



ACTPS Secure Employment Discussion Paper #2

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ISSUED BY:

WORKFORCE CAPABILITY AND GOVERNANCE, CMTEDD

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INTRODUCTION

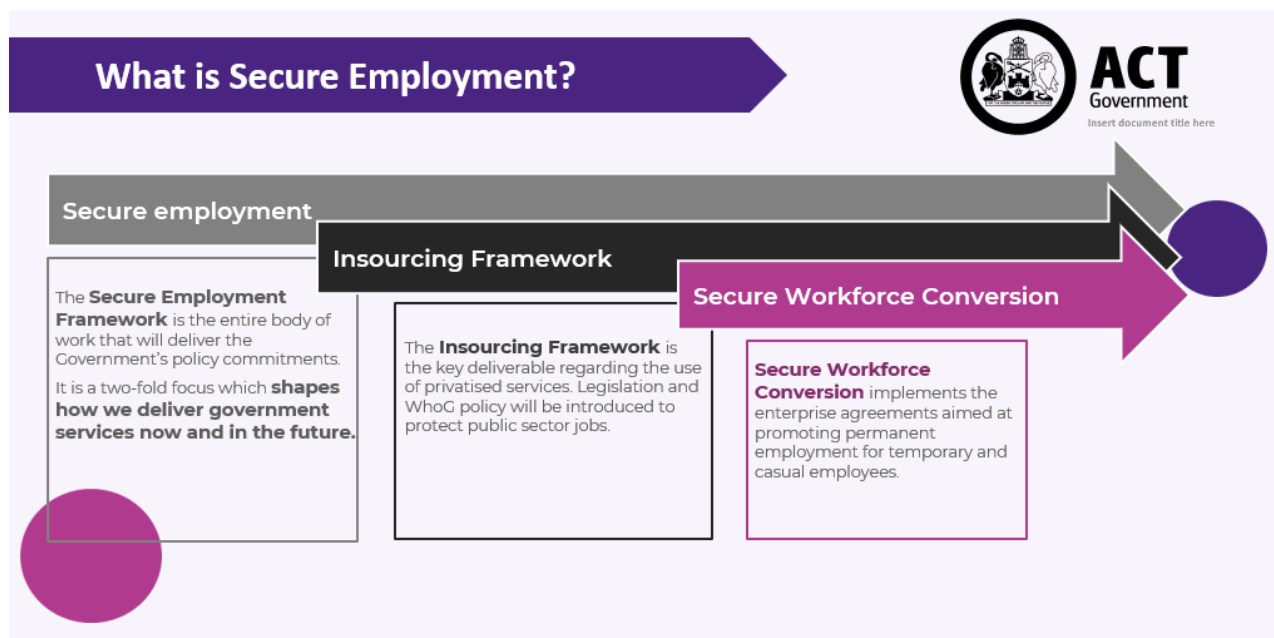
The future of public sector jobs – the Government's priority

The ACT Government has a clear policy commitment to building the ACT Public Sector (ACTPS¹) which is ratified in the [ACTPS enterprise agreements](#) and outlined in the [Parliamentary and Governing Agreement for the 10th Legislative Assembly](#):

‘Legislate to prevent the outsourcing or privatisation of public sector jobs’ (PAGA Item 77), and

‘Implement a whole of government policy that government services will not be contracted out where they could be performed by public servants’ (PAGA Item 88).

These commitments are **not just catchphrases**. The newly appointed Secure Employment team is undertaking the Government's ambitious program of reform, designed at implementing more secure employment within the ACTPS. It is about **real change**. It is about transformational thinking. It is about results on the ground by asking how government services should be delivered. It's also about delivering **job security** for our employees who are employed in insecure work. It's about **making choices about our future direction and the ACTPS workforce**. It's about valuing our existing workforce and investing in the direction of Government. It's thinking about **how we use privatised services, how we engage people** in the ACTPS and **how we design jobs**. It's about today's workforce and accessing the labour market of our future.



¹ The ACTPS refers to both the ACT Public Sector and Public Service.

