; Dickinson, H., Smith, C., Carey, N. and Carey, G. (2018). *Robots and the delivery of care services: What is the role for government in stewarding disruptive innovation?* Melbourne: ANZSOG.
- 47 See Donahue 1989.
- 48 There is an extensive literature that explore these issues. See Alford and O'Flynn (2012) for a synthesis.
- 49 Donahue 1989.
- 50 Where the goal is outsourcing, then in-house teams may not be permitted to participate in these processes.
- 51 For a review of the evidence see Alford and O'Flynn (2012).
- 52 Elkomy, S. and Cookson, G. (2019) 'Cheap and Dirty: The Effect of Contracting Out Cleaning on Efficiency and Effectiveness' *Public Administration Review*, 79(2), pp193-202.
- 53 See ANAO (2010). [Home Insulation Program](#). Report number 12 of 2010-2011. Available at: <<https://www.anao.gov.au/work/performance-audit/home-insulation-program>>.
- 54 See Hurley, P. (2017). [Why exploitation and corruption continue to dog Australia's VET sector](#). *The Conversation*. July 3. Available at: <<https://theconversation.com/why-exploitation-and-corruption-continue-to-dog-australias-vet-sector-80321>>.
- 55 Public Administration and Constitutional Affairs Committee (2018). 'After Carillion: Public Sector Outsourcing and Contracting', *HC 748, Seventh Report of Session 2017-2019*, House of Commons, 3 July 2018.
- 56 One of the reasons why HM Treasury pursued the Private Finance Initiative (involving PPPs) in the early 1990s in the UK; as a means to overcome optimism bias. Optimism bias is the human propensity to overestimate positive effects and underestimate negative effects. This bias is considered one of the most robust, consistent and prevalent ones by psychologists and behavioural economist. See Sharot, T. (2011). 'The Optimism Bias', *Current Biology*, 21 (23), R941-R945.
- 57 Baumol, W. and Willig, R.D. (1981). Fixed Costs, Sunk Cost, Entry Barriers, and Sustainability of Monopoly. *Quarterly Journal of Economics*, 96(3), pp.405-431.
- 58 Sturgess, G.L. (2015). *Contestability in Public Services: An Alternative to Outsourcing*, Melbourne: ANZSOG.
- 59 This may be done by addressing issues of asset specificity, and optimising the number of competition points, by making sure that contracts are no larger or longer than necessary. Sturgess (2015).
- 60 The purpose of the programme is for the Australian government to assess its functions to determine if performance can be improved through alternative structures, processes or provider arrangements. The aim is for Commonwealth entities to adopt a more commercial mindset and seek ways of improving the performance of existing or proposed government functions. More information on the Contestability Programme is provided at: Department of Finance (2015). [Efficiency through Contestability Programme](#). 30 March. Commonwealth of Australia. Available at: <<https://www.finance.gov.au/resource-management/governance/contestability/>>.
- 61 Ibid.
- 62 ANAO (2018e). [Efficiency through Contestability Programme](#), Commonwealth of Australia, p.10. Available at <[https://www.anao.gov.au/sites/default/files/ANAO\\_Report\\_2017-2018\\_41.pdf](https://www.anao.gov.au/sites/default/files/ANAO_Report_2017-2018_41.pdf)>.



- 63 Department of Finance 2015.
- 64 Almqvist, R. (1999). Measuring the Threat of Competition – Services for the Elderly in the City of Stockholm. *Local Government Studies*, 25 (1), pp.1-16; Bradley, S., Johnes, G. and Millington, J. (2001). The Effect of Competition on the Efficiency of Secondary Schools in England. *European Journal of Operational Research*. 135, pp.545-568 at p.562; Wallstein, S., and Kosec, K. (2008). The Effects of Ownership and Benchmark Competition: An Empirical Analysis of U.S. Water Systems. *International Journal of Industrial Organization*. 26, pp.186-205; Bloom, N. and Propper, C., Seiler, S., and Van Reenan, J. (2010). The Impact of Competition on Management Quality: Evidence from Public Hospitals. *NBER Working Paper No. 16032*, Cambridge, MA: National Bureau of Economic Research, May.
- 65 For example, in recent years evidence shows that performance benchmarking has been misused in National Offender Management Services in the UK. See Travis, A. and Morris, S., (2014). [Prison governors ordered to cut costs by £149m a year](https://www.theguardian.com/society/2014/apr/29/prisons-ordered-cust-costs-149-million-a-year). *The Guardian*, 30 April. Available at: <<https://www.theguardian.com/society/2014/apr/29/prisons-ordered-cust-costs-149-million-a-year>>; House of Commons Justice Committee (2015). Prisons: Planning and Policies, Ninth Report of Session 2014–15, *HC309*, 18 March, section 3; Shaw, D. (2017). [What is going wrong with the prison system?](https://www.bbc.com/news/uk-38596034), *BBC News*, 26 January. Available at: <<https://www.bbc.com/news/uk-38596034>>.
- 66 Business Council of Australia (2018). [Submission to the Independent Review of the Australian Public Service](https://uploadstorage.blob.core.windows.net/submission-uploads/fil038394e7fa0bea87309ef.pdf), July. Available at: <<https://uploadstorage.blob.core.windows.net/submission-uploads/fil038394e7fa0bea87309ef.pdf>>.
- 67 Community Council of Australia (2018). [Submission to the Independent Review of the Australian Public Service](https://contribute.apsreview.gov.au/submissions), July. Available at: <<https://contribute.apsreview.gov.au/submissions>>.
- 68 Community and Public Sector Union 2018.
- 69 For example, the House of Commons report on the collapse of Carillion in the UK 2018; or the US Congressional Commission on Wartime Contracting in Iraq and Afghanistan (2011). See: Public Administration and Constitutional Affairs Committee (2018). 'After Carillion: Public Sector Outsourcing and Contracting', *HC 748, Seventh Report of Session 2017-2019*, House of Commons, 3 July 2018; US Congress (2011). [Commission on Wartime Contracting in Iraq and Afghanistan](https://cybercemetery.unt.edu/archive/cwc/20110929213820/http://www.wartimecontracting.gov/docs/CWC_FinalReport-lowres.pdf), August 2011. Available at: <[https://cybercemetery.unt.edu/archive/cwc/20110929213820/http://www.wartimecontracting.gov/docs/CWC\\_FinalReport-lowres.pdf](https://cybercemetery.unt.edu/archive/cwc/20110929213820/http://www.wartimecontracting.gov/docs/CWC_FinalReport-lowres.pdf)>.
