

The Senate

Finance and Public
Administration References
Committee

Supporting the development of sovereign
capability in the Australian tech sector

June 2024

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List of recommendations

Recommendation 1

3.57 The committee recommends that the Australian Government develop a clear and operational definition of sovereign capability as part of the broader Future Made in Australia agenda that can be used to inform future procurement decisions.

Recommendation 2

3.58 The committee recommends that the Australian Government consider:

- increasing the procurement targets for non-corporate Commonwealth entities to source at least 20 per cent of procurement by value from SMEs and 35 per cent of contracts, by value, with a value of up to \$20 million from SMEs set out in the Commonwealth Procurement Rules.
- reviewing the Commonwealth Procurement Rules with a view to ensure that official procurement guidance to officials is aligned with the broader Future Made in Australia package.

Recommendation 3

3.59 The committee recommends that the Australian Government scales the Business Research and Innovation Initiative to increase opportunities for emerging sovereign Australian tech companies to showcase their capabilities to government officials by solving public-sector problems in a 'sandbox' environment outside of standard procurement processes, with a particular focus on providing opportunities to firms with between two and 20 full-time equivalent employees.

Recommendation 4

3.60 The committee recommends that the Australian Government addresses conflicts of interest in procurement by mandating that all suppliers disclose their commercial relationships with any other suppliers that are working on the same project to which the procurement is related, be it above the line or below the line.

Recommendation 5

3.61 The committee recommends that the Australian Government improve the integration of grant programs with procurement processes, giving sovereign Australian small and medium enterprises that have developed products through Australian Government grants the opportunity to supply those products to the Australian Government.

Abbreviations

ABN	Australian Business Number
ANAO	Australian National Audit Office
APS	Australian Public Service
ARENA	Australian Renewable Energy Agency
ASPI	Australian Strategic Policy Institute
ASX	Australian Stock Exchange
BAP	Buy Australia Plan
BuyICT	BuyICT.gov.au
BRII	Business Research and Innovation Initiative
CPF	Commonwealth Procurement Framework
CPRs	Commonwealth Procurement Rules
DISR	Department of Industry, Science and Resources
DSF	Digital Sourcing Framework
DSN	Digital Sourcing Network
DSS	Defence Support Service
DTA	Digital Transformation Agency
FMIA	Future Made in Australia
GDP	Gross domestic product
IB	Indigenous Business
ICT	Information and communications technology
NBN	National Broadband Network
NSAA	National Security Association of Australia
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PJC inquiry	Parliamentary Joint Committee of Public Accounts and Audit's report for the inquiry into Commonwealth procurement
RD&C	Research, development and commercialisation
RMF	Commonwealth Resource Management Framework
SME	Small and medium enterprise
TCA	Tech Council of Australia

Chapter 1

Introduction

Referral

1.1 On 6 December 2023, the Senate referred an inquiry into supporting the development of sovereign capability in the Australian tech sector to the Senate Finance and Public Administration References Committee for inquiry and report by 30 June 2024, with the following terms of reference:

- (a) the adequacy of current procurement policy settings across the Australian Government for supporting Australian tech companies, including but not limited to policies in the Digital Sourcing Framework;
- (b) the challenges faced by smaller Australian tech companies in accessing public sector procurement opportunities, including but not limited to through procurement panels;
- (c) opportunities for reform of government procurement policy settings to encourage the emergence and growth of more Australian tech companies;
- (d) the use of non-sovereign-Australian tech across the Australian Public Service and the consequences of that usage on the strength of Australia's tech sector;
- (e) the effectiveness of the Buy Australia Plan in supporting Australian tech companies;
- (f) the level of engagement and consultation between the Australian Government and Australian tech companies, including, but not limited to, through the Future Made in Australia Office;
- (g) the existence and effectiveness of processes for tracking the performance of suppliers, measuring and reporting on the full and timely delivery of outcomes, and sharing information regarding supplier performance across different government departments and agencies; and
- (h) any other related matters.¹

Conduct of the inquiry

1.2 The committee wrote to a range of key stakeholder groups, academics, government agencies, organisations, and individuals, drawing their attention to the inquiry and inviting them to make written submissions by 23 February 2024.

1.3 The committee received 60 public submissions, which are available on the committee's webpage and listed at Appendix 1.²

¹ *Journals of the Senate*, No. 93, 6 December 2023, p. 2711.

² The committee's [website is available here](#).

- 1.4 The committee held a public hearing for the inquiry on 6 May 2024 in Canberra. A list of witnesses who gave evidence at the hearing is available at Appendix 2.
- 1.5 Managing conflicts of interest is always front of mind for committees and the Department of the Senate. Consistent with the Senate and department's policy on managing conflicts of interest and consistent with good governance principles, a potential conflict of interest was identified and declared by a member of the secretariat. Arrangements were therefore made to ensure that the particular officer had no involvement in the drafting of the report to appropriately manage the potential conflict.

Acknowledgement

- 1.6 The committee thanks all those that contributed to the inquiry by making submissions and giving evidence at the public hearing.

Note on references

- 1.7 All references to the Committee Hansard are to a proof transcript. Page numbers may differ between proof and official transcripts.

Report structure

- 1.8 This report is comprised of three chapters:
- This chapter provides an overview of the inquiry, as well as an outline of the structure of the report.
 - Chapter 2 summarises the current policy settings for tech procurement, provides an overview of the Australian tech sector and unpacks the definitional challenges that arise when considering sovereign capability in the global tech market.
 - Chapter 3 sets out the key issues and options that submitters put to the committee for reform. It then sets out the committee's views and recommendations on possible measures to best support the continued development of sovereign capability in the Australian tech sector.

Chapter 2

Policy settings for tech procurement

- 2.1 Government procurement is big business. In 2022–23, the Commonwealth spent \$74.8 billion on goods and services across 83 625 contracts.¹
- 2.2 Procurement is one of the most important economic levers available to the Australian Government, allowing it to use its significant purchasing power to support businesses to deliver better value for money, grow the local economy and strengthen our domestic industry and manufacturing capability.²
- 2.3 While tech procurement is not restricted to a single procurement category currently used by the government, the Department of Finance estimates it accounts for around 20 per cent of total Commonwealth expenditure reported on AusTender, including annual expenditure of more than:
- \$4.9 billion on computing services;
 - \$2.8 billion on aerospace systems and components and equipment;
 - \$2.1 billion on components for information technology or broadcasting or telecommunications;
 - \$1.2 billion on software; and
 - \$1.1 billion on communications devices and accessories.³
- 2.4 Further, there are indirect tech intensive inputs across the majority key procurement categories through the significant use of and reliance on technology to support their development and functioning.
- 2.5 This chapter provides an overview of the current procurement policy settings across the Australian Government and examines their effectiveness in supporting Australian tech companies that supply the government with tech goods and services.

Commonwealth Procurement Framework

- 2.6 The Commonwealth Resource Management Framework (RMF) consists of the legislation and policy governing the management of the Commonwealth's resources. Under the RMF is the Commonwealth Procurement Framework

¹ Department of Finance, [Statistics on Australian Government Procurement Contracts](#), 28 November 2023 (accessed 14 June 2024).

² Department of Finance, [Commonwealth Procurement Rules](#), 5 June 2024, p. 3 (accessed 14 June 2024).

³ Department of Finance, [Statistics on Australian Government Procurement Contracts](#), 28 November 2023 (accessed 14 June 2024).

(CPF) which outlines the principles and rules guiding officials' use of public funds related to the procurement of goods and services.⁴

- 2.7 The Commonwealth Procurement Rules (CPRs) are the core of the CPF and are issued by the Minister for Finance under section 105B(1) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).⁵
- 2.8 The Department of Finance is the agency that has stewardship of the CPF. However, the devolved framework delegates responsibility to undertake due diligence activities to the procuring agency. The department provides an advisory function but does not conduct compliance activities with respect to the CPRs.⁶
- 2.9 The CPRs set out the rules that officials must comply with when they procure goods and services, including the need for procurements to achieve value for money, encourage competition, ensure proper use and management of public resources, and ensure accountability and transparency in procurement activities.⁷
- 2.10 Achieving value for money is at the core of the CPRs as it is critical in ensuring that public funds are used most efficiently, effectively, ethically and economically. Price is not the only factor when assessing value for money, and the CPRs require officials to consider a range of other relevant financial and non-financial costs and benefits.⁸
- 2.11 In addition to the CPRs, the CPF also includes web-based guidance to support implementation, such as Resource Management Guides advising of updates and templates to create uniformity across Commonwealth contracts.⁹
- 2.12 The CPRs are non-discriminatory and operate within the context of relevant national and international agreements and procurement policies to which Australia is a signatory, including free trade agreements. As such, potential suppliers are required to be treated equitably based on their commercial, legal, technical and financial abilities and not be discriminated against due to their

⁴ Department of Finance, [Commonwealth Procurement Rules](#), 13 June 2023, p. 7 (accessed 14 June 2024).

⁵ Department of Finance, [Commonwealth Procurement Rules](#), 13 June 2023, p. 6 (accessed 14 June 2024).