Forward from Minister Mick Gentleman MLA

Minister for Industrial Relations and Workplace Safety

In August 2021, the first Secure Employment Discussion Paper was released. In that paper, I outlined that we are at the beginning of the journey to implementing the Government's secure employment policy commitment and how **we're delivering certainty in uncertain times**. In November 2021 we drafted an amendment to the *Financial Management Act 1996*, which was introduced into the Assembly in December 2021 and will form the legislative foundation for the Insourcing Framework.

I am excited that we are now entering the design phase of the Insourcing Framework. This second discussion paper provides an update on the legislative basis we are establishing and focusses on early thinking informing the Framework. It presents the functionality, features and considerations that we have conceptualised for the purpose of consultation and discussion. Your input into the consultation process will contribute to the development of the Insourcing Framework that will deliver the Government's commitment.

We're transforming the ACT Public Sector

The ACT Government has an ambitious program of reform, designed to implement more secure employment within the ACTPS. The Government's preference **towards internal resourcing** is at the centre of the policy commitments.

It requires us to think about how we design and structure work in new ways. As we will need to employ our staff differently, **it naturally leads us to prioritise how we can maximise the potential of our current and future workforce**.

OUR PEOPLE:

The ACTPS will be positioned as an employer of choice by contributing to the Chief Minister's vision of actively building a city of talent and ambition through an **innovative and vibrant** public sector.

OUR WORK:

The principles underpinning secure employment ensure the viability and sustainability of the ACT Public Sector.

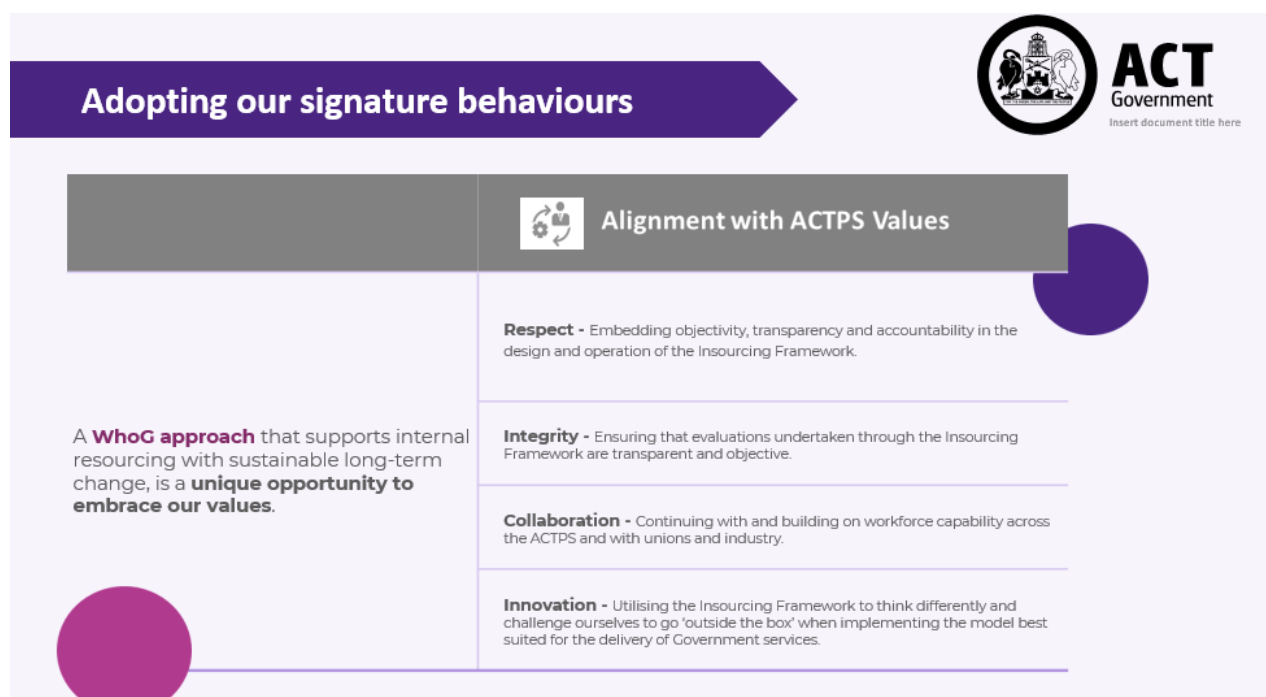
The Secure Employment body of work will be a model for sustainment, anchored through legislative change.