- 70 See O'Flynn, J., Vardon, S., Yeatman, A. and Carson, L. (2011). Perspectives on the capacity of the Australian Public Service and Effective Policy Development and Implementation, *Australian Journal of Public Administration*, 70(3), 309-317.
- 71 More information on the [Capability Review Program](https://www.apsc.gov.au/capability-review-program) (2011-2016) is provided here: <<https://www.apsc.gov.au/capability-review-program>>.
- 72 Examples of the areas include: strategic planning for commercial outcomes, alignment with policy and processes, supplier relationship management, use of technology processes and tools. More information on the [Procurement Capability Index](https://www.procurement.govt.nz/procurement/improving-your-procurement/frameworks-reporting-and-advice/procurement-capability-index/) is provided here: <<https://www.procurement.govt.nz/procurement/improving-your-procurement/frameworks-reporting-and-advice/procurement-capability-index/>>.
- 73 See Williamson, O.E. (1979). Transaction-Cost Economics: The Governance of Contractual Relations. *Journal of Law and Economics*, 22 (October): 233-261.
- 74 See Dickinson, H. (2015). *Commissioning public services evidence review: Lessons for Australian public services*, Melbourne School of Government, University of Melbourne; Sturgess (2015); Tizard, J. and Mathias, M. (2019) [Beyond contracting: public service stewardship to maximise public value](https://www.wcpp.org.uk/publication/beyond-contracting-public-service-stewardship-to-maximise-public-value/). *Wales Centre for Public Policy*. Published on 4 February 2019. Available at: <<https://www.wcpp.org.uk/publication/beyond-contracting-public-service-stewardship-to-maximise-public-value/>>.
- 75 The argument being that where governments describe commissioning, they often refer to a reduced role for government, increased competition, reducing costs, and improving quality aims associated with the Australian and international experience with outsourcing [Alford and O'Flynn, 2012; Dickinson, H. (2014). Public Service Commissioning: What can be Learned from the UK Experience? *Australian Journal of Public Administration*, 73 (1), pp. 14-18].
- 76 The 'prior options' framework was introduced by UK central government in 1991. Departments has to answer three questions before a function was considered for Executive Agency status: (i) Does the function need to be performed? (ii) If necessary, should the function be privatized or financed publicly? (iii) If the function should be public, can the work be contracted out? See H.M. Treasury, (1991). 'Competing for Quality: Buying Better Public Services', Cm 1730, HMSO.
- 77 In Australia the National Commission of Audit (1996) set out a decision tree base on 'core activities and responsibilities.' - National Commission of Audit (1996). *Report to the Commonwealth Government*, Canberra: AGPS, pp. 21-26.

- <sup>78</sup> The yellow pages test which emerged in the United States in the 1990s asked whether there were firms sufficiently specialised in particular activities or services that they were listed in the business pages of the telephone directory. If so, it was asked, why was government delivering the service in-house. See: Eggers, W.D. and Leary, J. (1995). *Revolution at the Roots: Making our Government Smaller, Better, and Closer to Home*, New York: The Free Press, p.113. In 1996, the Australian Minister for Administrative Services, David Jull, used this approach to guide the transformation of his department.
- <sup>79</sup> Following criticism by the Audit Commission in the UK about fragmentation and poor coordination within government, Sir Roy Griffiths was engaged by the national government to develop a response. The notion of the enabling agency, which would coordinate the interface with service beneficiaries, rather than directly deliver services, was one of the recommendations from that work. See Audit Commission for Local Authorities in London and Wales (1986). *Making a Reality of Community Care*. London: HMSO, December 1986; Griffiths, R. (1988). *Community Care: Agenda for Action*. London: HMSO; Langan, M. (1990). Community Care in the 1990s: the community care White Paper: Caring for People. *Critical Social Policy*, 10(29), pp. 58-70. This concept later attracted some interest on the Left of British politics, with the Institute for Public Policy Research in 1991 exploring the possibility of unitary local authorities becoming commissioning agencies for health and social care. See Harrison, S. (1991). *Health before Health Care*, London: Institute for Public Policy Research.
- <sup>80</sup> In the early 1990s, Osborne and Gaebler popularised the notion that government should be 'steering not rowing', in their widely-read book *Reinventing Government*. Their argument was that government might sometimes become stronger by choosing to become smaller. This approach was adopted by the National Performance Review commissioned by Vice President Al Gore, in part because of the role which Osborne played as an adviser to the NPR. See Osborne, D., and Gaebler, T. (1992). *Reinventing Government*, Reading, MA: Addison-Wesley; and also Gore, A. (1993). *Creating a Government that Works Better & Costs Less, Report of the National Performance Review*, U.S. Government Printing Office, September 7 1993, p.57.
- <sup>81</sup> An excellent overview and assessment is provided in Bourgon, J. (2009). [Program Review: The Government of Canada's experience eliminating the deficit, 1994-99: a Canadian case study](https://www.instituteforgovernment.org.uk/sites/default/files/publications/Program%20Review.pdf), *Institute for Government*, Canada. Available at: <<https://www.instituteforgovernment.org.uk/sites/default/files/publications/Program%20Review.pdf>>.
- <sup>82</sup> The concept dates back to the 1960s, but the current policy is grounded in the Federal Activities Inventory Reform (FAIR) Act of 1998, which defined the concept in terms of discretion: 'A function so intimately related to the public interest as to require performance by Federal Government employees.' The FAIR Act provided a non-exclusive list of these types of functions: (i) binding the United States to take, or not to take, action by contract, policy, regulation, authorization, order, or otherwise; (ii) determining, protecting, and advancing U.S. Economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management or otherwise; (iii) significantly affecting the life, liberty, or property interests of private persons; (iv) commissioning, appointing, directing, or controlling officers or employees of the United States; or (v) exerting ultimate control over the acquisition, use, or disposition of the real or personal, tangible or intangible, property of the United States, including the collection, control, or disbursement of appropriated and other federal funds. 105<sup>th</sup> Congress (1998). [Public Law 105-270](https://www.congress.gov/105/plaws/publ270/PLAW-105publ270.pdf). October 19. Available at: <<https://www.congress.gov/105/plaws/publ270/PLAW-105publ270.pdf>>.