⁶ Department of Finance, *Submission 34*, p. 3.

⁷ Department of Finance, *Submission 34*, p. 4.

⁸ Department of Finance, [Commonwealth Procurement Rules](#), 13 June 2023, p. 11 (accessed 14 June 2024).

⁹ Department of Finance, [Commonwealth Procurement Rules](#), 13 June 2023, p. 6 (accessed 14 June 2024).

size, degree of foreign affiliation or ownership, location, or the origin of their goods and services.¹⁰

2.13 The CPRs contain some exemptions to directly engage a small and medium enterprise (SME) for procurements valued between \$80 000 and \$200 000 for government organisations, or between \$80 000 and \$500 000 for the Department of Defence specifically, provided value for money can be demonstrated.¹¹

2.14 The CPRs also include targets for non-corporate Commonwealth entities to source at least:

- 20 per cent of procurement by value from SMEs; and
- 35 per cent of contracts, by value, with a value of up to \$20 million from SMEs.¹²

2.15 In 2022–23, SMEs were awarded 27.3 per cent by value of all procurement contracts and 40.8 per cent by value of all contracts up to \$20 million – exceeding both targets.¹³

2.16 At the public hearing, the Department of Finance advised the committee that it is currently undertaking a review of confidentiality and conflict of interest procedures across government procurements, grants and other financial arrangements. This review was announced on 6 August 2023, in response to the PwC tax leaks scandal, as part of a broader a package of reforms intended to address supplier misconduct.¹⁴

2.17 The committee received a range of evidence relating to the management of conflicts of interest in Commonwealth procurement as part of the inquiry into management and assurance of integrity by consulting services, and has recently made recommendations that the Department of Finance:

- review its guidance on the management of conflicts of interest; and
- develop a central register for conflicts of interest breaches for use by government entities.¹⁵

¹⁰ Department of Finance, [Commonwealth Procurement Rules](#), 13 June 2023, p. 14 (accessed 14 June 2024).

¹¹ Department of Finance, [Commonwealth Procurement Rules](#), 13 June 2023, p. 29 (accessed 14 June 2024).

¹² Department of Finance, [Commonwealth Procurement Rules](#), 13 June 2023, p. 14 (accessed 14 June 2024).

¹³ Department of Finance, *Submission 34*, p. 3.

¹⁴ Mr Andrew Danks, Department of Finance, *Committee Hansard*, p. 61.

¹⁵ Senate Finance and Public Administration References Committee, *Management and assurance of integrity by consulting services: Final report*, June 2024, p. 88.

A 'conga line' of reports on procurement

- 2.18 There is no shortage of commentary on the shortcomings of Commonwealth procurement generally. A range of Parliamentary inquiries and Australian National Audit Office (ANAO) audits have highlighted a variety of issues and deficiencies relating to the design and implementation of Australia's procurement framework.
- 2.19 In general, inquiries into Commonwealth procurement have followed the broad observation that there is:
- a lack of procurement capability in the Australian Public Service (APS);
 - widespread non-compliance;
 - a general misinterpretation of value for money as lowest cost; and
 - inconsistent record keeping and AusTender reporting.¹⁶
- 2.20 The extent of these issues are far beyond the scope of this inquiry, but well documented elsewhere.¹⁷
- 2.21 Most recently, in the foreword to the Parliamentary Joint Committee of Public Accounts and Audit's report for the inquiry into Commonwealth procurement (the PJC inquiry) the Chair, Mr Julian Hill MP, signalled that:
- This report is the latest in a conga line of reports addressing aspects of procurement but this time recommendations for systemic change are made.¹⁸
- 2.22 Though several of the 19 recommendations made in the PJC inquiry report appear to relate to work underway across the Commonwealth, including the Buy Australia Plan (BAP), to improve capability, transparency and compliance in procurement, it may be premature to suggest that the 'conga line' will not continue on.
- 2.23 The BAP, which aims to build domestic industry and manufacturing capability by leveraging the Commonwealth's purchasing power, is discussed later in this chapter.¹⁹

¹⁶ Most recently, for example, see the Parliamentary Joint Committee of Public Accounts and Audit, [Report 498: 'Commitment issues' - An inquiry into Commonwealth procurement](#), August 2023, p. 2 (accessed 14 June 2024).

¹⁷ Parliamentary Joint Committee of Public Accounts and Audit, [Report 498: 'Commitment issues' - An inquiry into Commonwealth procurement](#), August 2023, p. 2 (accessed 14 June 2024).

¹⁸ Parliamentary Joint Committee of Public Accounts and Audit, [Report 498: 'Commitment issues' - An inquiry into Commonwealth procurement](#), August 2023, p. viii (accessed 14 June 2024).

¹⁹ Department of Finance, [Buy Australia Plan](#), 29 May 2024 (accessed 14 June 2024).

The Digital Transformation Agency

- 2.24 The Digital Transformation Agency (DTA) is responsible for providing strategic and policy leadership on whole-of-government and shared information and communications technology (ICT) investments, and digital service delivery.²⁰
- 2.25 The DTA was first established as an executive agency in 2015 as the Digital Transformation Office. As of July 2022, the DTA sits within the Finance portfolio.²¹
- 2.26 The DTA's Corporate Plan 2023–24 covers the period 2023–27 and outlines four strategic objectives, including to:
- lead Government's digital transformation strategy through our co-delivery of the Data and Digital Government Strategy and Implementation Plan, as well as leadership in policy design, strategy, advice and alignment to whole-of-government architecture;
 - oversee the short, medium, and long-term whole-of-government digital and ICT investment portfolio;
 - manage whole-of-government digital and ICT strategic sourcing and contracts; and
 - be a valued employer with the expertise to achieve our purpose.²²
- 2.27 The DTA is a non-corporate Commonwealth entity and is subject to the CPRs and the PGPA Act.²³

The BuyICT platform

- 2.28 The DTA is responsible for administering the BuyICT.gov.au (BuyICT) platform, formerly the Digital Marketplace, which aims to provide Commonwealth, state, territory and local government buyers with streamlined access to marketplaces and panels to buy digital products or services via a single digital platform.²⁴
- 2.29 BuyICT is an initiative under the National Innovation and Science Agenda, with the intended purpose of making it easier for SMEs and indigenous businesses (IB) to compete for the Australian Government's ICT products and services.²⁵
- 2.30 Currently, the BuyICT platform includes six marketplace panels:
- Cloud Marketplace

²⁰ Digital Transformation Agency, *Submission 5*, p. 2.

²¹ Department of Finance, [Digital Transformation Agency: Entity resources and planned performance](#), 2022, p. 129 (accessed 14 June 2024).

²² Digital Transformation Agency, [Corporate Plan 2023–24](#), 18 August 2023 (accessed 14 June 2024).

²³ Digital Transformation Agency, *Submission 5*, p. 3.

²⁴ Digital Transformation Agency, *Submission 5*, p. 8.

²⁵ Digital Transformation Agency, [Annual Report 2022–23](#), 2023, p. 65 (accessed 14 June 2024).

- Data Centre
- Digital Marketplace
- Hardware Marketplace
- Software Marketplace
- Telecommunications Marketplace

2.31 In March 2024, a second Digital Marketplace Panel was announced, which aims to provide improved access to ICT labour hire and ICT professional and consulting services vendors. The forthcoming second Digital Marketplace Panel will be available to all federal, state, territory and local government agencies, including government universities and government-owned corporations.

2.32 In 2023, the DTA's panels supported:

- 3678 sellers across all DTA marketplace panels, of which over 2950 are SMEs and 73 are IBs;
- 36 942 invitations to sellers to quote, with 67.4 per cent of these invitations sent to an SME, and 9.5 per cent sent to an IB; and
- \$3.7 billion in contracts, of which \$1.6 billion (or 43.76 per cent) went to SMEs and \$99.4 million (or 2.66 per cent) went to IBs.²⁶

Digital Sourcing Framework

2.33 The Digital Sourcing Framework (DSF) sets the foundation of how the Australian Government buys digital products and services. The DSF is a set of principles, policies and guidance that aims to support effective procurement of digital products and services. The DSF is comprised of four policies set out below:

- Consider First Policy;
- Panels Policy;
- Fair Criteria Policy; and
- Digital Sourcing Contract Limits and Reviews Policy.²⁷

2.34 The Consider First Policy guides agencies through early consideration of important factors that help investments meet their intended outcomes. An assessment tool is provided to help agencies focus on these factors early in a digital investment. This policy supports Australian tech companies by ensuring procurement approaches to market released by the Australian Government are clearly articulated in terms of the outcomes sought, allowing a wider range of vendors to respond to clear criteria. It also encourages agencies to engage early and consult widely on their technology needs, including with industry.²⁸

²⁶ Digital Transformation Agency, *Submission 5*, pp. 8–9.

²⁷ Digital Transformation Agency, *Submission 5*, p. 3.

²⁸ Digital Transformation Agency, *Submission 5*, p. 4.