APPLICATION

Secure employment is a policy setting which applies to all ACT Government Directorates and Public Sector entities. Secure employment is the umbrella term which includes both the Insourcing Framework and the Secure Workforce Conversion process (previously known as the Insecure Work Taskforce).

PART 1 – THE RATIONALE FOR INSOURCING

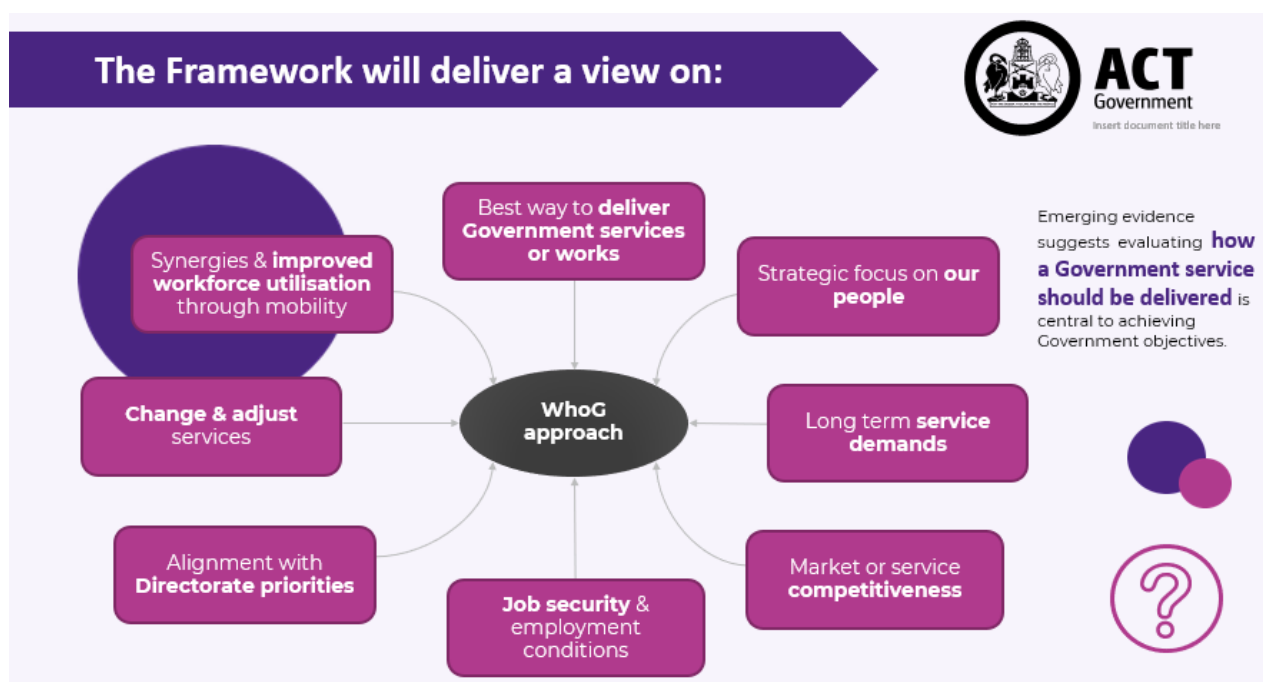
Alignment with ACTPS Values



Why implement an Insourcing Framework?

Emerging evidence suggests that evaluating how Government services or works should be delivered is critical to achieving Government objectives. The UK and Canada have made some notable moves towards insourcing since 2011 and this provides evidence that benefits such as better employment conditions, secure employment outcomes, flexibility, greater control, synergies and alignment to core business can be achieved.² The Insourcing Framework will provide an opportunity to evaluate whether services or works should be delivered by public servants or the private sector.

² Strategy and Transformation Office CMTEDD, *Insourcing government contracts Case studies*, 2021.



At this stage, it is anticipated that the ACTPS Insourcing Framework will activate thinking in the following domains:

- **Assess the appropriate delivery for each Government service or work -**

The Insourcing Framework will be thoughtfully constructed to ensure that every element is designed to objectively evaluate how suitable a particular service is for insourcing, outsourcing or a hybrid insourced/outsourced approach.