- <sup>83</sup> In 2011, the Office of Federal Procurement Policy issued further guidance which enriched the discretion test, excluding the contracting of functions involving an exercise of discretion that would. . . commit the government to a course of action where two or more alternative courses of action exist and decision making is not already limited or guided by existing policies, procedures, directions, orders, and other guidance that: (i) identify specified ranges of acceptable decisions or conduct concerning the overall policy or direction of the action; and (ii) subject the discretionary authority to final approval or regular oversight by agency officials. The 2011 guidance added a second, 'critical functions' test, which refers to functions that are 'necessary to the agency being able to effectively perform and maintain control of its mission and operations'. See Manuel, K.M. (2014). Definitions of "Inherently Governmental Function". *Federal Procurement Law and Guidance*, Washington, DC: Congressional Research Service.
- <sup>84</sup> Peters, T.J. and Waterman, Jr., R.H. (1982). *In Search of Excellence: Lessons from America's Best-Run Companies*, New York: Harper & Row; Pümpin, C. (1987). *The Essence of Corporate Strategy*, Aldershot: Gower, pp.19-21; Prahalad, C.K. and Hamel, G. (1990). The Core Competence of the Corporation. *Harvard Business Review*, 66 (3); Drucker, P.F. (1994). The Theory of the Business. *Harvard Business Review*, September-October, pp.95-104.
- <sup>85</sup> See Alford and O'Flynn (2012) who examine core competencies when setting out strategic costs and benefits. And see also H.M. Treasury 1991.
- <sup>86</sup> Kettl 2016.

- <sup>87</sup> George Frederickson referred to an increasingly fragmented and disarticulated state caused by jurisdictions losing boundaries, the state losing the ability to deal with complexity due to fuzzy boundaries, and the redefinition of what is meant by public as more and more actors became involved in governing, Frederickson (1999).
- <sup>88</sup> There are many different definitions of stewardship. For an excellent overview see: Moon, K., Marsh, D., Dickinson, H., Carey, G. (2017). [Is All Stewardship Equal? Developing a typology of stewardship approaches](#). Issues Paper No. 2. Public Service Research Group, UNSW. Available at: <<https://www.unsw.adfa.edu.au/public-service-research-group/sites/cpsr/files/uploads/Issues%20%20Stewardship.pdf>>.
- <sup>89</sup> For a rich discussion on the notion of quasi-markets and public services see the work of Julian Le Grand who sets out differences between conventional and quasi-markets on both the demand and supply side. On the supply side, whilst there is competition between providers, they are not necessarily profit-seekers or privately owned. Also, it is unclear what they seek to maximise and the basis of their ownership structure. On the demand side, consumer-spending power may not be in the form of money, and the immediate consumer may not exercise any choice (e.g. a public hospital patient). For example, in quasi-markets "... not-for-profit organisations [compete] for public contracts, sometimes in competition with for-profit organisations; consumer purchasing power [is] in the form of vouchers rather than cash; and, in some cases, the consumers [are] represented in the market by agents instead of operating by themselves" (Le Grand 1990:5). See Le Grand, J. (1990). *Quasi-Markets and Social Policy*, School for Advanced Urban Studies, University of Bristol and Le Grand (1991) *Quasi-Markets and Social Policy*. *The Economic Journal*, 101, pp. 1256-1267.
- <sup>90</sup> See Exworthy, M., Powell, M. and Mohan, J. (1999). The NHS: Quasi-Market, Quasi-Hierarchy and Quasi-Network. *Public Money & Management*, October-December, pp. 15-22.
- <sup>91</sup> Steuerle, C.E., Ooms, V.D., Peterson, G.E., Reischauer, R.D. (eds) (2000). *Vouchers and the Provision of Public Services*, Washington, D.C.: Brookings Institution Press; Cave, M. (2001). Voucher Programmes and Their Role in Distributing Public Services, *OECD Journal on Budgeting*, 1 (1), pp.59-88; Daniels, R.J. and Trebilcock, M.J. (2005). *Rethinking the Welfare State: The Prospects for Government by Voucher*, London: Routledge.
- <sup>92</sup> Vulkan, N., Roth, A.E., Neeman, Z (eds.) (2013). *The Handbook of Market Design*, Oxford University Press; Roth, A.E. (2015). *Who Gets What and Why: The Hidden World of Matchmaking and Market Design*, London: William Collins.
- <sup>93</sup> Digital Transformation Agency (2017). [Report of the ICT Procurement Taskforce](#), Commonwealth of Australia. Available at: <<https://www.dta.gov.au/help-and-advice/ict-procurement/digital-sourcing-framework-ict-procurement/ict-procurement-taskforce-report>>; Employment Services Expert Advisory Panel (2018), '[I Want to Work](#)', Commonwealth of Australia. 14 December. Available at: <<https://docs.jobs.gov.au/documents/i-want-work>>.
- <sup>94</sup> An illustrative case being in Denmark in early 2019 when Falck, the private sector company that provides ambulance services, was found to have used unlawful tactics to drive others out of business. For more see: Danish Competition and Consumer Authority (2019). [Falck has abused its dominant position by excluding BIOS from the Danish market for ambulance services](#). 30 January. Available at: <<https://www.en.kfst.dk/nyheder/kfst/english/decisions/20190130-falck-has-abused-its-dominant-position-by-excluding-bios-from-the-danish-market-for-ambulance-services/>>.
- <sup>95</sup> Discussed in detail in Greve, C. (2008) *Contracting for Public Services* Routledge, London; originally discussed in Roberts, A. (2004) *Transborder Service Systems: Pathways for Innovation or Threats to Accountability?* IBM Center for the Business of Government, Arlington.