- 2.35 The Panels Policy aims to encourage competition and make using panels easier and clearer for buyers and sellers. It helps Australian Government buyers use digital panels and enables new sellers to join panels more often. As outlined above, the DTA has established six marketplace panels for the purchase of hardware, telecommunications, software, cloud, digital services, and data centres; as well as seven arrangements that coordinate Australian Government purchases for technology and software that is widely used across the Australian Public Service (APS). Marketplace panels and arrangements are accessible through BuyICT and enable government buyers to procure sovereign capability from the Australian tech sector.²⁹
- 2.36 The Fair Criteria Policy is designed to give agencies access to a competitive, vibrant, and diverse market of sellers. This policy is aimed at ensuring Australian Government procurement is conducted with competition and flexibility in mind, particularly for vendors of all sizes, including Australian SMEs.³⁰
- 2.37 The Digital Sourcing Contract Limits and Reviews Policy provides agencies with a modern approach to structuring contracts that reduces risk, drives competitive outcomes and increases flexibility. This helps improve sourcing outcomes through responsible monitoring of contract performance, greater access to a diverse range of sellers and the flexibility to invest in emerging solutions.
- 2.38 Beyond these policies, the DTA also established the Digital Sourcing Network (DSN) in 2019. The network connects industry experts, sellers, and government entities and promotes collaboration, and the adoption of procurement best practice through events, working groups, newsletters, and other engagement activities. The network reaches 7652 industry professionals and 2962 government buyers.³¹

Australian National Audit Office audit of DTA procurement of ICT

- 2.39 In 2022–23, the Auditor-General examined a sample of nine procurements undertaken between 1 July 2019 and 30 June 2021, including seven of the DTA's nine highest value procurements over this period. The objective of the audit was to assess the effectiveness of the DTA's procurement of ICT-related services.³²
- 2.40 The audit found that none of the nine procurements examined were effective. The DTA's implementation and oversight of its procurement framework was

²⁹ Digital Transformation Agency, *Submission 5*, p. 6.

³⁰ Digital Transformation Agency, *Submission 5*, p. 4.

³¹ Digital Transformation Agency, *Submission 5*, p. 9.

³² Auditor-General Report No. 5 of 2022-23, [Digital Transformation Agency's Procurement of ICT-Related Services](#), p. 7 (accessed 14 June 2024).

found to be weak, the agency did not follow its internal policies and procedures, and there were weaknesses in its governance, oversight and probity arrangements.³³

2.41 Moreover, none of the nine procurements complied fully with the CPRs. Approach to market and tender evaluation processes were not conducted effectively, and the DTA's contract management performance was not effective and fell short of ethical requirements.³⁴

2.42 Notably, these included:

- Recommendation 4: The Digital Transformation Agency align its approach to market processes with the Commonwealth Procurement Rules, with a focus on:
 - (a) estimating the expected value of a procurement before a decision on the procurement method is made;
 - (b) establishing processes to identify, analyse, allocate and treat risk; and
 - (c) maintaining a level of documentation commensurate with the scale, scope and risk of the procurement.
- Recommendation 9: The Digital Transformation Agency strengthen its internal guidance and controls to ensure officials do not vary contracts to avoid competition or obligations and ethical requirements under the Commonwealth Procurement Rules.³⁵

2.43 The ANAO made nine recommendations, eight of which were addressed to the DTA and one of which was addressed to the Australian Government. The DTA agreed to all eight recommendations.³⁶

2.44 In accepting the recommendations, the DTA noted that three of the nine procurements examined by the ANAO related to the COVID-19 pandemic response, and as such involved shortened timeframes which increased the risks involved in these procurements.³⁷

³³ Auditor-General Report No. 5 of 2022-23, [Digital Transformation Agency's Procurement of ICT-Related Services](#), p. 7 (accessed 14 June 2024).

³⁴ Auditor-General Report No. 5 of 2022-23, [Digital Transformation Agency's Procurement of ICT-Related Services](#), p. 8 (accessed 14 June 2024).

³⁵ Auditor-General Report No. 5 of 2022-23, [Digital Transformation Agency's Procurement of ICT-Related Services](#), pp. 11–12 (accessed 14 June 2024).

³⁶ Digital Transformation Agency, [Statement from the CEO Chris Fechner regarding DTA procurement of ICT-related services](#), 21 Sept 2022 (accessed 14 June 2024).

³⁷ Digital Transformation Agency, [Statement from the CEO Chris Fechner regarding DTA procurement of ICT-related services](#), 21 Sept 2022 (accessed 14 June 2024).

The Buy Australian Plan and the Future Made in Australia agenda

- 2.45 BAP was first announced as a budget neutral measure in the 2022–23 Budget, with the stated objective of supporting Australian businesses to compete more effectively, increase employment and build resilience in supply chains. The Future Made in Australia Office, within the Department of Finance, was established to coordinate the delivery of commitments under the BAP across the APS.³⁸
- 2.46 In 2024, the Future Made in Australia Office was renamed the Procurement Capability Branch in an effort to reduce confusion with the Australian Government's broader Future Made in Australia agenda. This includes:
- the \$1.7 billion Future Made in Australia Innovation Fund administered by the Australian Renewable Energy Agency (ARENA);
 - the Future Made in Australia National Interest Framework operating within Treasury as of May 2024; and
 - a forthcoming Future Made in Australia Act.³⁹
- 2.47 The Procurement Capability Branch has a mandate to:
- coordinate implementation of the BAP across the APS;
 - strengthen engagement with states and territories to deliver economic, social and environmental benefits to regions, industry sectors and communities;
 - build the procurement and contracting capabilities of the APS; and
 - engage directly with businesses and industry sectors to help lift their competitive capabilities.⁴⁰
- 2.48 In the 2023–24 Budget, the Australian Government committed \$18.1 million over the forward estimates from 2023–24 (and \$1.5 million per year beyond this) to the Department of Finance to support the BAP.⁴¹
- 2.49 The recent *Future Made in Australia National Interest Framework: Supporting paper* released on 14 May 2024 situates the framework within other complementary Commonwealth industry policy and national resilience frameworks, including:
- the *Critical Technologies Statement*;
 - the *2024 National Defence Strategy*;
 - the *Defence Industry Development Strategy*;
 - the National Reconstruction Fund; and

³⁸ Commonwealth of Australia, *Budget Measures: Budget Paper No. 2 2022-23*, p. 106.

³⁹ Department of Finance, [Buy Australian Plan](#), 29 May 2024 (accessed 14 June 2024); The Treasury, [Future Made in Australia National Interest Framework: Supporting paper](#), 14 May 2024, p. 2 (accessed 14 June 2024).

⁴⁰ Department of Finance, [Buy Australian Plan](#), 29 May 2024 (accessed 14 June 2024).

⁴¹ Commonwealth of Australia, *Budget Measures: Budget Paper No. 2 2023-24*, p. 111.

- the Northern Australia Infrastructure Facility.⁴²
- 2.50 However, this paper does not mention the BAP or the Procurement Capability Branch and it is unclear as to whether these efforts are connected.

The Australian tech sector

- 2.51 Australia has a thriving domestic tech sector, contributing \$167 billion to our gross domestic product (GDP) and growing at a rate four times faster than the broader economy.⁴³
- 2.52 As a fast-growing and highly dynamic sector, the tech sector is not straightforward to define. The Tech Council of Australia (TCA), the peak industry body for Australia's tech sector, broadly categorises the tech sector into two components:
- the direct tech industry, which includes firms that develop or sell technology as their core business, as well as investors that primarily or exclusively operate in tech; and
 - the indirect tech industry, which includes those firms and their employees that are tech intensive through being both significant users and developers of technology to support their core business.⁴⁴
- 2.53 As a whole, the tech sector is equivalent to Australia's third largest industry and seventh largest employer, with 935 000 people working in the sector in 2023. This figure is forecast to reach 1.2 million people working in the sector by 2030.⁴⁵
- 2.54 The domestic tech sector consists of both Australian owned and controlled firms, as well as subsidiaries of foreign owned and controlled firms operating in Australia, including some of the largest global tech companies such as Google and Microsoft.⁴⁶
- 2.55 The increasingly globalised nature of the tech sector increases the risk of economic disruptions resulting from geopolitical tensions, natural disasters, pandemics, supply chain volatility, raw material shortages, and overseas regulations and policies. These risks necessitate a need for Australia to balance

⁴² The Treasury, [Future Made in Australia National Interest Framework: Supporting paper](#), 14 May 2024, p. 14 (accessed 14 June 2024).

⁴³ Australian Trade and Investment Commission, [Digital Technology report](#), 2023, p. 4 (accessed 14 June 2024).

⁴⁴ Tech Council of Australia, [The economic contribution of Australia's tech sector](#), August 2021, p. 10 (accessed 14 June 2024).

⁴⁵ Tech Council of Australia, [Tech Jobs Update](#), May 2023, p. 5 (accessed 14 June 2024).

