

**eServices Government and Industry  
Working Party Report**

## **Executive Summary**

In June 2011, the Victorian Government concluded a tender for the eServices Panel. The tender outcome prompted a number of issues and concerns to be raised by both industry and government. As a result the Government announced a refresh in July 2011 which was concluded in October 2011 with 368 companies appointed to the Panel, making it the largest ever Victorian eServices Panel.

As a parallel exercise the Assistant Treasurer and Minister for Technology established a Working Party, comprising representatives of government and industry, to review the issues raised by the June 2011 eServices tender and to report back on options to improve the mechanism through which government procures ICT services.

The Working Party sought feedback on the June 2011 tender from across industry and the Victorian Government. A substantial number of comments were received and considered in detail by the Working Party.

The Working Party examined the operation of the current eServices Panel and considered how it served the interest of the Government in respect to both procurement and economic development. The Working Party also considered how well the current eServices Panel met industry's requirements.

The Working Party discussed and agreed on the key principles that ought to underpin a mechanism for the Government's procurement of ICT services. In the light of these principles the Working Party considered options for improvement on the existing Panel mechanism.

The Working Party concluded that in considering possible mechanisms through which the Government might manage its procurement of ICT services, the preferred option would be an eServices Register. The Working Party concluded that the implementation of an eServices Register, as described in this report, would best serve the interests of the Victorian Government and industry.

Should the Government decide to adopt the Working Party's preferred option an implementation plan would need to be prepared including final design and operational elements, cost implications, funding options and management and governance responsibilities.

## Design Options for the Procurement of ICT Services

The Working Party considered a range of options for the Government’s procurement of ICT services. In addition to the options described below, the Working Party considered the option of “no process”. This option is discussed in the Report although not included the table below as there was no support for the option.

	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>	<b>Option 4</b>
	<b>eServices Panel with Restricted Membership (no \$ limit)</b>	<b>eServices Panel with Restricted Membership (&lt; \$1 million)</b>	<b>Mini (agency level) Procurement Panels</b>	<b>eServices Register (PREFERRED)</b>
Refresh process	Periodic	Periodic	Potentially varied	Continuous
Member removal	No, re-apply through periodic refresh	No, re-apply through periodic refresh	Potentially varied	Yes, members added or removed at any time, subject to process/ conditions
Mandated	Yes, all departments and agencies	Yes, all departments and agencies, up to cap of \$1 million	Determined by individual departments and agencies	Yes, all departments and agencies
Exemptions	Conditional.	Conditional. Not required for projects valued at greater than \$1 million	Conditional.	Conditional, creating pathway to membership
Selection	Financial and non-financial criteria	Financial and non-financial criteria	Financial and non-financial criteria	Financial and capability check
Value for Money	Assessed by department/agency using WOVG criteria	Assessed by department/agency using WOVG criteria	Assessed by departments and agencies based on panel specific feedback	Assessed by department/agency using WOVG criteria
Restricted Membership	Yes, limits for each category based on assessment of historic demand	Yes, limits for each category based on assessment of historic demand	Yes, limits for each category determined by individual departments and agencies	No limits. Membership determined by meeting financial and capability criteria only
Standard contract	Yes	Yes	Yes	Yes
Cap \$1 million	No	Yes	No	No
Alignment to current model	High	High	Low	Low
Administrative resourcing	High	High	High, DTF to review performance	Medium
Provider incentive	Strong	Strong	Low, variable	Medium

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## **1. Background**

The eServices Panel (the Panel) provides a single platform through which the Victorian Government can procure information and communications technology (ICT) services and operates under the rules and guidelines of the Victorian Government Purchasing Board (VGPB). The Panel was established in 2003 and has been refreshed on three separate occasions in 2006, 2007 and 2011. Managed by the Department of Treasury and Finance (DTF) since 2007, the Panel facilitates the identification and engagement of suitably vetted suppliers on acceptable terms to Government through standard contract and purchase order mechanisms.

A tender process for the establishment of a new Victorian Government eServices Panel was concluded on 24 June 2011 and 188 companies were appointed to the Panel. The tender process introduced a new eServices contract, made the Panel mandatory and removed the \$1 million contract value cap.

Following announcement of the Panel, industry expressed a number of concerns about the tender outcomes. It was acknowledged by Government and industry that aspects of the new Panel may not have assisted Government in meeting some of its objectives and that there were some unforeseen implications for industry that needed to be addressed.

On 14 July 2011, the Government announced that a refresh of the Panel would be conducted by 31 October 2011 to ensure a broader Panel was achieved to allow for improved small and medium enterprises (SME) participation and improved choice for Government users of the Panel.