- <sup>96</sup> For a summary on the use of trusts within the internal NHS market see: Background Briefings (1998). [Hospital Trusts Bring Internal Health Market](#). BBC. Available at: <[http://news.bbc.co.uk/2/hi/health/background\\_briefings/your\\_nhs/93732.stm](http://news.bbc.co.uk/2/hi/health/background_briefings/your_nhs/93732.stm)>; For a summary on the changes to the internal market of the NHS introduced under the Health and Social Care Act in 2012 see: Paton, C. (2014). [At What Cost? Paying the price for the market in the English NHS](#). *Centre for Health and the Public Interest*. Available at: <<http://chpi.org.uk/wp-content/uploads/2014/02/At-what-cost-paying-the-price-for-the-market-in-the-English-NHS-by-Calum-Paton.pdf>>.
- <sup>97</sup> For more information on [Single Touch Payroll](#) see <<https://www.ato.gov.au/business/single-touch-payroll/>>.
- <sup>98</sup> Allen, B., Wade, E., Dickinson, H. (2009). 'Bridging the divide – commercial procurement and supply chain management: Are there lesson for health care commissioning in England?' *Journal of Public Procurement*. 9 (1), pp. 79-108.
- <sup>99</sup> See New Zealand Productivity Commission (2015c); see also the excellent work on Commissioning Conversations by the Policy Project (n.d.). [Prompts for Policy Commissioning Conversations](#). Available at: <<https://dpmc.govt.nz/sites/default/files/2017-08/Start%20Right%20Commisioning%20Prompts%20-%20R1%20August%202017.pdf>>.
- <sup>100</sup> These may also be referred to as forms of social procurement by some writers.

- <sup>101</sup> See for example Orser, B., Riding, A. and Weeks, J. (2018). [The efficacy of gender-based federal procurement policies in the United States](#). *Small Business Economics*. First online February 20 2018: <<https://doi.org/10.1007/s11187-018-9997-4>>.
- <sup>102</sup> For more information in the Indigenous Procurement Policy see: Department of the Prime Minister and Cabinet [DPMC] (2019). [Indigenous Procurement Policy](#). Commonwealth of Australia. Available at: <<http://www.pmc.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>>.
- <sup>103</sup> See: DPMC (2017). [Reforms to IT procurement inject \\$650 million into small business](#). 23 August. Commonwealth of Australia. Available at: <<https://ministers.pmc.gov.au/taylor/2017/reforms-it-procurement-inject-650mill-small-businesses>>.
- <sup>104</sup> See for example: Allport, T. (2014). [Maori Commissioning Report, Te Pou Matakana](#), Auckland. Available at: <<https://www.tepoumatakana.com/wp-content/uploads/2016/11/TPM-Maori-commissioning-report.pdf>>.
- <sup>105</sup> Similar points are raised in the submission from Carey, G., Dickinson, H. Olney, S. and Malbon. E. (2019) to the APS Review: *Have your say: Bolster the role of the APS as stewards*.
- <sup>106</sup> Submission from Carey, G., Dickinson, H. Olney, S. and Malbon. E. (2019) to the APS Review: *Have your say: Bolster the role of the APS as stewards*.
- <sup>107</sup> See: Williamson (1979).
- <sup>108</sup> Here governments contract with large companies to serve as an 'integrator' in a particular service area, building and/or managing government's supply chain. For example, the UK Department of Work and Pensions developed a similar model for the Work Programme in several counties, where the supply chain was composed of public, private and not-for-profit providers. Personal research in 2014 by Gary Sturgess; see also O'Flynn, J., Dickinson, H., O'Sullivan, S., Gallet, W., Currie, K., Petit, M., Pagan, A. and Robinson, T. (2014b). [The Prime Provider Model: An Opportunity for Better Public Service Delivery?](#) Social Policy Working Paper, No. 18, Brotherhood of St Laurence, Melbourne. Online at: <[http://library.bsl.org.au/jspui/bitstream/1/4212/1/JO'Flynn\\_The-Prime-provider-model\\_BSL.2014.pdf](http://library.bsl.org.au/jspui/bitstream/1/4212/1/JO'Flynn_The-Prime-provider-model_BSL.2014.pdf)>.
- <sup>109</sup> Even when complex multi-party networks are being developed and stewarded by government, these look quite different to supply chains elsewhere. An interesting example of this is the Home Interaction Program for Parents and Youngster (HIPPY), which was been funded by the Australian government, with the Brotherhood of St Laurence (BSL) as the prime contractor. For detailed discussion on this case as an example an innovative model see O'Flynn et al (2014b).
- <sup>110</sup> Joint ventures, public-private partnerships, insourcing, hierarchy, prime contractor, and multilateral supply chains are all examples.
- <sup>111</sup> Sturgess, G.L. (2017). *Just Another Paperclip: Rethinking the Market for Complex Public Services*, Report for the Business Services Association, London: BSA; Sturgess, G.L., Argyrous, G. and Rahman, S. (2017). Commissioning Human Services: Lessons from Australian Convict Contracting. *Australian Journal of Public Administration*, 76 (4), pp. 457-469.
- <sup>112</sup> See Alford and O'Flynn (2012) on this point
- <sup>113</sup> Issues of contract design have not been well explored, but see, for example, DeHoog, R. (1990). Competition, Negotiation, or Cooperation: Three Models for Service Contracting. *Administration & Society*, 22 (3), pp. 317-340.
- <sup>114</sup> See the challenges that come after the 'ribbon cutting' in Hodge, G., Boillot, E., Duffield, C. and Greve, C. (2017). After the ribbon-cutting: Governing PPPs in the medium to long term. *Australian Journal of Public Administration*, 36(3), pp. 330-351.
- <sup>115</sup> The efficiency branch of New Institutional Economics separates into two distinct branches: (i) the transaction cost branch which considers measurement and governance; (ii) an incentive branch which considers property rights and agency. Williamson (1985) explained that the two branches consider different sides of contracts but rely heavily on each other conceptually. See O'Flynn (2007) for some discussion of how these influenced practice in Australia during the 'new public management' era. [Williamson, O.E. (1985). *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting*, The Free Press, New York; O'Flynn, J. (2007). From new public management to public value: paradigmatic change of managerial implications. *Australian Journal of Public Administration*, 66 (3), pp. 353-366.