⁴⁶ Tech Council of Australia, [The state of Australia's tech ecosystem](#), March 2024, p. 3 (accessed 14 June 2024).

advantageous participation in the global tech market with ensuring adequate sovereign capabilities to mitigate these risks.⁴⁷

Defining sovereignty

- 2.56 In considering developing sovereign capability in the tech sector and associated policy frameworks, it is important to define exactly what is meant by sovereign capability.
- 2.57 Sovereignty is an unsettled political concept that has transformed significantly over time. In the Westphalian system of international relations, sovereignty refers to the political and legal authority of a state within its own borders. In practice, sovereignty has generally come to refer to the independence and self-sufficiency of a state.
- 2.58 Concerns around technological sovereignty are not new and can be traced back to the 1960s when the United States first demonstrated a propensity for technological dominance. Similarly, in the 1980s, the rise of Japan as a key microelectronics innovator spurred similar international discourse.⁴⁸
- 2.59 However, in an era marked by globalisation and the digital transformation, the concept of sovereignty has been challenged by the increasingly interconnected nature of global technological infrastructure, labour markets, supply chains, ownership structures, and economic activity. As such, complete sovereign capability in tech is unlikely to be a realistic strategy for any country, including the United States and China, much less Australia.⁴⁹
- 2.60 The Australian Government does not have a settled definition of sovereignty or sovereign capability. When asked to define sovereignty, Ms Donna Looney, Head of the Sovereign Capability and Supply Chains Division within the Department of Industry, Science and Resources, advised 'there are many interpretations of the word 'sovereign' and not necessarily a definition across government'.⁵⁰
- 2.61 The Defence Industry Development Strategy, released on 29 February 2024, defines Australia's sovereign industrial base as:

Australian defence industry is comprised of businesses with an Australian-based industrial capability and an Australian Business Number (ABN),

⁴⁷ Deloitte, *2024 technology industry outlook*, 2024, p. 6 (accessed 14 June 2024).

⁴⁸ Jakob Edler, Knut Blind, Henning Kroll and Torben Schubert, ['Technology sovereignty as an emerging frame for innovation policy. Defining rationales, ends and means'](#), *Research Policy*, vol. 52, no. 1, 2023, p. 2 (accessed 14 June 2024).

⁴⁹ Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*, vol. 1, Oxford University Press, Oxford, 2023, p. 217.

⁵⁰ Ms Donna Looney, Head of Division, Sovereign Capability & Supply Chains, Department of Industry, Science and Resources, *Proof Committee Hansard*, 6 May 2024, p. 35.

providing products or services used in, or which can be adapted to be used in, the Australian Department of Defence supply chain and/or an international defence force supply chain.⁵¹

- 2.62 In answers to Questions on Notice, Defence advised that 'only in limited circumstances is Australian ownership critical to sovereignty'.⁵²
- 2.63 A number of submitters raised concerns with the broad application of an Australian Business Number (ABN) as the primary indicator of sovereignty and argued that more rigorous approach is needed. This matter, and evidence advancing the case for a clear and operational definition of sovereign capability is discussed further in the following chapter of this report.

The global tech market and the United States–China tech war

2.64 Global dominance in the tech sector is a contested space, with the United States having long enjoyed dominance and China's influence rapidly outpacing the West. Some commentators have argued that the current 'tech war' between the United States–China is expected to escalate to an eventual decoupling of the global tech market. This could see an environment where different technologies and platforms would not necessarily be interoperable across jurisdictions, which by some accounts is already well underway, as discussed below.⁵³

2.65 For example, Professor Anu Bradford, Professor of Law and International Organization at the Columbia Law School, states:

The US–China tech war is casting a lengthening shadow over the global digital economy. This unfolding rivalry between the two economic and geopolitical superpowers is unravelling global supply chains, battering tech companies, frightening financial markets, and unsettling international relations far beyond the bilateral US–China relationship.⁵⁴

2.66 Currently, all 'Big Five' tech firms: Alphabet (Google); Apple; Meta (formerly Facebook); Amazon; and Microsoft, are United States-owned and based. In 2022, the combined market capitalisation of these firms surpassed USD \$9.3 trillion. In addition to being economically dominant actors in the global tech market, these companies exert significant influence across both legislation and regulation, and by extension the social and economic organisation of global society.⁵⁵

⁵¹ Department of Defence, *Defence Industry Development Strategy*, 2024, p. 3 (accessed 14 June 2024).

⁵² Department of Defence, answers to question on notice, 8 May 2024 (received 29 May 2024).

⁵³ Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*, vol. 1, Oxford University Press, Oxford, 2023, p. 183.

⁵⁴ Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*, vol. 1, Oxford University Press, Oxford, 2023, p. 184.

⁵⁵ Juho Lindman, Jukka Makinen and Eero Kasanen, 'Big Tech's power, political corporate social responsibility and regulation', *Journal of Information Technology*, vol. 38, no. 2, 2023, p. 145.

- 2.67 However, over the past two decades, China has significantly increased its gross domestic expenditure on tech-related research and development at a rate that has outpaced, though not yet overtaken, the United States.⁵⁶ Today, Chinese company Xiaomi is selling more smartphones globally than Apple, and the social media app TikTok, owned by Chinese company ByteDance, has surpassed Facebook in popularity among United States users.⁵⁷
- 2.68 The Australian Strategic Policy Institute's (ASPI) Critical Technology Tracker website publishes data and analysis identifying the countries that are leading the effort to progress scientific and research innovation, including breakthroughs, in 44 critical technologies that have been identified as foundational to our economy, society, national security, energy production, health, and climate security.⁵⁸
- 2.69 These critical technologies fall into the seven broad categories of:
- Advanced materials and manufacturing;
 - Artificial intelligence, computing and communications;
 - Energy and environment;
 - Quantum;
 - Biotechnology, gene technology and vaccines;
 - Sensing, timing and navigation; and
 - Defence, space, robotics and transportation.⁵⁹
- 2.70 China is the leading country in 37 of the 44 technologies evaluated, with the United States leading for the remaining 7 technologies. For a number of critical technologies, China is producing more than three times as much high-impact research as its closest competitor and APSI has rated the risk of technological monopolisation by China as high.⁶⁰
- 2.71 Although Australia's tech sector is a significant and fast-growing part of the domestic economy, its share of the global tech market is relatively modest when compared to the dominant tech sectors of the United States and China. As such, there is a need for Australia, and other second-tier tech economies, to strike a balance between maintaining cordial trade and diplomatic relations with both

⁵⁶ Kai Konrad, 'Dominance and technology war', *European Journal of Political Economy*, vol. 81, no. 1, 2024, p. 2.

⁵⁷ Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*, vol. 1, Oxford University Press, Oxford, 2023, p. 216.

⁵⁸ Australian Strategic Policy Institute, [ASPI's Critical Technology Tracker: The global race for future power](#), 2023, pp. 51–55 (accessed 14 June 2024).

⁵⁹ Australian Strategic Policy Institute, [ASPI's Critical Technology Tracker: The global race for future power](#), 2023, pp. 51–55 (accessed 14 June 2024).

⁶⁰ Australian Strategic Policy Institute, [ASPI's Critical Technology Tracker: The global race for future power](#), 2023, pp. 51–55 (accessed 14 June 2024).

the world's largest economy and close military ally in the United States and our largest trading partner and the world's soon-to-be-largest economy in China.⁶¹

- 2.72 These tensions are not new, and were visible when the Australian Government banned Chinese-owned tech giant Huawei from taking part in the rollout of the National Broadband Network in 2012 and later 5G mobile infrastructure in 2018, citing national security concerns on both occasions.⁶²
- 2.73 Similar concerns were cited in 2023 when the Australian Government banned TikTok on government devices, following similar decisions by each of the Five Eyes intelligence alliance members: the United States, Canada, the United Kingdom and New Zealand.⁶³ In 2024, the United States government introduced legislation to force TikTok's parent company ByteDance to sell the company or risk being banned from app stores in the United States.⁶⁴
- 2.74 Similarly, China has also blocked a number of major United States-owned websites and social media platforms, including:
- Facebook;
 - WhatsApp;
 - X (formerly Twitter);
 - Instagram;
 - Google;
 - Gmail;
 - Snapchat;
 - Spotify; and
 - YouTube.⁶⁵
- 2.75 The following chapter sets out the key issues and options that submitters put to the committee for reform, as well as the committee's views and recommendations.

⁶¹ Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*, vol. 1, Oxford University Press, Oxford, 2023, p. 194.

⁶² Michael Slezak and Ariel Bogle, '[Huawei banned from 5G mobile infrastructure rollout in Australia](#)', *ABC News*, 23 Aug 2018 (accessed 14 June 2024).

⁶³ Chantelle Al-Khouri, Tom Lowrey and Claudia Long, '[TikTok to be banned from Australian government devices](#)', *ABC News*, 4 Apr 2023 (accessed 14 June 2024).

⁶⁴ Ilham Issak and Sean Wales, '[America is a step closer to banning TikTok, but will it work?](#)', *ABC News*, 21 April 2024 (accessed 14 June 2024).