- **Place a strategic focus on the capability and wellbeing of one of our biggest resources, Our People, across the service –**

The Insourcing Framework places workforce capability and wellbeing at the centre of the evaluation model and in decision making. It will also require the ACTPS to consider the effectiveness of our current organisational structures and the relevance of historical financial frameworks.

- **Embed wellbeing in government decision making –**

The Insourcing Framework will be informed by the Government's Wellbeing Framework. Wellbeing considerations will be embedded into the Insourcing Framework.

- **Focus attention on identification of long-term service demands –**

By its very nature, the Insourcing Framework will require a review of long-term service demands when a contract reaches its end date. Forecasting service needs will require Directorates and Public Sector entities to identify the future of work and plan workforce needs.

- **Address issues if a market or service is not competitive –**

Market conditions change and over time a market or a service can become uncompetitive. There may also be social objectives that may be imperative to the service. The Insourcing Framework can be the vehicle for this evaluation.

- **Deliver job security and certainty in employment conditions –**

Insourcing has been viewed as a crucial way in which Government can ensure employment opportunities are maximised in the public sector, job security is strengthened and there is investment in skills. The Insourcing Framework will consider these factors in its decision-making criteria.

- **Provide opportunity for direct alignment with Directorate priorities –**

Through the Insourcing Framework, Directorates and Public Sector entities will review new and proposed contracts for services or works presenting the opportunity to directly align with priorities.

- **Embed flexibility in making change or adjustments to services –**

The Insourcing Framework can deliver greater control regarding the decision as to how a service is delivered. Should a service be insourced, benefits can include flexibility in adjusting services without the restrictions of contract terms.

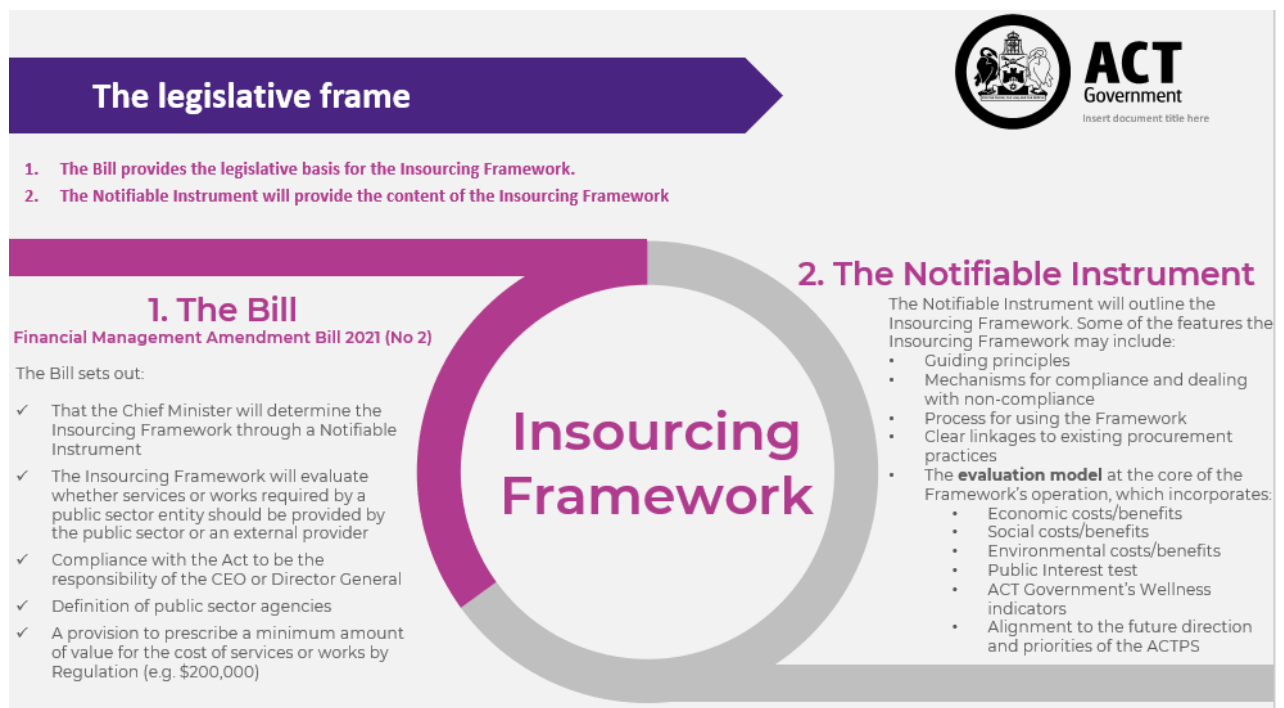
- **Create opportunities for synergies and improved workforce utilisation through workforce mobility -**