- <sup>116</sup> See for example: Alchian, A. and Demsetz, H. (1972). Production, information costs, and economic organization. *American Economic Review*, 62 (5), pp. 777-95; Jensen, M. and Meckling, W. (1976). Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Structure. *Journal of Financial Economics*, 3 (4), pp. 305-60; Moe, T. (1984). The New Economics of Organization. *American Journal of Political Science*, 28(4), pp. 739-75; Eisenhardt, K. M. (1989). Agency theory: An assessment and review. *Academy of Management Review*, 14 (1), pp. 57-74; Donaldson, L. (1990). The Ethereal Hand: Organizational Economics and Management Theory, *Academy of Management Review*, 15 (3), pp. 369-81.
- <sup>117</sup> Principal-agent relationship exist within organisations (i.e. manager-supervisor), between organisations (i.e. purchaser and provider) and in other areas (i.e. lawyer-client; owners-board).

- <sup>118</sup> In his work Williamson (1979) explains that asset specific investment exists on a continuum from *non-specific investment* where assets are standardised and readily transferable to other tasks, through to *idiosyncratic* where assets are not readily transferable to other uses and are often highly customised. Their value in other uses is much lower. Asset investment is always viewed from the perspective of the supplier, not the purchaser in Williamson's original works. Specificity comes in several forms e.g. site or location, physical assets, human capital, dedicated capacity, brand name [Williamson, O.E. (1989). *Transaction Cost Economics. Handbook of Industrial Organization*, Elsevier: London. Pp. 135-182].
- <sup>119</sup> Transaction costs are the result of bounded rationality, potential opportunism and asset specificity. Opportunism goes beyond assumes of self-interest and assumes individuals will act with guile (Williamson 1979); bounded rationality is recognition that agents are cognitively limited, adaptive and goal oriented and therefore they are not perfectly rational beings as is assumed in the *homo economicus* model of agents (Simon, 1947); asset specificity relates to the level and type of investment made by suppliers in relationships (Williamson, 1979). [see: Simon, H. A. (1947). *Administrative Behavior: A Study of Decision-Making Processes in Administrative Organization*, first edition, New York: Macmillan].
- <sup>120</sup> Transaction costs are the result of bounded rationality, potential opportunism and asset specificity. Opportunism goes beyond assumes of self-interest and assumes individuals will act with guile (Williamson 1979); bounded rationality is recognition that agents are cognitively limited, adaptive and goal oriented and therefore they are not perfectly rational beings as is assumed in the *homo economicus* model of agents (Simon, 1947); asset specificity relates to the level and type of investment made by suppliers in relationships (Williamson, 1979). [see: Simon, H. A. (1947). *Administrative Behavior: A Study of Decision-Making Processes in Administrative Organization*, first edition, New York: Macmillan].
- <sup>121</sup> Transaction costs are the resources necessary for "developing, maintaining, and protecting the institutional structure" [Pejovich, S. (1998). *Economic Analysis of Institutions and Systems*, Second Edition, Kluwer Academic Publishers, Boston, p. 5]. Alternatively, "the costs that arise when individuals exchange ownership rights to economic assets and enforce their exclusive rights" [Eggertsson, T. (1990). *Economic Behavior and Institutions*, Cambridge University Press, New York, p. 14]. Examples of transaction costs include those associated with locating potential sellers, advising them of trade, negotiating terms of trade, completing the contract, and enforcing contractual terms [Coase, R. (1937). 'The Nature of the Firm', *Economica*, 4, pp. 386-405]. When discussing public sector examples, Williamson (1999) included probity as a transaction cost that had to be taking into account.
- <sup>122</sup> Transaction costs are considered narrowly and broadly and the original ideas that Williamson (1979) extended and developed into transaction cost economics were set out by Coase, R. (1937). See for example, Brown, T.L., Potoski, M. and Van Slyke, D. (2013). *Complex Contracting: Government Purchasing in the Wake of the US Coast Guard's Deepwater Program*, Cambridge University Press: London and also Dahlman, C.J., (1979). 'The Problem of Externality', *Journal of Law and Economics*, 22 (1), pp141-162.
- <sup>123</sup> These theories have been especially influential in terms of separation, competition and outsourcing. For example, the Next Steps program in the UK drew heavily on principal-agent theory, as did the Reinventing Government movement in the USA. And the separation models (e.g. purchaser-provider models) across governments in Australia and New Zealand were anchored in these ideas about relationships. See O'Flynn, J. (2004). *Competition and Contracts: Implementing Compulsory Competitive Tendering in the Victorian Local Government Sector*. Unpublished doctoral thesis submitted to the University of Melbourne.
- <sup>124</sup> Jobs Australia (2013). [Reforming Employment Assistance: A Blueprint for the Future](https://8-jobsaust.cdn.aspedia.net/sites/default/files/jal04_-_blueprint_for_a_better_system_final_1.pdf), Melbourne. Available at: <https://8-jobsaust.cdn.aspedia.net/sites/default/files/jal04\_-\_blueprint\_for\_a\_better\_system\_final\_1.pdf>.
- <sup>125</sup> Employment Service Expert Panel (2018).
- <sup>126</sup> Alford and O'Flynn 2012.
- <sup>127</sup> The approach is based on key questions, although the foundations are firmly tied to notions of the make-buy decision; Alford and O'Flynn (2012) go beyond this framework. Gash, T. and Pancharia, N. (2013). [When to contract: Which service features affect the ease of government contracting?](https://www.instituteforgovernment.org.uk/publications/when-contract) Institute for Government, London. Available at: <https://www.instituteforgovernment.org.uk/publications/when-contract>.
- <sup>128</sup> The approach is focused on the classic make-buy decision. Government Commercial Function (2019). [The Outsourcing Playbook](https://www.gov.uk/government/publications/the-outsourcing-playbook), Cabinet Office, London. Available at: <https://www.gov.uk/government/publications/the-outsourcing-playbook>.
- <sup>129</sup> Alford and O'Flynn 2012.
- <sup>130</sup> Service *benefits and costs*: Increased value can be generated in a variety of ways (through economies of scale, economies of scope, specialization, flexibility, complementarity, or innovation and learning). The evidence on cost (and quality) is mixed, in part because the nature of the function or service and the circumstances under which contracting occurred differ widely.