⁶⁵ Rob Binns, '[Websites banned in China](#)', *The Independent*, 6 November 2023 (accessed 14 June 2024).

Chapter 3

Key issues and committee view

- 3.1 This chapter considers the matters that were raised in evidence provided to the committee in submissions and at the public hearing on 6 May 2024.
- 3.2 The committee received evidence from a number of tech companies (ranging from small and medium enterprises [SME's] to larger firms), peak tech industry bodies, academics, individuals and relevant government agencies.
- 3.3 Stakeholders were overwhelmingly supportive of the Australian Government's objective of bolstering the development of sovereign capability in the Australian tech sector. However, some concerns were raised, including on the following matters that this chapter will discuss in turn:
- contested definitions of sovereignty;
 - misinterpretation of value for money;
 - the accessibility of procurement panels; and
 - procurement capability in the Australian Public Service (APS).
- 3.4 This chapter also sets out the committee's views and recommendations.

Defining sovereignty

- 3.5 The inquiry's focus on sovereign capability revealed a number of inconsistencies around the understanding and application of the concepts of sovereignty and sovereign capability, across both government agencies and the tech sector.
- 3.6 Several submitters and witnesses drew the committee's attention to the absence of a clear and consistent government definition of sovereignty, despite its proliferated use across a number of strategies and frameworks, including, but not limited to the Digital Transformation Agency (DTA's) *Hosting Certification Framework* and The Department of Home Affairs' *2023–2030 Australian Cyber Security Strategy*.¹
- 3.7 In relation to the lack of a definition of 'sovereign capability', Mr Rupert Taylor-Price, Chief Executive Officer of Vault Cloud, an Australian company that provides sovereign cloud services stated:

If we haven't defined it, how can we know if we're being successful or not?
If we don't measure it, how can we know if we're being successful or not as well?²

¹ See, for example: Vault Cloud, *Submission 12*, p. 2; Geomastery Advisory Pty Ltd, *Submission 45*, p. 6; Mr Ross Dewar, *Submission 58*, p. 1.

² Mr Rupert Taylor-Price, Chief Executive Officer, Vault Cloud, *Committee Hansard*, 6 May 2024, p. 12.

3.8 Some submitters appeared to use the term as a synonym for domestic or local, denoting Australian-owned or Australian-based companies and products. For example, AUCloud, an Australian cloud and cyber security service firm, submitted their definition of sovereign capability as:

...the domestic capability to undertake activities delivering outcomes independent of other nations combined with the sovereign control to direct resources to the activity by prioritising and protecting the interests of Australia.³

3.9 However, some stakeholders adopted more nuanced or complex definitions. For example, a joint submission made by Professor Elizabeth Thurbon, Dr Alexander Hynd, Mr Jon Bradshaw and Mr Michael McLean, argued that the sole focus on territorial aspects of sovereignty in the Australian policy discussion risks ignoring 'the ability to control'. This, they argued, is the most critical aspect of sovereignty that should not be omitted from any working definition.⁴

3.10 Professor Elizabeth Thurbon, Dr Alexander Hynd, Mr Jon Bradshaw and Mr Michael McLean elaborated that in the context of the Australian technology sector, sovereign capability should be understood as:

- The existence of world-class local research, development and commercialisation (RD&C) capabilities in those technology-intensive industries deemed nationally strategic by the government.
- The existence of strong local manufacturing capabilities in those technology intensive industries deemed nationally strategic (and therefore necessarily sovereign) by the government.
- The existence of strong and secure local capabilities to participate in international supply chains for those technology-intensive industries deemed nationally strategic by the government.⁵

3.11 The Sovereign Australian Prime Alliance, an informal grouping of large Australian contractors to the Australian Government, proposed a definition of a sovereign supplier as:

...an Australian company that is not a foreign subsidiary, that is based in Australia, controlled by Australian shareholders, and governed by an Australian Board of Directors.⁶

3.12 A number of submitters endorsed this position, arguing that a clarified definition of what constitutes a truly sovereign Australian firm would help to

³ AUCloud, Submission 15, p. 3.

⁴ Professor Elizabeth Thurbon, Dr Alexander Hynd, Mr Jon Bradshaw and Mr Michael McLean, *Submission 53*, p. 31.

⁵ Professor Elizabeth Thurbon, Dr Alexander Hynd, Mr Jon Bradshaw and Mr Michael McLean, *Submission 53*, p. 5.

⁶ Sovereign Australian Prime Alliance, *Submission 19*, p. 3.

ensure that government procurement policies prioritise and benefit domestic businesses over foreign and multinational firms.⁷

- 3.13 Other submitters offered general support for further work being undertaken by the Australian Government to clarify what is considered a sovereign Australian firm. It was noted that the current model under which an Australian Business Number (ABN) is the core requirement to be considered an Australia firm is clearly inadequate. However, it was also suggested that restrictive requirements on elements such as citizenship and location may not be practical for all firms.⁸
- 3.14 BSA | The Software Alliance, an advocacy body for the global software industry, cautioned that overly stringent sovereignty requirements in public procurement may risk impeding broader strategic policy goals. It submitted that this could also disadvantage the growth of Australia's domestic tech sector by limiting access to and collaboration with the best available international tech firms and their products and services.⁹

Value for money versus retained economic benefit

- 3.15 A number of stakeholders put forward evidence that the concept of value for money is often misinterpreted as solely defined by lowest cost, whereas other relevant financial and non-financial costs and benefits could also be part of Australian Government evaluation processes.¹⁰
- 3.16 For example, Aura Clean Energy, an Australian clean energy firm submitted:

The Commonwealth Procurement Rules focus on value for money but that is usually distilled down to lowest price, history of delivery of the supplier and commercial weight of the supplier. Unsurprisingly, Chinese manufacturers will often rise to the top under such weightings as they have the market history, market penetration through low prices, and the commercial weight of Government funding behind them. Small innovative Australian business cannot easily compete against these headwinds except by partnering and cooperating through high strength industrial prime

⁷ See, for example: Vault Cloud, answer to written questions on notice 17 May (received 20 May 2024); Reason Group Pty Ltd, answer to written questions on notice, 8 May 2024 (received 21 May 2024); and Trellis Data, answer to written questions on notice, 8 May 2024 (received 24 May).

⁸ See: Pathology Technology, answers to written questions on notice, 8 May (received 24 May 2024); and Technology One, answers to written questions on notice, 6 May 2024 (received 21 May 2024).

⁹ BSA | The Software Alliance, *Submission 11*, p. 3.

¹⁰ See, for example: Technology One, *Submission 9*, p. 7; Reason Group, *Submission 50*, p. 12; Australian Information Industry Association, *Submission 33*, p. 2; Aura Clean Energy, *Submission 38*, p. 4; Hypereal, *Submission 4*, p. 4; and Ms Angie Suriyasenee, Dr Alex Caples and Mike Bareja, *Submission 24*, p. 4.

businesses who are recognised Government suppliers and prepare to acknowledge the benefits of local manufacturing.¹¹

3.17 As an alternative metric, a number of submitters proposed the concept of 'retained economic benefit' be substituted for 'value for money' within the Commonwealth Procurement Rules (CPRs), which would focus on whether a provider is:

- paying corporate tax in Australia;
- publicly listed on the Australian Stock Exchange (ASX);
- employing Australians;
- building local Intellectual Property;
- investing in local infrastructure and capabilities; and
- investing in local research and development.¹²

3.18 The Australian Information Industry Association, the peak body representing the information and communications technology industry, drew out the significance of 'retained economic benefit', which would consider:

...the value of enduring 'positive externalities' created from a vendor's proposal, such as job creation, local wealth creation, technology transfer and propensity to reinvest revenue domestically, especially in local Research & Development activities and Intellectual Property creation.¹³

3.19 Professor Elizabeth Thurbon, Dr Alexander Hynd, Mr Jon Bradshaw and Mr Michael McLean argued that the concept of value for money was developed for a more benign strategic environment and was no longer fit-for-purpose to support decision-makers in understanding and accounting for the strategic benefits and implications of developments in the tech sector.¹⁴

3.20 They further submitted:

As the development of an industry sector requires investment, and as funds are finite, it will be necessary to prioritise those parts of the tech sector that are considered to have the greatest contribution to meeting national goals.¹⁵

Accessibility of procurement panels

3.21 Procurement panels are designed to create efficiencies for both agencies and suppliers. However, a number of submitters raised concerns that access to, and

¹¹ Aura Clean Energy, *Submission 38*, p. 4.

¹² See, for example: Vault Cloud, *Submission 12*, p. 2; AUCloud, *Submission 15*, p. 8; Australian Information Industry Association, *Submission 33*, p. 2; Aura Clean Energy, *Submission 38*, p. 4; and Reason Group, *Submission 50*, p. 12.

¹³ Australian Information Industry Association, *Submission 33*, p. 2.

¹⁴ Professor Elizabeth Thurbon, Dr Alexander Hynd, Mr Jon Bradshaw and Mr Michael McLean, *Submission 53*, p. 32.