At the core of the Insourcing Framework will be an evaluation model. The model will prompt analysis of opportunities for internal synergies and improved workforce utilisation, resulting in a focus on people capability across the ACTPS.

PART 2 - THE INSOURCING FRAMEWORK

What is the foundation of the framework?

The Secure Employment team is creating the platform for the Insourcing Framework. This includes fulfilling the Government's commitment to introduce a Bill, providing a legislative basis to the Insourcing Framework. The team will progressively develop the components of the platform over time in conjunction with the design of the Framework itself.



What is the scope of the Insourcing Framework?

The Framework will apply in the pre-procurement phase. Without limiting the discussion, the Framework includes the following:

- New contracts, including renewals; and
- Services and/or works.

The Framework will apply to:

- procurements of more than the amount prescribed by regulation; and
- new contracts, including renewals.

The Framework will include the ability to assess:

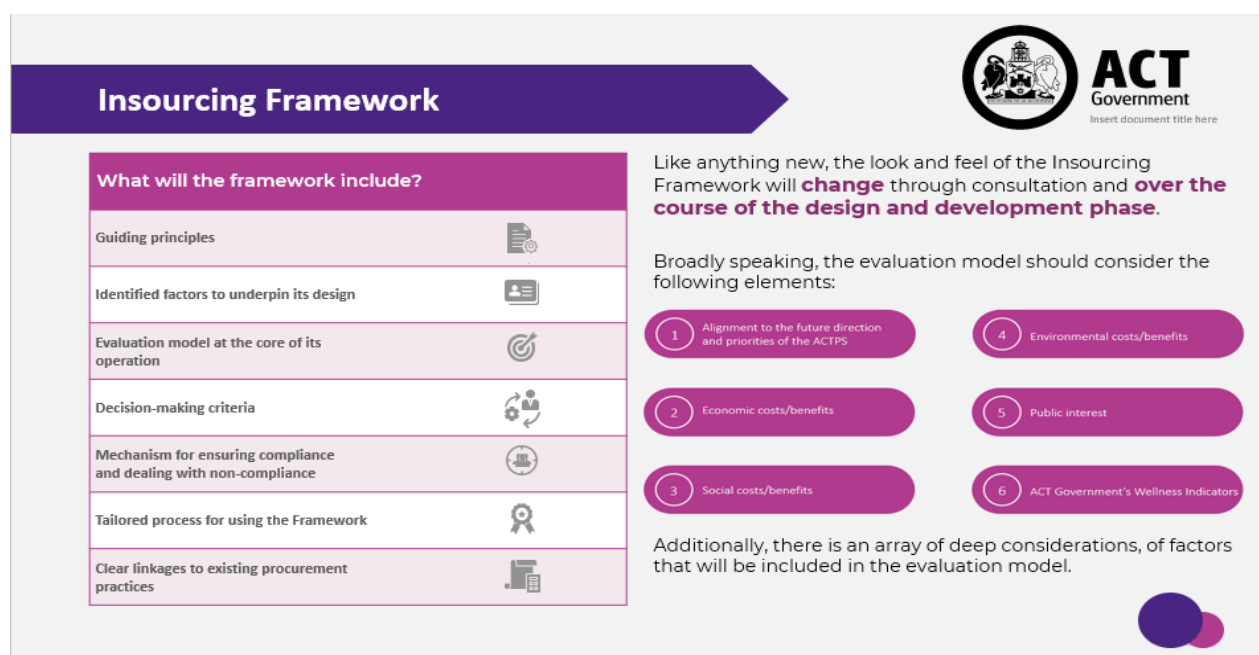
- transmission of business;
- in-coming workers against the ACTPS Employment Framework; and
- other industrial relations considerations.