- <sup>131</sup> Relationship benefits and costs: Relationships provide the architecture for getting things done, but parties must coordinate action and interests may differ, resulting in costs of managing the relationship and ensuring that the external party delivers on its commitments. There are four relationship management tasks: defining the service (what has to be done); determining who is to produce the service (finding and engaging the external party); ascertaining whether the service has been provided (monitoring, managing, oversight); and motivating good performance. Whether they are built on trust or close monitoring, these tasks generate costs, which must be weighed against the relationship benefits that accrue (see Alford and O'Flynn, 2012).
- <sup>132</sup> Strategic benefits and costs: Here Alford and O'Flynn (2012) were concerned with how contracting might impact internal competences and strategic positioning, including legitimacy and trust. Time may be important here as short-term gains on services and relational factors might impact strategic benefits and costs over the longer-term. Externalization might generate strategic benefits in various ways – through a more strategic focus by government organisation. But strategic costs are incurred if core competences are lost or the long-term viability of the organisation's mission is compromised through loss of public trust or stakeholder support.
- <sup>133</sup> See Alford and O'Flynn (2012) and see Appendix C for a summary of different skills for these roles.
- <sup>134</sup> This includes the [Commonwealth Procurement Rules 2019](https://www.finance.gov.au/procurement/commonwealth-procurement-rules/) <https://www.finance.gov.au/procurement/commonwealth-procurement-rules/> and the [Public Governance, Performance and Accountability Act 2013](https://www.finance.gov.au/resource-management/pgpa-act/) <https://www.finance.gov.au/resource-management/pgpa-act/>. [Department of Finance (2019). *Commonwealth Procurement Guidelines*, Published on 1 January 2019]
- <sup>135</sup> In Wales the analogy is 'intelligent client' (Tizard and Mathias, 2019); in the USA the term 'smart buyer' is used: see Kettl, D. (2011). *Sharing Power: Public governance and private markets*, Brookings, Washington DC.
- <sup>136</sup> ANAO (2018c). '[Understanding the Market to Deliver Value in the Procurement Lifecycle](https://www.anao.gov.au/work/audit-insights/insights-reports-tabled-january-march-2018)', in 'Insights from Reports Tabled January to March 2018', Commonwealth of Australia, at <https://www.anao.gov.au/work/audit-insights/insights-reports-tabled-january-march-2018>.
- <sup>137</sup> In Australia, see for example: ANAO, 2016, pp.10 & 36; In the UK – NAO (2015a), 'Ministry of Defence: Military Flying Training', HC81 Session 2015-16, 12 June 2015, pp.10, 42-43; NAO (2016b), 'Contracted-Out Health and Disability Assessments', HC609 Session 2015-16, 8 January 2016, p.38; NAO (2016a), 'Home Office and NHS England: Yarl's Wood Immigration Removal Centre', HC508 Session 2016-17, 7 July 2016, pp.18-20; Nicholas Timmins, 'Universal Credit: From Disaster to Recovery?', London: Institute for Government, 2016, p.39.
- <sup>138</sup> ANAO (2017c). '[Procurement of the National Cancer Screening Register](https://www.anao.gov.au/sites/default/files/ANAO_Report_2016-2017_61.pdf)', Commonwealth of Australia, , p.8, at <https://www.anao.gov.au/sites/default/files/ANAO\_Report\_2016-2017\_61.pdf>; ANAO (2017d), '[Conduct of the OneSKY Tender](https://www.anao.gov.au/sites/default/files/ANAO_Report_2016-2017_46.pdf)', Commonwealth of Australia, p.23 at <https://www.anao.gov.au/sites/default/files/ANAO\_Report\_2016-2017\_46.pdf>.
- <sup>139</sup> ANAO 2017b, pp. 8-9, 15,17, 18, 21-22; ANAO 2017a, p. 11.
- <sup>140</sup> ANAO (2015b). '[Limited Tender Procurement](https://www.anao.gov.au/sites/default/files/ANAO_Report_2014-2015_48.pdf)', Commonwealth of Australia, pp.16-17, 19 at <https://www.anao.gov.au/sites/default/files/ANAO\_Report\_2014-2015\_48.pdf>.
- <sup>141</sup> See, for example, ANAO (2017b). '[Replacement Antarctic Vessel](https://www.anao.gov.au/sites/default/files/ANAO_Report_2016-2017_45.pdf)', Commonwealth of Australia. Available at <https://www.anao.gov.au/sites/default/files/ANAO\_Report\_2016-2017\_45.pdf>; ANAO 2017a; ANAO (2016). '[Design and Implementation of Defence's Base Services Contracts](https://www.anao.gov.au/sites/default/files/ANAO_Report_2016-2017_29.pdf)', Commonwealth of Australia. Available at <https://www.anao.gov.au/sites/default/files/ANAO\_Report\_2016-2017\_29.pdf>.
- <sup>142</sup> See, for example, Latham, M. (1994). 'Constructing the Team', *Final Report of the Government/Industry Review of the Procurement and Contractual Arrangements in the UK Construction Industry*, HMSO, July 1994, p.59; Prisons and Probation Ombudsman for England and Wales (2004). *Report of the Inquiry into the Disturbance and Fire at Yarl's Wood Removal Centre*, p.135; National Audit Office [NAO] (2015-16), *Home Office: E-borders and Successor Programmes*, HC608 Session 2015-16, 7 December 2015, pp.33-42; NAO (2016). 'Contracted-Out Health and Disability Assessments', HC609 Session 2015-16, 8 January 2016, p.35.
- <sup>143</sup> ANAO (2015c). '[Australian Defence Force's Medium and Heavy Vehicle Fleet Replacement \(Land 121 Phase 3B\)](https://www.anao.gov.au/sites/default/files/ANAO_Report_2014-2015_52.pdf)', Commonwealth of Australia, p.20 at <https://www.anao.gov.au/sites/default/files/ANAO\_Report\_2014-2015\_52.pdf>; ANAO 2017b, pp.34-36, 41 & 42; ANAO 2017a, p. 11; ANAO 2016, p. 9 & 26.
- <sup>144</sup> Sturgess 2017; Public Administration and Constitutional Affairs Committee 2018.