At the same time, the Government announced that an independent review would be conducted by DTF covering the appropriateness of the objectives of the original eServices Tender (SS-12-2010), the design and appropriateness of the evaluation process and evaluation criteria used, and would also explore and provide options on an alternate approach for future Panel tenders. The scope of the review did not include any aspect of the eServices Panel refresh recently concluded. This review has been completed and a report provided to DTF.

As a parallel exercise the Government established a Working Party to review the ongoing purpose and operation of the eServices Panel and provide a report to the Assistant Treasurer and Minister for Technology on the effectiveness of the current Panel arrangement and options for improvements in the design of future arrangements for the Government's procurement of ICT services.

On 2 November 2011, the Government announced a refreshed Panel that included 368 companies. The initial term of the appointment of these companies to the Panel is until 30 June 2014, with provision for up to two one year extensions.

## **2. Objectives of the eServices Panel**

The eServices Panel was established to provide a single platform through which the Victorian Government can procure ICT services and operates under the rules and guidelines of the Victorian Government Purchasing Board (VGPB).

From the outset the Panel had two primary objectives:

- to achieve value for money and improve the efficiency of contracting for IT services by both government departments and industry; and

- to enhance the visibility of local SMEs to government purchasers thereby facilitating access to government business.

Since the Panel's inception in 2003, questions have been raised by the Government's procurement and economic development agencies as to how effectively the Panel meets these objectives. For some time, the Panel was regarded as an important procurement mechanism for government agencies, delivering benefits including reduced costs for bidding and greater efficiencies in procurement. The Panel was also seen to have delivered economic development benefits by increasing opportunities for local companies to do business with the Victorian Government. By 2007 nearly 80% of contracts managed through the Panels went to Victorian companies. Nevertheless, in more recent years a range of deficiencies have emerged, overshadowing these benefits.

From a procurement perspective DTF identified the following deficiencies in the eServices Panels operating prior to 2011:

- Lack of visibility and transparency of requirements, engagements, outcomes and spend;
- Incomplete expenditure reporting due to the non mandatory panel arrangement;
- Lengthy tender processes for engagements in excess of \$1 million;
- Poor evaluation of true life cycle costs and benefits management and reporting; and
- Concerns of underutilisation of the panel, with 33% of panel members not logging engagements under the panel from 1 July 2007 to 30 June 2010.

From an economic development perspective, there have been ongoing issues related to the complexity and time consuming nature of the application process which small and medium sized companies claim have deterred them from applying for a position on the Panel. Further, some companies who have been through the application process claim the effort was disproportionate to the benefit gained from being on the Panel.

In the eServices tender process completed in June 2011, DTF sought to address the procurement related deficiencies by centralising and aggregating demand, and introducing a more strategic approach to procuring ICT services that was intended to:

- Improve value for money;
- Streamline engagement process – reducing the time and cost required to find and select suppliers;
- Restore the efficient operation of the eServices panel through higher utilisation of panel suppliers by government users – by assessing Government demand for each service category and limiting the number of providers to match estimated demand;
- Improve reporting and increase transparency of spend, project activity and cost savings; and
- Promote opportunities for ICT service suppliers to provide their services to the Victorian Government.

The introduction of a mandatory panel was intended to capture spend not previously reported, enable better transparency and accountability of ICT projects and deliver benefits to both government and industry.

As a result the tender process that concluded in June 2011, introduced a new eServices contract, made the panel mandatory and removed the \$1 million contract value cap. It resulted in 188 companies being appointed to the Panel.

In seeking to address deficiencies on the procurement side, the tender process was less successful in advancing the Panel's economic development objective – facilitating SME access to government business.

The Government received feedback concerning the tender process, its outcomes and the mandatory nature of the new Panel. Concerns were raised about the evaluation process and the information provided to industry about that process, and that the smaller size and new arrangements limited potential opportunities for business with the Victorian Government.

The Government decided that the overall objectives of the Panel would be better served by a broader panel membership, prompting the Assistant Treasurer and Minister for Technology to call for a refresh, and to establish the eServices Government and Industry Working Party to review options to improve ICT services procurement in future.

### **3. The eServices Government and Industry Working Party**

The eServices Government and Industry Working Party (the Working Party) was established and held its first meeting on 5 December 2011.

The four Government representatives on the Working Party are:

- Ms Alice Sidhu ( until March 2012) and Mr Darren Bloomfield (from March 2012), Director - Strategic Sourcing, Department of Treasury and Finance;
- Mr Randall Straw, Deputy Secretary, Innovation and Technology, Department of Business and Innovation;
- Mr Bruce Thompson, Chief Information Officer, Department of Sustainability and Environment; and
- Mr Adam Todhunter, Deputy Secretary Government Services Division, Department of Treasury and Finance.