¹⁵ Professor Elizabeth Thurbon, Dr Alexander Hynd, Mr Jon Bradshaw and Mr Michael McLean, *Submission 53*, p. 32.

participation in, the panel environment is overly complex, disconnected and onerous, particularly for new entrants and SMEs.¹⁶

3.22 Several submitters noted that the process for applying to be on a panel can be time and resource intensive, often requiring complex compliance documentation that new entrants and SMEs won't be able to provide as quickly or easily as established firms with a history of selling to government.¹⁷

3.23 Commenting on the complexity of the panel environment Zepto, an Australian financial tech company, submitted:

As it stands, the procurement landscape in the Commonwealth Government is fragmented and characterised by overlapping platforms which are managed by different agencies. This leads to inefficiencies in the procurement process and increased administrative burden for both Government and industry. This presents acute challenges for small businesses in the technology sector (like Zepto) who simply do not have the time and resources to navigate such complex processes and systems.¹⁸

3.24 Further, not all panels are regularly refreshed, leaving new entrants waiting significant periods of time – in some cases several years – for an opportunity to apply to participate on a given panel. One example was provided to the committee by the National Security Association of Australia (NSAA), which suggested that the Defence Support Service Panel had not been refreshed since 2017.¹⁹

3.25 Drone Shield, an Australian high-tech hardware and software company providing Artificial Intelligence-based platforms for protection against drones, argued that the closed panel model is particularly problematic for tech procurement. It perceived a risk of technological advances outpacing the process for refreshing panels, which could in effect encourage the procurement of potentially out-of-date technologies, whilst impeding Australian market access to cutting edge technologies:

The current system of panels (many of which run for multiple years, which is a significant amount of time by technology standards) reduce the amount of competition and access for companies outside of the system. They should

¹⁶ See, for example: Engineers Australia, *Submission 10*, p. 2; Vault Cloud, *Submission 12*, p. 3; Ms Angie Suriyasenee, Dr Alex Caples and Mr Mike Bareja, *Submission 24*, p. 4; Zepto, *Submission 28*, p. 12; Independent Tertiary Education Council Australia, *Submission 32*, p. 4; Reason Group, *Submission 50*, p. 7; and Drone Shield, *Submission 60*, p. 1.

¹⁷ See, for example: Terra Schwartz, *Submission 2*, p. 6; Hypereal, *Submission 4*, p. 4; Engineers Australia, *Submission 10*, p. 2; Vault Cloud, *Submission 12*, p. 3; Tech Council of Australia, *Submission 36*, p. 6; and Drone Shield, *Submission 60*, p. 1.

¹⁸ Zepto, *Submission 28*, pp. 1–2.

¹⁹ National Security Association of Australia, *Submission 27*, p. 3.

be scrapped, and instead any company can bid on any project, subject to meeting a set compliance criteria set for each project.²⁰

- 3.26 Some stakeholders perceived an apparent bias from government procurers towards procuring from an established seller with a history of working with government, rather than from new entrants which can be seen as inherently riskier. Ms Angie Suriyasenee, Dr Alex Caples and Mr Mike Bareja, from the Australian Strategic Policy Institute, submitted that:

Procurement panels are one of the biggest barriers for SMEs. Large and well-established businesses are often favoured, further embedding them into the procurement system. These panel biases not only lead to poor procurement practices, but can risk single-sourcing, monopolisation of the markets, and vendor lock, which is particularly harmful for government.²¹

- 3.27 Some submitters argued that the panel environment is anticompetitive, as it can facilitate direct or limit approaches to known providers, nurturing engrained biases for larger transnational corporations and established sellers, which have more resources to dedicate to application and tendering processes. This, in turn, can impede market access for new entrants.²²
- 3.28 Ms Catherine Thompson from Hypereal, a former senior executive at the Digital Transformation Office (DTO) with several decades of procurement expertise in the private sector, estimated that only around half of the suppliers on a Digital Marketplace panel actually interact with government or secure contracts after the onboarding process is complete.²³
- 3.29 The Department of Industry, Science and Resources (DISR) administers the Business Research and Innovation Initiative (BRII) which aims to support Australian SME's to access commonwealth procurement opportunities. The BRII operates by advertising public sector challenges in need of a market solution and 'incentivises businesses to invest in research and development to find solutions to these challenges, enabling SMEs to propose new ideas to policy and service delivery problems'.²⁴

²⁰ Drone Shield, *Submission 60*, p. 1.

²¹ Vendor lock is commonly understood to pertain to arrangements where a client finds it difficult to change products or services, as switching away from their current supplier is not practical. Ms Angie Suriyasenee, Dr Alex Caples and Mr Mike Bareja, *Submission 24*, p. 4.

²² See, for example: Tech Council of Australia, *Submission 36*, p. 6; Trellis Data, *Submission 56*, p. 7; and Drone Shield, *Submission 60*, p. 1.

²³ Ms Catherine Thompson, Principal, Hypereal, *Committee Hansard*, 6 May 2024, p. 21.

²⁴ Department of Industry, Science and Resources, *Submission 54*, p. 4.

- 3.30 In their submission, DISR informed the committee that, to 31 December 2023, the BRII had delivered '\$6.67 million in grant funding to 17 SMEs to test technology solutions'.²⁵
- 3.31 The Tech Council of Australia (TCA) submitted that scaling the BRII 'could help capture and grow strategic, economically valuable emerging tech sectors and jobs in Australia and provide innovative solutions to large-scale challenges'.²⁶
- 3.32 The TCA further submitted:
- Any increase in funding should be accompanied with design improvements link the BRII (and potentially other government funding programs) with procurement processes and open pathways to government contracts. For example, for companies that are funded through the BRII, there could be a clear pathway for procurement opportunities that still ensures government due diligence and other necessary oversight.²⁷

Procurement capability in the Australian Public Service

- 3.33 It was broadly recognised in evidence that procurement capability is critical to operationalise the CPRs and leverage public sector expenditure to support the broader policy goals of government. However, it was also suggested that there is a significant procurement capability gap in the APS, which is characterised by risk-aversion, inter-agency fragmentation and non-compliance.²⁸
- 3.34 Drawing on her experience working on the establishment of the Digital Marketplace, Ms Catherine Thompson submitted that in part, this is attributable to the fact that 'procurement is not accorded any status as a specialist and expert function within the APS'.²⁹
- 3.35 Ms Thompson further noted that specialist procurement expertise is particularly critical for effective tech procurement, as there is a requirement to attend to the ongoing lifecycle needs of supply relationship well beyond initial sourcing, including the maintenance of digital infrastructure, data and agency relationships.³⁰
- 3.36 Ms Thompson's observations on procurement were discussed in greater detail in Hypereal's submission, which reflected on the 'doom loop of procurement

²⁵ Department of Industry, Science and Resources, *Submission 54*, p. 4.

²⁶ Tech Council of Australia, *Submission 36*, p. 8.

²⁷ Tech Council of Australia, *Submission 36*, p. 8.

²⁸ See, for example: Hypereal, *Submission 4*, p. 1; Mr Peter Behrendt, *Submission 7*, p. 2; Dr Elliot Duff, *Submission 25*, p. 2; and Ms Katie McDermott, *Submission 52*, p. 1.

²⁹ Hypereal, *Submission 4*, p. 1.

³⁰ Hypereal, *Submission 4*, p. 6.

underperformance' and the Auditor-General's audit of the DTA discussed in the previous chapter. It stated that:

In the private sector, procurement audit findings such as those surfaced by the ANAO would be managed continuously at Board level until they [are] cleared. They would not be permitted to simply slide on to the next inquiry without accountability.³¹

3.37 Commenting on the consequences of a risk-averse procurement culture in the public sector, Dr Elliot Duff, an independent consultant specialising in manufacturing, robotics and innovation, submitted that:

Procurement tends to be risk-averse as it aims to minimise disruptions, financial losses, and reputational damage associated with acquiring goods and services. This cautious approach is reinforced by the need to comply with regulations and contractual obligations, driving procurement professionals to prioritise risk mitigation strategies. This tendency is particularly evident when dealing with new technology.³²

3.38 The Department of Finance informed the committee that training initiatives to improve public sector procurement and contract management capability have been delivered to 673 APS officials across 22 agencies over the 2023–24 period through the Centre of Procurement Excellence.³³

Committee view

3.39 The committee would like to thank all those who contributed to the inquiry by making submissions and appearing before the committee at the public hearing.

3.40 The committee recognises that evidence broadly agrees there is a need for more robust provisions and definitions for Commonwealth procurement, particularly where it relates to tech products.

Development of new frameworks

3.41 The committee acknowledges that the Australian Government is currently engaged in consultation on Commonwealth procurement with a broad range of stakeholders across several industries, including the tech sector, with a view to implement the Buy Australia Plan (BAP) and introduce a Future Made in Australia (FMIA) legislative package in the near future. The core objectives of these initiatives relate to many of the issues raised by this inquiry.

3.42 However, at the time of writing, the progress report on the implementation of the BAP within the Department of Finance and the FMIA legislative package being developed by the Treasury are not publicly available.