- <sup>145</sup> An illustrative example is forensics in the UK where the service got faster and cheaper but drove out innovation as discussed in Bandy, G. and Hartley, J. (2018). Debate: 'When spending less causes a problem', *Public Money & Management*, 38(1), pp.52-54.

- 146 ANAO 2016, p. 27; O'Flynn et al 2014b. The NDIS is a prominent example where little attention seems to have been paid to the structure of the supply chain.
- 147 ANAO 2017a, p. 12; ANAO 2017b, p. 31; ANAO (2018a). 'Defence's Procurement of Fuels, Petroleum, Oils, Lubricants, and Card Services', in '[Insights from Reports Tabled January to March 2018](#)', Commonwealth of Australia, at <<https://www.anao.gov.au/work/audit-insights/insights-reports-tabled-january-march-2018>>; ANAO (2018b), p. 50.
- 148 ANAO 2017c, p. 24; ANAO 2017b, pp. 7-8, 18-20.
- 149 ANAO 2016, p. 10, 27, 36; ANAO 2017c, p. 23; ANAO 2017b, pp. 18,34-35, 36, 41, 42.
- 150 ANAO 2017a, p. 12; ANAO 2017d, p. 9 and 39; ANAO 2017c, p. 24; ANAO (2018d). '[Procurement Processes and Management of Probity by the Moorebank Intermodal Company](#)', Commonwealth of Australia, 2018, p.9 at <[https://www.anao.gov.au/sites/default/files/Auditor-General\\_Report\\_2018-2019\\_09.pdf](https://www.anao.gov.au/sites/default/files/Auditor-General_Report_2018-2019_09.pdf)>;
- 151 ANAO 2018d, p.22. See also ANAO 2017a, p. 9; ANAO (2018b). '[Army's Protected Mobility Vehicle — Light](#)', Commonwealth of Australia, p.10 at <<https://www.anao.gov.au/work/performance-audit/army-protected-mobility-vehicle-light>>; ANAO 2018d, pp. 8 and 21.
- 152 ANAO 2017a, pp. 10 and 13. ANAO 2017c, p. 8 and 25; ANAO 2017d. Not covered by the ANAO, but related to these themes is the current contract for management of offshore centres on Manus Island: See '[How a soldier of fortune landed a \\$423 million Manus Island contract](#)' <<https://www.afr.com/news/policy/foreign-affairs/how-a-soldier-of-fortune-landed-a-423-million-manus-island-contract-20190214-h1b9s0>>.
- 153 Digital Transformation Agency 2017, pp.1-2.
- 154 ANAO 2017a, pp.8-9, 10, 11, 12-13, 14; ANAO 2016, p.10.
- 155 NAO (2009). 'Commercial Skills for Complex Government Projects', HC962 Session 200809, 6 November 2009, Appendix 2, pp.1-2; NAO (2014b). 'Home Office and Ministry of Justice: Transforming Contract Management', HC268 Session 2014-15, 4 September 2014, p.18.
- 156 Public Accounts Committee (2004). 'Improving Departments' Capability to Procure Cost-Effectively', HC541 Session 2003-04, 14 October 2004, p.10; Office of Government Commerce [OGC] (2014). 'Procurement Capability Review Programme. Tranche One Report', pp.11-12; NAO (2014a). 'Transforming Government's Contract Management', HC269 Session 2014-15, 4 September 2014, pp.9 & 10.
- 157 Crown Commercial Service (n.d.). '[Contract Management Principles](#)', London: Cabinet Office, n.d., (but c.2014), Available at: <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/395083/Contract\\_Management\\_Principles.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/395083/Contract_Management_Principles.pdf)>.
- 158 See Sturgess, 2017, especially, pp.40-42, 50-52.
- 159 The following are insightful articles on SCM from a very extensive literature –Mena et al 2013; Choi, T.Y. and Krause, D.R. (2006). The Supply Base and Its Complexity: Implications for Transaction Costs, Risks, Responsiveness and Innovation, *Journal of Operations Management*, 24, pp.637-652; Sanders et al (2007).
- 160 Himmelreich, H., Hildebrandt, P., Nalgirkar, R., Bijlsma, J. (2019), '[When Agile Meets Outsourcing](#)', BCG, 16 January. Available at: <<https://www.bcg.com/en-au/publications/2019/agile-meets-outsourcing.aspx>>; Deloitte Insights (2017). '[Agile in Government: A Playbook from the Deloitte Center for Government Insights](#)', Available at: <[https://www2.deloitte.com/content/dam/insights/us/articles/3897\\_Agile-in-government/DUP\\_Agile-in-Government-series.pdf](https://www2.deloitte.com/content/dam/insights/us/articles/3897_Agile-in-government/DUP_Agile-in-Government-series.pdf)>.
- 161 Digital Transformation Agency 2017.
- 162 By autonomous institutions, Muir is referring to self-governing entities that are “bounded from the over-reach of bureaucracy and profit” and because of this are “most likely to foster strong relationships and service innovation” (Muir 2013).
- 163 New Zealand Productivity Commission (2015a). '[More Effective Social Services](#)'. August, Wellington. Available at: <<https://www.productivity.govt.nz/inquiry-content/2032?stage=4>>.
- 164 Macaulay, S. (1963). Non-Contractual Relations in Business: A Preliminary Study. *American Sociological Review*, 28 (1) (Feb), pp. 55-67.
- 165 See Muir 2013.
- 166 The Public Administration and Constitutional Affairs Committee 2018.

- 167 See Tizard, J. and Mathias, M. (2019). *Beyond contracting: public service stewardship to maximise public value*. Wales Centre for Public Policy. 4 February. Available at: <<https://www.wcpp.org.uk/publication/beyond-contracting-public-service-stewardship-to-maximise-public-value/>>.
- 168 See O'Flynn 2018.
- 169 See Dickinson 2015; Sturgess 2015; Tizard and Mathias 2019.
- 170 Cardiff Third Sector Council (n.d.). *Commissioning*. Available at: <<https://www.c3sc.org.uk/support/funding/commissioning>>.
- 171 For example, when governments describe the aims of commissioning they often refer to a reduced role for government, increased competition, reducing costs, and improving quality. For more see Dickinson 2014 pp. 14-18 and Dickinson 2015. These aims are usually associated with outsourcing as discussed (Alford and O'Flynn 2012).