The following four industry representatives on the Working Party are:

- Mr David Brykman, Founder and Managing Director, Internet Business Systems;
- Dr Paul Cooper, Industry Director, Public Sector and Emerging Solutions, SMS Management & Technology (also Past Chair and Committee Member, AIIA Victorian Branch);
- Mr Kee Wong, Managing Director, e-CentricInnovations Pty Ltd ( also Deputy Chair, AIIA National Board); and

- Mr Russell Yardley, Executive Chairman, Algonquin Investments Pty Ltd (also past Chair, AIIA Victorian Branch and current Treasurer, AIIA National Board).

Ms Rhonda O'Donnell was appointed as the independent Chairperson for the Working Party. Ms O'Donnell runs her own consulting firm, O'Donnell Global Solutions, and was recently Chairperson of the VGPB.

The objective of the Working Party was to review the ongoing purpose and operation of the Panel, including performance and industry and government engagement mechanisms.

The Working Party was asked to report back to the Assistant Treasurer and Minister for Technology with advice on the effectiveness of the current Panel and provide options for improvements for consideration in the design of future eServices Panel arrangements in April 2012.

Over the period December 2011 – April 2012 the Working Party met 9 times.

An email inbox was established and promoted as a channel for both industry and government to provide comments on the Panel directly to the Working Party. Comments were provided from 48 different companies and 8 government departments and agencies.

Collaborative software tools were utilised to ensure Working Party members' views were properly captured, acknowledged and considered.

This document provides the findings of the Working Party's review, including options for improving the way in which the Victorian Government procures ICT services.

#### **4. Identifying the Issues**

In identifying and considering the issues arising from the June 2011 tender process, the Working Party invited comments on the operation and design of the Panel to be submitted by email.

##### **4.1. Industry Feedback**

Following the announcement of the outcomes of the eServices Tender, in June 2011, industry expressed a number of concerns with the tender process and the design of the Panel. Broadly these concerns were expressed as follows:

- Difficulties with the application form – especially for specialty and niche providers;
- Ineffective industry communication, consultation and feedback;
- Lack of clarity and consistency around the evaluation process, selection criteria and category allocation; and
- Insufficient recognition of track record in delivery to government.

Industry collectively expressed concern that the application form and process was geared to generalist service providers and did not allow specialty and niche providers to properly explain their expertise. Because specialty and niche providers were assessed against a broader general set of selection criteria they received lower scores in each category than other generalist companies

despite being assessed as being superior in a specialty or niche. This concern was also reiterated in feedback from some government users.

Industry considered that prior consultation and information was insufficient. For example, it was not communicated that there would be a cap on numbers of companies appointed to each category. Likewise, it was not communicated to industry that companies that might meet all the criteria might still not be appointed subject to DTF's determination of the number of providers needed in a category.

The evaluation process, its rigour and consistency was a concern for industry, especially in respect to category allocation. Some companies that had been appointed to the Panel complained that they had not been appointed to the categories in which they were most competitive and where they would be most likely to win government business. They expressed surprise at being appointed to categories that they themselves did not regard as reflecting their core capability. In some instances concern was expressed that companies were not admitted to certain categories that would allow them to properly conduct projects. For example being admitted to the development category (but not testing) would inhibit cost effective project delivery, necessitating separate suppliers for work frequently, and most efficiently, undertaken by the same supplier.

The assessment of "value for money" was a source of concern for industry and government users alike. Suppliers and government clients agreed that any assessment of value for money, without reference to the needs and timeframes of a specific project, is incomplete and of limited value. Rates alone, no matter how well monitored, are not an effective indication of value for money.

The lack of value attributed to track record in government led to key suppliers to government being omitted from the Panel. A number of emails were received from companies that had not been appointed to the Panel but had significant existing business with government, good relations with departments and positive performance reviews. This matter also caused concern for government users.

The industry briefing held as part of the tender process included no information on the weighting that would be applied to the criteria. Whilst this is consistent with past Victorian Government procurement tenders, the Working Party noted that there would be benefits from improving the transparency around weighting of criteria in tenders and panels.

All these concerns were amplified by the new conditions applied to the Panel from 2011, namely that for the first time use of the Panel would be mandatory for government purchasers and the \$1 million contract value cap would be removed. Some, but not all, of these concerns were ameliorated by the July 2011 refresh and subsequent appointment of a larger number of companies to the Panel.

#### **4.2. Government Departments and Agencies Feedback**

The Working Party sought and received feedback from government users of the Panel through the Working Party email inbox.