³¹ Hypereal, *Submission 4*, p. 7.

³² Dr Elliot Duff, *Submission 25*, p. 2.

³³ Department of Finance, *Submission 34*, p. 9.

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- 3.43 Further, it is apparent to the committee that certain aspects of the BAP and FMIA agenda may be at odds with the CPRs currently in place, specifically guidance on non-discrimination, as discussed in the previous chapter.
- 3.44 It is possible that this guidance will need to be updated to avoid confusion and empower procurement decision makers to operationalise policy guidance to support Australian suppliers in a meaningful way.
- 3.45 Given this outlook, the committee considers it could be beneficial for the Australian Government to provide some initial clarification of the intended interaction of the BAP and FMIA, and how they will relate to the current CPRs. This would provide some certainty for business and tech providers on future reform.

Concerns raised in evidence

- 3.46 More broadly, evidence to this committee raised concerns over several areas of procurement.
- 3.47 A recurrent theme raised by submitters was the misunderstanding and misapplication of value for money considerations within tech procurement. Though the CPRs state value for money considerations should include both financial and non-financial costs and benefits, it is apparent to the committee that non-financial costs and benefits are not well articulated within the CPRs and therefore not well understood or readily applied by officials.
- 3.48 Developing clear guidance on how to identify and account for non-financial costs and benefits, particularly as they relate to tech products, should be considered as a priority of the BAP.
- 3.49 Several submitters raised concerns around the accessibility and effectiveness of panels, including via both DTA's BuyICT platform and agency specific panels, utilised for tech procurements.
- 3.50 The committee is concerned about the APS's lack of expertise and capability when it comes to the procurement of tech, and procurement capability generally. The new frameworks of the BAP and the FMIA provide an opportunity for government to continue work to improve APS procurement capability.
- 3.51 Issues relating to both the shortcomings of the panel environment and procurement capability in the APS are not new or unique to this inquiry and are by no means exclusive to tech procurement.
- 3.52 The committee is aware that the DTA has accepted and is working to address the recommendations of the Auditor-General's 2022 audit. The committee lends it support to these recommendations and will monitor their implementation with interest.

Definition of 'sovereign' tech

- 3.53 Additionally, over the course of the inquiry the committee received a range of views on the definition of sovereignty and sovereign capability. Though widely used as buzzwords, it is apparent that these terms are not well understood or consistently applied.
- 3.54 Effective legislation, policies and guidance rely on consistent and clearly defined terms to be understood, applied and implemented successfully. There is clearly a need to develop clear and operational definitions of sovereignty and sovereign capability if these terms are to continue to be used by government to articulate its BAP and FMIA agendas.

Conclusion

- 3.55 The committee welcomes and is supportive of measures to increase the accessibility of procurement opportunities for Australian tech businesses, and to improve tech procurement capability within the APS.
- 3.56 The committee is encouraged by the demonstrated appetite of stakeholders in the domestic tech sector to engage constructively with government on these issues, and will monitor the development and implementation of the government's current BAP and FMIA packages.

Recommendation 1

- 3.57 The committee recommends that the Australian Government develop a clear and operational definition of sovereign capability as part of the broader Future Made in Australia agenda that can be used to inform future procurement decisions.**

Recommendation 2

- 3.58 The committee recommends that the Australian Government consider:**
- **increasing the procurement targets for non-corporate Commonwealth entities to source at least 20 per cent of procurement by value from SMEs and 35 per cent of contracts, by value, with a value of up to \$20 million from SMEs set out in the Commonwealth Procurement Rules.**
 - **reviewing the Commonwealth Procurement Rules with a view to ensure that official procurement guidance to officials is aligned with the broader Future Made in Australia package.**

Recommendation 3

- 3.59 The committee recommends that the Australian Government scales the Business Research and Innovation Initiative to increase opportunities for emerging sovereign Australian tech companies to showcase their capabilities to government officials by solving public-sector problems in a 'sandbox' environment outside of standard procurement processes, with a particular**

focus on providing opportunities to firms with between two and 20 full-time equivalent employees.

Recommendation 4

3.60 The committee recommends that the Australian Government addresses conflicts of interest in procurement by mandating that all suppliers disclose their commercial relationships with any other suppliers that are working on the same project to which the procurement is related, be it above the line or below the line.

Recommendation 5

3.61 The committee recommends that the Australian Government improve the integration of grant programs with procurement processes, giving sovereign Australian small and medium enterprises that have developed products through Australian Government grants the opportunity to supply those products to the Australian Government.

Senator the Hon Richard Colbeck
Chair
Liberal Senator for Tasmania

Additional comments from Senator David Pocock

- 1.1 I thank the Chair and other committee members for their engagement and note the extensive and important work undertaken by this committee looking into elements of procurement through the *Inquiry into the management and assurance of integrity by consulting services*. I also thank every organisation, individual and business who took the time to make a submission to the inquiry. Many submitters were small or medium enterprises (SMEs) that found space in busy schedules to put their views on procurement to the committee.
- 1.2 The federal government spends tens of billions of dollars on goods and services every year. Procurement presents significant opportunities for the development, fostering and growth of innovative Australian SMEs. Procurement should reward SMEs who are committed to helping the Commonwealth deliver better services to Australians and help solve the big challenges we face.
- 1.3 Under the current Commonwealth Procurement Rules (CPRs), foreign owned and operating firms with fewer than 200 staff and in possession of an Australian Business Number (ABN) are able to sell to the Australian Government under the guise of being an Australian SME.
- 1.4 A number of Australian owned and operating tech SMEs submitted their frustration with these arrangements, arguing that it distorted the playing field in favour of foreign suppliers dominating government procurement opportunities in Australia.¹
- 1.5 Multiple submitters signalled their support for definitional changes in the CPRs. For instance, the Sovereign Australian Prime Alliance proposed a definition of a sovereign supplier as:

...an Australian company that is not a foreign subsidiary, that is based in Australia, controlled by Australian shareholders, and governed by an Australian Board of Directors.²

Recommendation 1

- 1.6 **The definition of ‘Small and Medium Enterprises in the Commonwealth Procurement Rules be replaced with a definition of ‘Sovereign Australian Small and Medium Enterprises’, being a firm that:**
 - **Has a valid ABN;**
 - **Has less than 200 full-time equivalent employees;**

¹ See, for example: Sovereign Australian Prime Alliance, *Submission 19*, p. 3; Vault Cloud, *Submission 12*, p. 3; Pathology Technology Australia, *Submission 8*, p. 8; TechnologyOne, *Submission 9 - Supplementary Submission*, p. 2.

² Sovereign Australian Prime Alliance, *Submission 19*, p. 3.

- **Is headquartered in Australia;**
 - **Is at least 51 per cent owned by Australian shareholders;**
 - **Is at least 51 per cent governed by Australian directors; and**
 - **Is not a subsidiary of a company that is not a sovereign Australian SME.**
- 1.7 Value for money is at the core of the CPRs. Though the CPRs clearly state that price is not the sole factor in assessing value for money, a recurrent theme over the course of the inquiry was that value for money is poorly understood and often misinterpreted by officials as lowest cost. While the CPRs provide some vague guidance on 'other relevant financial and non-financial costs and benefits' there is a clear need for procuring officials and entities to better understand value for money beyond the simple rubric of cost.
- 1.8 A number of submitters proposed the incorporation of a comprehensive 'retained economic benefit' consideration within the CPRs for all procurements, which would take a more holistic approach to identifying and valuing potential for job creation, local wealth creation, domestic tax revenue, technology transfer, domestic investment in local research and development and Intellectual Property creation.³
- 1.9 The Australian Information Industry Association, the peak body representing the information and communications technology industry, defined 'retained economic benefit' as:
- ...the value of enduring 'positive externalities' created from a vendor's proposal, such as job creation, local wealth creation, technology transfer and propensity to reinvest revenue domestically, especially in local Research & Development activities and Intellectual Property creation.⁴

Recommendation 2

- 1.10 Update the Commonwealth Procurement Rules to require officials to consider the economic benefit of procurement decisions to the Australian economy for all procurement decisions, removing the \$1 million threshold, and that the Department of Finance update its guidance on Consideration of Broader Economic Benefits in Procurement to capture whether the supplier is a sovereign Australian firm.**

Senator David Pocock

Participating Member

Independent Senator for the Australian Capital Territory

³ See, for example: Australian Information Industry Association, *Submission 33*, p. 2; Vault Cloud, *Submission 12*, p. 2; AUCloud, *Submission 15*, p. 8; Australian Information Industry Association, *Submission 33*, p. 2; Aura Clean Energy, *Submission 38*, p. 4; and Reason Group, *Submission 50*, p. 12; TechnologyOne, *Submission 9 - Supplementary Submission*, p. 2.

⁴ Australian Information Industry Association, *Submission 33*, p. 2.