- 172 NHS Clinical Commissioners (2017). *Making strategic commissioning work: lessons from home and away*, Briefing, December. Available at: <<https://445oon4dhpii7gjvs2jih81q-wpengine.netdna-ssl.com/wp-content/uploads/2017/12/Making-strategic-commissioning-work-web-final.pdf>>.
- 173 See Sturgess 2017.
- 174 See Sturgess 2017.
- 175 See Tizard and Mathias 2019.
- 176 These issues will be explored by Althaus and McGregor in their paper for the Independent Review of the Australian Public Service.
- 177 See Allport 2014.
- 178 See Dickinson 2015.
- 179 Mental Health Commission (n.d.). *Government of Western Australia Commissioning Framework*. Available at: <<https://www.mhc.wa.gov.au/about-us/commissioning/>> accessed February 12, 2019.
- 180 See Blunt, L. and Leadbeater, C. (2012). *The Art of Exit: In search of Creative Decommissioning*, NESTA: London. Available at: <<https://www.nesta.org.uk/report/the-art-of-exit/>>.
- 181 See National Audit Office 2011.
- 182 See Blunt and Leadbeater 2012.
- 183 Blunt and Leadbeater 2012, p. 24.
- 184 See Dickinson 2015.
- 185 Dickinson 2015.
- 186 On the portfolio notion see Alford and O'Flynn 2012; more recently see Tizard and Mathias 2019.
- 187 Alford and O'Flynn (2012, p. 3). Whilst this framework is primarily focused on service delivery, the principles can be applied more broadly to consider areas such as contract labour and consultancy.
- 188 More detailed discussion on the portfolio approach is in Alford and O'Flynn 2012.
- 189 See Tizard and Mathias 2019.
- 190 See for example Sturgess 2017.
- 191 See Alford and O'Flynn 2012, p. 253.
- 192 For example see *Commissioning for Better Outcomes: A route map* available at: <<https://www.adass.org.uk/media/4576/commissioning-for-better-outcomes-a-route-map-301014.pdf>>.
- 193 See New Zealand Productivity Commission 2015c, p. iv.
- 194 In her evidence review, Dickinson (2015) argues that there is mixed evidence on 'commissioning' per se, but that positive impact has come from clear statements of objectives.
- 195 See Elkomy and Cookson (2019) who report on the negative impact of outsourcing hospital cleaning on patient health outcomes.
- 196 See Dickinson 2015.
- 197 For more information on the *NHS Central London Clinical Group Commissioning User Panel* see: <<https://www.napp.org.uk/Central%20London%20CCG%20User%20Panel%20Engaging%20Patients.pdf>>.
- 198 See Allport 2015.
- 199 Whānau Ora is an approach to delivering social services based on a Māori concept of wellbeing, which aims to have the various needs of a whānau met holistically; see New Zealand Productivity Commission 2015c p. xvi.



- 200 See New Zealand Productivity Commission 2015c.
- 201 Whānau typically translates as families; may refer to nuclear or extended families; see New Zealand Productivity Commission 2015c, p. xvi.
- 202 As discussed in Tizard and Mathias 2019, p.16 reading *The Care Act 2014* which applies to local government.
- 203 See Tizard and Mathias 2019, p.18 for a discussion on Local Community Wealth Building
- 204 Australian Public Service Commission [APSC] (2005b). *Foundations of Governance in the Australian Public Service*. Canberra: Commonwealth of Australia.
- 205 Australian Government Reform of Australian Government Administration (2010). *Ahead of the Game: Blueprint For The Reform Of Australian Government Administration*. Canberra, Australia: Commonwealth of Australia.
- 206 Sedgwick, S. (2010). Australian Public Service reform: The past, the present and the future. *Roundtable Seminar-Bureaucratic Reform Dialogue*, MenPAN Conference Facility, Jakarta.
- 207 By individual competencies we mean skills, attributes and characteristics; Alford and O'Flynn 2012.
- 208 International models can provide powerful lessons, including a recent proposal in Wales to develop very sophisticated contracting databases. See Tizard and Mathias (2019) on the 'Domesday Book' proposal which would provide a detailed database which goes beyond basic details and would include performance information.
- 209 Allen, B. and Wade, E. (2011) Leadership for commissioning in an era of reform, *Public Money & Management*, 31(5), 311-314; page 311
- 210 Allen and Wade 2011
- 211 This centre could consolidate expertise that already exists across the APS, draw in other parties, and compile lessons from across Australia and internationally. A variety of models for this exist already: 18F Digital Services (US); Partnerships UK; Partnerships Victoria; Procurement Functional Leadership (NZ); and the Commissioning and Contestability Unit in NSW.
- 212 See Sturgess 2015, p. 13.
- 213 See Williamson 1979.
- 214 See Alford and O'Flynn 2012.
- 215 See Dickinson 2015, Sturgess 2015, Tizard and Mathias 2019.
- 216 See Blunt and Leadbeater 2012.
- 217 See Dickinson 2015.
- 218 See Dickinson 2015.
- 219 See Dickinson 2015.
- 220 See Dickinson 2015.
- 221 See Woodin J. (2006). Health care commissioning and contracting. In: Walshe K, Smith J, editors. *Healthcare Management*. Maidenhead: Open University Press; p. 201-23.
- 222 See Alford and O'Flynn 2012, p20.
- 223 See Alford and O'Flynn 2012, p. 20.
- 224 See Alford and O'Flynn 2012.
- 225 See Klijn EH. and Teisman G.R. (2000) Managing Public-Private Partnerships: Influencing Processes and Institutional Context of Public-Private Partnerships. In: van Heffen O., Kickert W.J.M., Thomassen J.J.A. (eds) *Governance in Modern Society*. Library of Public Policy and Public Administration, vol 4. Springer, Dordrecht Society; Alford and O'Flynn (2012).
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- 227 See Dickinson 2015, Sturgess 2015 and Woodin 2006.
- 228 See for example Stock, J. and Boyer, S. (2009). 'Developing a Consensus Definition of Supply Chain Management: A quantitative study'. *International Journal of Physical Distribution & Logistics Management*. 39 (8), pp.690-711 at p.706.