Additionally, the Working Party Chair, Rhonda O'Donnell met with a number of government users of the Panel to hear their views on the operation and design of the panel.

Broadly, the concerns expressed by Government Panel users were as follows:

- Inadequate reference checks undertaken as part of Panel selection process:
  - Government users not contacted to discuss track record of existing suppliers;
  - Government users, mandated to use the Panel, will assume (mistakenly) that the organisations they are contracting will be of a certain standard appropriate for government use and will not do further checks; and
  - Shelf companies found to be amongst Panel members.
- Value for money is most effectively assessed by client departments on a project specific basis.
- The new eServices Panel contract has minimal references to privacy obligations:
  - A new contract clause relating to privacy (17.3) lacks reference to obligations under the Health Record Act or in respect to public records generally; and
  - A one size fits all contract is inadequate in some circumstances – for example contracts relating to the provision of cloud services ought to include special protection for personal information.
- Information on companies available to users of the Panel is inadequate:
  - The Panel's search tool is inadequate;
  - The categories do not adequately align with areas of capability and do not include specialist niche providers;
  - The Panel provides insufficient information on companies' capabilities;
  - The Panel does not provide sufficient supplier reports; and
  - The performance feedback process is not optimal. The summary evaluation available on the eServices online extranet does not make obvious whether the report was a self assessment by the supplier or was endorsed by the government agency.
- Key suppliers not on the Panel:
  - Government agencies were not consulted about decisions to omit existing suppliers from the Panel;
  - Poor awareness of opportunities for suppliers or government departments to appeal a decision; and
  - Government users consequently need to obtain exemptions to ensure continuity of services by suppliers not appointed to the Panel.

The principal concerns of government users – that important existing suppliers were left off the panel and that the panel did not provide required access to specialty niche providers - echoed concerns by industry.

These concerns have contributed to a high level of exemptions being sought – 50% of ICT services engagements have been subject to exemption since the commencement of the new Panel in November 2011. DTF advised that this level is expected to drop over time as government users adjust to the new Panel.

## **5. Government Procurement, Economic Development and Industry Requirements**

In reviewing how the governing policies and objectives underlying the Panel translate into practice, the Working Party considered the objectives and requirements of the Panel from three perspectives: government procurement, government economic development, and industry. The Working Party found that there was some commonality in that from all three perspectives a simple, fair, timely and efficient process was required. There was a divergence of view as to what that simple, fair, timely and efficient process would ultimately be required to achieve.

### **5.1. Requirements of the Government's Procurement Agenda**

The Working Party found that the Victorian Government's procurement agenda, as managed by DTF, required that the Panel provide a process that:

- maximises the chance of ICT services projects being successful whilst lowering the cost of procurement of ICT services;
- enables government departments to efficiently engage suitably qualified ICT service providers;
- provides information about planned procurement to help suppliers identify opportunities that match their capabilities so they can help government departments identify appropriate suppliers to be invited to be evaluated to undertake projects;
- allows access to an appropriate range of ICT suppliers to ensure that general, unique and specific ICT services needs are met;
- provides government departments with necessary information so that they can determine value for money from each individual project;
- provides for appropriate and standardised contractual arrangements, without the need for departments to engage specialised legal assistance; and
- provides a source of business intelligence and key metrics on both purchaser and provider performance, at aggregate and individual entity levels to permit proper benchmarking of ICT services procurement within the State of Victoria.

## **5.2. Requirement of the Government's Economic Development Agenda**

The Victorian Government's economic development agenda, as managed by the Department of Business and Innovation (DBI), required that the Panel provide a process that:

- maximises access by Victorian ICT SMEs to government procurement opportunities;
- facilitates wide adoption across Government of standardised contractual arrangements for IP and insurance cover issues, especially for custom developed software; and
- provides a source of business intelligence on the capability, capacity and export earning potential of Victorian ICT industry players, to inform industry development initiatives.

## **5.3. Requirements of Industry**

The Working party found that the ICT industry also required that the Panel should provide a simple, efficient and timely process but that it should:

- maximise the chances of ICT projects being successful whilst lowering the total cost of providing ICT services to Government;
- reduce the barriers for engagement of suitably qualified ICT firms by the Victorian Government (eg reduce costs associated with tendering, legal negotiations, risk, sales effort etc);
- provide a balanced, risk based, standardised contract with the Victorian Government;
- provide a standardised contractual arrangement delivering IP ownership to firms and minimising insurance cover issues, especially for custom developed software, in order to reduce the need for firms to engage specialised legal assistance;
- maximise access by Victorian ICT SMEs to government procurement opportunities;
- enable the use of Victorian Government as a reference site in future sales; and
- provide a source of business intelligence on the composition, extent and directions of the public sector ICT market, and of purchaser performance and conduct.