Appendix 1

Submissions and additional information

- 1 Quantflo Pty Ltd
- 2 Terra Schwartz
- 3 CREST
- 4 Hypereal
- 5 Digital Transformation Agency
- 6 TaxTank HQ Pty Ltd
- 7 Mr Peter Behrendt
- 8 Pathology Technology Australia
- 9 TechnologyOne
 - 9.1 Supplementary to submission 9
- 10 Engineers Australia
- 11 BSA | The Software Alliance
- 12 Vault Cloud
- 13 Australian Academy of Technological Sciences and Engineering
- 14 Pathwize Pty Ltd
- 15 Sovereign Cloud Australia (AUCloud)
- 16 Australian Digital Delivery Alliance
- 17 InnovationAus.com
- 18 Envoy Advanced Technologies Pty Ltd
- 19 Sovereign Australian Prime Alliance
- 20 Imminently Group
- 21 Dr Farida Akhtar
- 22 UBH Group Pty Ltd
- 23 Australian Institute for Machine Learning
- 24 Ms Angie Suriyasenee
- 25 Dr Elliot Duff
- 26 Palo Alto Networks
- 27 National Security Association of Australia
- 28 Zepto
- 29 Australian Droid & Robot
- 30 Robotics Australia Group
- 31 CMDT Group
- 32 Independent Tertiary Education Council Australia
- 33 Australian Information Industry Association
- 34 Department of Finance
- 35 Department of Home Affairs
 - Attachment 1
- 36 Tech Council of Australia

- 37 Shoal
- 38 Aura Clean Energy
- 39 GovTech Australia
- 40 Local Peoples
- 41 Department of Defence
- 42 Mr Robert Heron
- 43 Wathara CX Pty Ltd
- 44 KJR
- 45 Geomastery Advisory Pty Ltd
- 46 SunDrive Solar
- 47 Infosys
- 48 Willyama Services
- 49 Green Square DC
- 50 Reason Group Pty Ltd
- 51 Nook Studios
- 52 Ms Katie McDermott
- 53 Prof Elizabeth Thurbon, Dr Alexander M Hynd, Mr John Bradshaw & Mr Michael McLean
 - Attachment 1
 - Attachment 2
- 54 Department of Industry, Science & Resources
- 55 Global Data Alliance
- 56 Trellis Data
- 57 Science and Technology Australia
- 58 Mr Ross Dewar
- 59 Xaana.Ai
- 60 DroneShield

Answers to Questions on Notice

- 1 Technology One, response to questions on notice from Senator David Pocock, 6 May 2024 (received 21 May 2024)
- 2 Sovereign Australian Prime Alliance, response to questions on notice from Senator David Pocock, 6 May 2024 (received 21 May 2024)
- 3 Vault Cloud, response to written questions on notice from Senator David Pocock, 17 May (received 20 May 2024)
- 4 Reason Group Pty Ltd, response to written questions on notice from Senator David Pocock, 8 May 2024 (received 21 May 2024)
- 5 Tobias Jones Consulting, response to written questions on notice from Senator David Pocock, 8 May (received 24 May 2024)
- 6 Pathology Technology, answers to written questions on notice from Senator David Pocock, 8 May (received 24 May 2024)
- 7 Trellis Data, response to written questions on notice from Senator David Pocock, 8 May 2024 (received 24 May)

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- 8 Department of Home Affairs, response to questions on notice from Senator David Pocock, 6 May 2024 (received 24 May 2024)
 - 9 Department of Home Affairs, response to questions on notice from Senator David Pocock, 6 May 2024 (received 24 May 2024)
 - 10 Department of Home Affairs, response to questions on notice from Senator David Pocock, 6 May 2024 (received 24 May 2024)
 - 11 Digital Transformation Agency, response to questions on notice from Senator Louise Pratt, 6 May 2024 (received 24 May 2024)
 - 12 Digital Transformation Agency, response to questions on notice from Senator Dave Sharma, 6 May 2024 (received 24 May 2024)
 - 13 Digital Transformation Agency, response to questions on notice from Senator Dave Sharma, 6 May 2024 (received 24 May 2024)
 - 14 Digital Transformation Agency, response to questions on notice from Senator Dave Sharma, 6 May 2024 (received 24 May 2024)
 - 15 Digital Transformation Agency, response to questions on notice from Senator Hon. Richard Colbeck, 6 May 2024 (received 24 May 2024)
 - 16 Digital Transformation Agency, response to questions on notice from Senator Louise Pratt, 6 May 2024 (received 24 May 2024)
 - 17 Digital Transformation Agency, response to written questions on notice from Senator David Pocock, 8 May 2024 (received 24 May 2024)
 - 18 Digital Transformation Agency, response to written questions on notice from Senator David Pocock, 8 May 2024 (received 24 May 2024)
 - 19 Digital Transformation Agency, response to written questions on notice from Senator David Pocock, 8 May 2024 (received 24 May 2024)
 - 20 Digital Transformation Agency, response to written questions on notice from Senator David Pocock, 8 May 2024 (received 24 May 2024)
 - 21 Digital Transformation Agency, response to written questions on notice from Senator David Pocock, 8 May 2024 (received 24 May 2024)
 - 22 Department of Finance, response to questions on notice from Senator Hon. Richard Colbeck, 8 May 2024 (received 24 May 2024)
 - 23 Department of Finance, answers to questions on notice from Senator Louise Pratt, 6 May (received 29 May 2024)
 - 24 Department of Finance, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 30 May 2024)
 - 25 Department of Finance, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 30 May 2024)
 - 26 Department of Finance, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 30 May 2024)
 - 27 Department of Finance, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 30 May 2024)
 - 28 Department of Finance, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 30 May 2024)

- 29 Tech Council, response to questions on notice from Senator David Pocock, 6 May 2024 (received 30 May 2024)
- 30 Department of Home Affairs, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 30 May 2024)
- 31 Department of Defence, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 29 May 2024)
- 32 Department of Defence, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 29 May 2024)
- 33 Department of Defence, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 29 May 2024)
- 34 Department of Defence, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 29 May 2024)
- 35 Department of Defence, answers to written questions on notice from Senator David Pocock, 8 May 2024 (received 29 May 2024)
- 36 Department of Home Affairs, answers to questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 37 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 38 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 39 Department of Industry, Science & Resources, answers to written questions on notice from Senator Hon. Richard Colbeck, 6 May 2024 (received 3 June 2024)
- 40 Department of Industry, Science & Resources, answers to written questions on notice from Senator Hon. Richard Colbeck, 6 May 2024 (received 3 June 2024)
- 41 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 42 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 43 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 44 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 45 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 3 June 2024)
- 46 Digital Transformation Agency, response to questions on notice from Senator Louise Pratt, 6 May (received 4 June 2024)
- 47 Department of Industry, Science & Resources, answers to written questions on notice from Senator David Pocock, 6 May 2024 (received 11 June 2024)
- 48 Vault Cloud, response to written questions on notice from Senator David Pocock, 6 May 2024 (received 30 May 2024)

Tabled Documents

- 1** DTA Internal Procurement Checklist, tabled by Catherine Thompson on 6 May 2024

Appendix 2

Public hearings

Monday, 6 May 2024

Senate Committee Room 2S1
Parliament House
Canberra

Pathology Technology Australia

- Mr Michael Johnson, Member (videoconference)
- Mr Dean Whiting, Chief Executive Officer (videoconference)

Trellis Data

- Mr Michael Gately, Chief Executive Officer
- Mr Timothy McLaren, Head of Communications

Tobias Jones Consulting

- Mr Toby Jones, Chief Executive Officer

TechnologyOne

- Mr David Forman, Director, Government

Reason Group Pty Ltd

- Mr Mark Volpato, Partner (videoconference)
- Mr William Scheer, Chief Executive Officer

Vault Cloud

- Mr Rupert Taylor-Price, Chief Executive Officer

Sovereign Australian Prime Alliance

- Mr James Morse, Member

Hypereal

- Ms Catherine Thompson, Co-founder

Tech Council of Australia

- Mr Ryan Black, Acting Chief Executive Officer
- Ms Madeleine Houghton, Policy Manager

Australian Information Industry Association

- Mr Simon Bush, Chief Executive Officer (videoconference)

Department of Home Affairs

- Mr Hamish Hansford, Deputy Secretary - Cyber and Infrastructure Security

- Mr Nishant Rao, Acting Assistant Secretary - Technology Security Policy

Department of Industry, Science & Resources

- Mr Anthony Murfett, Head of Division - Technology and Digital Division
- Ms Donna Looney, Head of Division - Sovereign Capability and Supply Chains

Department of Defence

- Mr Chris Crozier, Chief Information Officer - Defence Digital Group

Digital Transformation Agency

- Mr Peter Rymasz, Acting Branch Manager - Digital Sourcing
- Mr Wayne Poels, General Manager - Digital Investment Advice and Sourcing

Department of Finance

- Mr Gareth Sebar, Assistant Secretary - Procurement Policy and Systems, Procurement Division & Commercial Group
- Mr Andrew Danks, First Assistant Secretary - Procurement Division, Commercial Group
- Ms Sabrena King, Assistant Secretary - Future Made in Australia Office, Procurement Division & Commercial Group