



ACCOUNTABILITY
ROUND TABLE

**Submission to the Senate Finance and Government Administration
References Committee**

**Inquiry into the Management and Assurance of Integrity by Consultancy
Services**

The Accountability Round Table (ART)¹ suggests the following reforms to the Committee to ensure that firms or individuals providing consultancy services to the Commonwealth Government are subject to an integrity and accountability framework that is at least as robust as the best practice in the Commonwealth public service and wider public sector:

- All contracts above a legislated minimum should be the product of a tender process except in exceptional circumstances, when they should be fully disclosed and subject to parliamentary scrutiny.²
- Any person or organisation doing outsourced public work through a consultancy must be required as part of the tender process to establish that they have a comprehensive integrity package that at least meets best practice in the public service with extra points for going beyond that.
 - In other words, if a governmental function is outsourced through a consultancy, the public sector ethical framework should apply to that function as much as if it were carried out within the public sector – for example provision of frank and fearless advice, truth-telling and retraction of any advice that is found to be misleading, a duty to report misconduct, and use of ethics advisers outside the chain of command.
- Public servants should treat consultants with the same scepticism they should lobbyists (which in effect they are – lobbying to get more work).
- Successful consultants should be barred from sub-contracting work to other consultants if this has not been agreed as part of the contract, in which case the same ethical rules must apply to the sub-contractors.
- All proposals must include the CVs of all members of a successful project team together with their fees or hourly billing rate. Alternatively, there should be limits on the fees earned by contracting staff for those doing public sector work - this is currently frequently done for contracts with universities.
- Existing post-employment restrictions on public sector employees working as consultants should be tightened to limit the likelihood of departments paying significantly more for advice from former insiders who trade on insider knowledge.
- Lawyers in consultancy firms providing legal advice as part of a report to government should have practising certificates so that they are subject to ultimate professional and

¹ See <https://www.accountabilityrt.org>

² See <https://www.open-contracting.org/2020/04/08/5-procurement-strategies-for-navigating-the-covid-19-crisis-from-around-the-world/>



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court discipline³. Other professionals working for consultancy firms should hold relevant practising certificates and hence be subject to professional discipline.

- Building on the current Senate requirement for twice yearly publication (the ‘Murray Motion’) consultancy contracts should be posted on the relevant agency’s website immediately, once entered into. Commercial in confidence should not be used by Government to prevent public access to a contract or sections of a contract after it is entered into except to protect the privacy of individuals or where the Information Commissioner has determined that it would be contrary to the public interest or to the extent necessary to protect the contractor’s intellectual property.
 - The Government should fully comply with the international Open Contracting Data Standard (OCDS)⁴ and publish AusTender contracting data in an OCDS-compliant schema.
 - Procurement rules should also require that all contractual information be made available to integrity agencies and parliamentary committees.
- The Auditor-General should investigate quality and value for money of consultancy firms – vis à vis work performed in-house. should the government demonstrate this? Or indicate why the public service is not appropriate/able to do the work?
- The Committee should monitor developments in the integrity and accountability frameworks for consultants and public servants in other Australian jurisdictions to ensure that consultancies are at least best practice and preferably beyond best practice of other Australian jurisdictions.

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³ See Sampford, Charles, 'Get New Lawyers!' (2003) 6(1) Legal Ethics 85-105.

⁴ Open Contracting Data Standard <https://www.open-contracting.org/>