## **6. The Current eServices Panel Design**

The Working Party examined the design of the existing panel to assess its suitability to deliver on the varied requirements of the Government's procurement and economic development agendas, as stated above.

The current Panel model has the following features:

- Mandated for use by departments and agencies;
- Exemptions allowed with conditions;

- Membership selection based on financial and non financial criteria;
- Value for money assessed centrally at application stage by blended rates;
- Restricted number of firms by category;
- Engagements self assessed by the service provider with voluntary validation by the government client;
- Standard contract; and
- No cap on value of the contract.

The Working Party considered that the current model contains a number of areas that should be improved to increase effectiveness of the ICT services procurement mechanism. These areas include:

- Assessment of risk and its management and mitigation;
- Assessment of value for money;
- Transparency of vendor and agency performance evaluation; and
- Better understanding of the probity process.

#### **6.1. Assessment of Risk and its Management and Mitigation**

With the removal of the cap from the eServices Panel there is a need to develop appropriate risk management standards to cover the wide range of project and engagement types being undertaken by the Panel.

#### **6.2. Assessment of Value for Money**

The Working Party considered the matter of “value for money” and all agreed that it was appropriate that government seek to achieve value for money through its contracted engagements. Views differed as to how value for money is assessed, how government might determine the optimal intersection of price and quality of delivery, and at what point, and by whom this assessment should be made.

The Working Party’s industry representatives believe that simply comparing rates using a rate card or other formula was not by itself an effective or appropriate method of assessing value for money in relation to ICT services. Such a method worked against high quality and specialist service providers and did not necessarily lead to reduced project costs nor reduced risk. Some Working Party members considered it may actually increase project risk.

Government and industry alike suggested that where a supplier has performed well and has close established relationships, embedded knowledge and mission critical skills, continuity of supplier can reduce project costs. The Working Party recognised that ICT services are not commodity products and ICT service providers are not easily interchangeable. Replacing a service provider can be a costly exercise that may not be well recognised within a central “value for money” assessment.

Working Party members agreed that value for money is best assessed by the departmental users. Departmental users understand the requirements of their projects and the nature of the work being contracted which places them in a better position to judge the quality, risk and likely outcomes against the proposed costs of competing proposals.

### **6.3. Transparency of Performance Evaluation and Reporting**

The Working Party considered the assessment of performance to be an important aspect of the procurement process for ICT services for both government and industry. Process improvement requires effective understanding of what works and what does not. Hence evaluation of projects, suppliers and departments is required to suggest ways and means to improve the procurement process. Any useful evaluation system must be balanced and include analysis of both suppliers and departments.

The Working Party's industry representatives believe that the current Panel arrangements are one-sided in respect to performance requirements and evaluation processes. They believe that project outcomes can equally reflect the government's performance in terms of articulating the scope of the project and managing timelines etc. For example, the Working Party discussed instances where a Government client might, for a range of reasons, be slow in responding to contracted suppliers' requirements or signing off design for systems, which might delay project progress and cause an escalation in total project costs while allocated resources are unproductive during the "wait time". In such circumstances, delays and cost escalation should not reflect poorly on the supplier. Currently, there is no mechanism to reflect this in any evaluation process.

The Working Party notes efforts to improve openness and transparency and lower costs associated with US government IT projects through the Federal IT Dashboard launched in 2009. The Dashboard gives an assessment of many large US Government IT projects in terms of cost, schedule and CIO ranking publically available to all via the Internet. The Working Party considers the Government may wish to consider options to improve transparency around Victorian ICT projects, perhaps in the context of a separate and broader review in the future.

### **6.4. The Probity Process**

The Working Party understands that the probity process applied to selecting companies for a purchasing panel, such as the eServices Panel, requires that all applicants must be treated equally and that companies must be seen to be treated equally. Full factual information relating to a panel tender process must be communicated equally to all suppliers. It is understood this restricts or precludes DTF and other government departments from engaging in interactive dialogue during the Panel tender process.

The Working Party heard from government users and industry that there is mutual interest in engaging in interactive dialogue and even workshops with Panel members and potential suppliers around specific projects in order to ensure the best possible solutions.

Working Party members reported that there is evidence locally and overseas that providing opportunities for private interactive workshops between individual suppliers and procuring departments can lead to better outcomes. Valuable, open and effective communication requires both trust and protection of intellectual property to ensure competitive advantage is maintained for bidding firms.

The Working Party considers that this type of engagement, whilst not appropriate during a panel selection tender process, ought to be encouraged at the department and project level. In this case, government users would need to be careful that suppliers that brought specific contributions or insights to bear resulting in a more competitive project proposal and delivering a better outcome, were not penalised by having this intellectual property communicated to competitors.

## **6.5. Exemptions**

Central to the Working Party's consideration of the suitability of the current Panel model is the matter of exemptions.

Feedback from government users and industry indicated that currently many exemptions are required to enable government departments to source the capabilities needed. Government users suggested to the Working Party that the selection process for Panel membership had not delivered the range and capabilities required by government and that some key suppliers of specialty skills to government had not been appointed to the new Panel, despite recognised good performance.

Since the commencement of the new Panel in November 2011, exemptions have accounted for around 50% of ICT services engagements. Some members of the Working Party believe that this level of exemptions is likely to continue although DTF advise that this level is expected to drop over time as government users adjust to the new Panel.

The Working Party recognises that when departments are looking to contract services for a major project they may reasonably prefer to seek exemption from the Panel in favour of a public tender. This has always been the case. Even under the previous Panel there were instances where departments chose to go to public tender for projects valued at less than \$1 million.

Nevertheless, the Working Party considers the level of exemptions to be an overall indicator of how well the Panel meets the needs of government users, concluding that a high level of exemptions indicates the Panel may not be meeting its objectives in relation to procurement efficiency or facilitating access to government business.

The Working Party considers the current Panel does not adequately provide a simple, fair, timely and effective process for procuring ICT services from the three perspectives discussed above - government procurement, government economic development or industry.

## **7. Key Principles for Future Design**

The Working Party agreed on a number of principles which should underpin any future mechanism for the management of the Government's procurement of ICT services:

### **Application and Evaluation**

- Application process shall be clear, simple and easy to operate.
- Application process shall be widely accessible, secure, reliable and able to be validated.
- Selection criteria, including evaluation weightings shall be simple, precise and transparent.

- Application form and procedures shall be flexible to accommodate the needs of niche, specialist and generalist service providers.
- Past performance, especially within government, shall be assessed.
- Evaluation of applications shall be criteria based, not competitive.
- A level of evidence validation shall be required in each application including email confirmation from reference customers.

### **Membership**

- Restricted to companies that can demonstrate capability and financial stability.
- Maximise access by Victorian ICT firms, particularly small and medium sized enterprises, to government business.
- Represent the widest range of ICT suppliers including companies with both generalist and specialist expertise.
- No arbitrary restriction on numbers of vendors selected.

### **Performance**

- On-going participation by companies shall be contingent on measurably good performance.
- The performance of Government agencies shall be subject to open assessment by service providers.
- Performance shall be transparent to government users and the broader ICT industry.

### **Operation**

- Shall provide a simple, efficient and timely process for government procurement of ICT services.
- Shall facilitate adoption of a standard contract across government clarifying IP, liability and insurance cover arrangements and reducing need for specialist legal advice.
- Shall reduce barriers to engagement of suitably qualified ICT SMEs.
- Shall lower the cost of procuring ICT services for government and lower the cost of doing business for industry.
- Shall provide government users with confidence as to the capability and financial stability of member companies.
- Shall leave the assessment of "value for money" up to the government client users on a project basis.

- Shall incorporate the use of appropriate and effective tools (eg search functionality) to facilitate government users' awareness of and access to the skills and capabilities provided by members and provide company members with tools to identify project opportunities.
- Shall maximise the chances of successful project delivery through agreement to principles of good governance.

## **8. Design Options for the Procurement of ICT Services**

The Working Party considered a range of options for the Government's procurement of ICT services.

### **8.1. eServices Panel with Restricted Membership ( No \$ Limit)**

- Mandated for use by departments and agencies.
- Exemptions allowed with conditions.
- Membership selection based on financial and non-financial criteria.
- Value for money assessed by departments and agencies based on whole of government / whole of engagement criteria.
- Restricted number of firms by category.
- Standard contract.
- No cap on value of contract.

This option would operate similarly to the existing eServices Panel. Responsibility for assessing criteria such as financial viability and agreement to core terms and conditions will remain a central function but the cost of engagement and "value for money" would be assessed by the department or agency seeking to engage with a supplier.

The restricted nature of this Panel might be expected to generate similar problems to those being experienced with the existing eServices Panel. The focus of the process becomes exclusion rather than inclusion and in doing so works against the objectives of economic development.

As with the existing eServices Panel, this model would require government departments and agencies to seek exemptions for those projects where it was considered more appropriate to go to project specific public tenders.

Potential would exist for panel membership to be open to periodic refresh (addition and removal) and to be a more open and transparent process given that value for money is not being assessed at the membership stage.

Administration required would be significant, but less than for the existing Panel which requires an assessment of value for money for panel membership. Periodic refresh would increase the administrative burden as the addition of suppliers to the panel would require the application of the original tender criteria (a mini tender) in each instance.

There are potential efficiency gains for government given that considerable work would flow through the Panel and simplification of quoting and contracting is thereby enabled. Some Working Party members considered, however that for projects over \$1 million the cost of tendering was justified by the potentially better outcomes generated by an open competitive process.

Some Working Party members considered that this option would present strong incentives for vendors to get onto the panel and to demonstrate their value for money and performance via feedback from client departments.

#### **8.2. eServices Panel with Restricted Membership - less than \$1 million only**

- Mandated for use by departments and agencies below \$1 million value.
- Exemptions allowed with conditions.
- Membership selection based on financial and non-financial criteria.
- Value for money assessed by client departments and agencies based on whole of project / whole of engagement criteria.
- Restricted number of firms by category.
- Standard contract.
- Continuous entry by suppliers to the panel would be permitted.

The distinguishing feature of this option would be that responsibility for assessing criteria such as financial viability and agreement to core terms and conditions will remain a central function but cost of engagement and “value for money” would be assessed by the department or agency seeking to engage with a supplier.

The restricted nature of this Panel might be expected to generate similar problems to those being experienced with the existing eServices Panel. The focus of the process becomes exclusion rather than inclusion and in doing so works against the objectives of economic development.

Unlike the existing eServices Panel, this model would require all projects valued at more than \$1 million to go to public tender without needing to engage the exemption process.

Potential would exist for panel membership to be open to periodic refresh (addition and removal) and to be a more open and transparent process given that value for money is not being assessed at the membership stage.

Administration required would be significant, but less than for the existing Panel which requires an assessment of value for money for panel membership. Periodic refresh would increase the administrative burden as the addition of suppliers to the panel would require the application of the original tender criteria (a mini tender) in each instance.

Some efficiency gains for government are likely given that considerable work would flow through the Panel and simplification of quoting and contracting is thereby enabled.

Some Working Party members considered that this option would present strong incentives for vendors to get onto the panel and to demonstrate their value for money and performance via feedback from client departments.

### **8.3. Mini Procurement Panels**

- Established by individual departments and agencies.
- Use (mandated or not) determined by individual departments and agencies.
- Exemptions allowed with conditions.
- Membership selection based on financial and non-financial criteria.
- Value for money assessed by departments and agencies based on feedback.
- Restricted number of firms by category.
- Use of standard contract across government managed by DTF.
- DTF to undertake performance reviews.
- Membership restrictions determined by departments.

Similar panels operate across federal government departments with varied success. Not all departments have been able to establish meaningful panels and not all have used the panels to gain efficiencies. Clearly there would be cost inefficiencies in having every department establish and manage its own panel.

The inevitable variation in the establishment and usage of mini-panels may lead to industry complaints of inconsistent and unfair practices of a particular panel for a particular agency. This may be able to be limited by strong performance criteria and central insistence on performance measurement.

If it can be made to operate well this model could provide a flexible approach to ICT services procurement that might facilitate the finding of "specialist" firms and well performing firms identified as part of other department's panels.

There was no support within the Working Party for this option.

### **8.4. No central process for managing ICT services procurement**

- Procurement of ICT services done independently by individual departments and agencies.
- Project by project procurement subject to VGPB guidelines.
- Value for money assessed on project by project basis by government users.
- Standard contract.
- No cap on value of contract.

This option would involve no central coordination of procurement for ICT services although it would not preclude DTF obtaining and aggregating information on departments' and agencies' spend on ICT services.

The approach would place the full administrative burden associated with procurement on individual departments and agencies.

Standard contracts might be provided by DTF but would need to be managed by departments and agencies. As a result it may be more difficult to get a common approach to matters such as IP and liability and insurance cover.

Without any form of listing of potential suppliers this option would not provide for any enhanced visibility of local companies to government purchasers.

This option is not considered to advance the Government's stated objectives in relation to either procurement or economic development and does not meet the key principles which the Working Party identified should underpin any mechanism for the Government's procurement of ICT services.

There was no support within the Working Party for this option.

#### **8.5. eServices Register**

- Mandated for use by government departments and agencies.
- Membership open to all companies that meet criteria - financial viability, required insurance cover, agreement to terms and conditions, demonstrated capability.
- Exemptions allowed with conditions and provision for pathway to panel membership.
- Value for money assessed on project by project basis by government users.
- No limit on membership numbers.
- Standard contract.
- Members may be added or removed at any time, subject to conditions.
- No cap on value of contract

This mechanism has a number of advantages.

Responding to the requirements of the government's procurement agenda, this mechanism would allow for tracking and measurement of the Government's ICT services spend. Because exemptions would be managed within the same framework, it is unlikely that measurement would be eroded by exemptions, ensuring a more complete picture on ICT services procurement than has previously been the case.

While it is proposed that there be no cap on the value of contracts managed through the Register, the exemption process would allow flexibility for departments to choose the option of a public tender where appropriate.

The mechanism would require a financial check on all applicants by a central function, with an obligation on members to report any material financial events, thereby reducing the administrative burden while providing user departments with the confidence that companies are financially viable. It would also make transparent what financial checks had been conducted thereby making clear that responsibility for further probity checks remained with the government clients.

Standard contracts would be managed by the central function, reducing the administrative burden and making transparent that project specific contract provisions need to be added as required by departmental users.

The disadvantage of this mechanism is that some categories may be overwhelmed with company members while other categories may have only a few. To some extent this may be managed by imposing a proper and clearly understood process for removing poorly performing companies, or companies that had not been awarded any work during the period, from the Register. It is probable that over time the number of companies in any category will naturally find the “right” level.

Companies must be aware that participation with this mechanism would carry no guarantee of work with government. This would be as correct for this mechanism as it is for all the other options. Register members must understand they would still have the traditional challenge to sell, develop long term relationships and deliver value for money outcomes.

This was the Working Party’s preferred option.

## **9. Conclusion and Preferred Option – eServices Register**

The Working Party was asked to review the ongoing purpose and operation of the eServices Panel and to provide advice on options for improvements in the design of future arrangements for the Government’s procurement of ICT services.

After consideration of the issues arising from the June 2011 eServices Tender and ongoing issues following the July 2011 refresh, the Working Party concluded that the current eServices Panel model is not optimal in meeting the Government’s objectives in respect to either procurement or economic development.

The Working Party considers that an eServices Register, as described in this Report, would best meet the Government’s objectives relating to the purchasing of ICT services from the perspectives of both the Government’s procurement and economic development agendas.

In respect to the Government’s procurement agenda, the Working Party considers that a register model would provide a more effective mechanism for the Government’s procurement of ICT services. It would provide a simple, timely and efficient process through which government clients could access a wide range of ICT services suppliers and capabilities with the confidence that they are financially sound, with information on past performance and supported by standard contractual arrangements.

Under this preferred option it is recommended that in relation to projects involving exemptions both the government clients and exempted service providers would be subject to the same performance assessment and reporting obligations as required under the eServices Register. This would allow for more informed consideration of future exemption applications, guide the evolution of the exemption process, and provide empirical information for consideration as to the inclusion of the

service provider on the eServices Register. In this way, successful engagement might create a pathway to inclusion on the Register of well performing suppliers.

From an economic development perspective this mechanism may be effective in facilitating visibility of the broadest possible range of companies and capabilities while leaving the assessment of value for money with those best placed to make that assessment, the department clients. Greater visibility for local SMEs carries the further significant advantage of increasing opportunities for local companies to gain valuable reference sites in their home market.

To operate effectively the Register would require adequate tools for search, feedback and business intelligence, as well as accommodating variations in contract requirements, as discussed.

An eServices Register would be consistent with the key principles for design of a future mechanism for the management of the Government's procurement of ICT services, as identified by the Working Party and articulated in this report.

Should the Government decide to adopt the Working Party's preferred option an implementation plan would need to be prepared including final design and operational elements, cost implications, funding options and management responsibilities.

The Working Party Members commend this report for consideration by the Assistant Treasurer and Minister for Technology, the Hon. Gordon Rich-Phillips.

Rhonda O'Donnell Chairperson

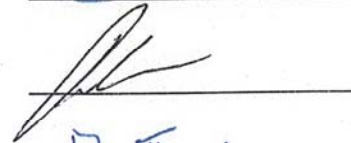


Government:

Darren Bloomfield Department of Treasury and Finance  
(from March 2012)



Randall Straw Department of Business and Innovation



Bruce Thompson Department of Sustainability and Environment

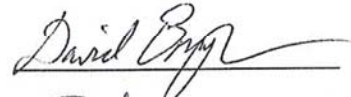


Adam Todhunter Department of Treasury and Finance

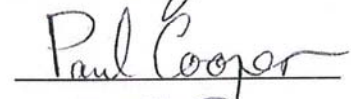


Industry:

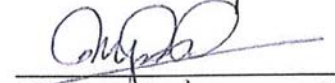
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