The Framework may exclude:

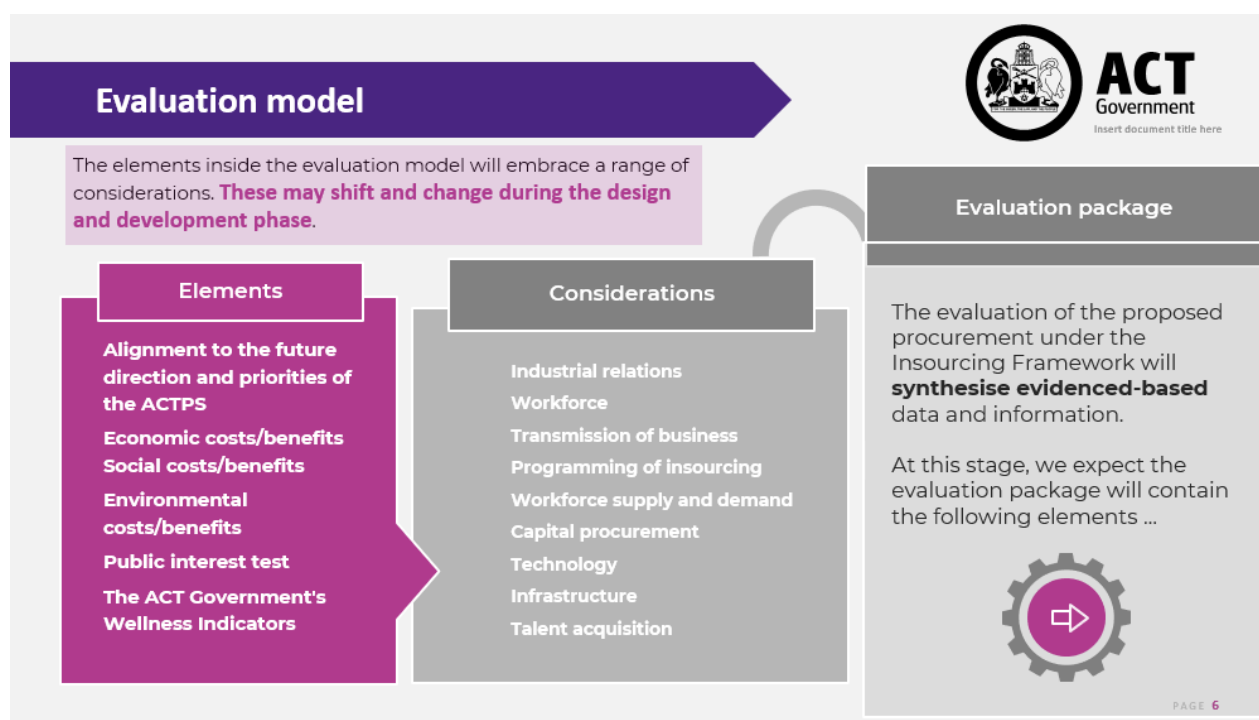
- certain Capital Works activities;
- grant-funding arrangements, and
- existing contracts which are not due for renewal.

What is the Insourcing Framework?

The Insourcing Framework will apply to a proposed procurement for services or works. The legislative scheme provides an opportunity to include by way of regulation a minimum value before a proposed procurement will be required to be considered under the Insourcing Framework. The Insourcing Framework will be a tool that will enable the ACTPS to evaluate whether a proposed procurement for service or works should be insourced (provided by the public sector), outsourced (provided by an external supplier) or a hybrid insourced/outsourced approach. Readiness to insource in respect to both timing and preparedness will be assessed for each applicable procurement.



There will be an evaluation model at the centre of the Framework. At this stage, it is envisaged the elements, considerations, and components of the centrepiece evaluation model will include:



We envision that users of the Framework will input data and information into the evaluation model. These will be considered in the evaluation along with additional factors outlined above. This information will result in a synthesised package produced by the Secure Employment team for the relevant Minister/s to consider.



How is the Insourcing Framework being developed?

The Insourcing Framework will be objectively and transparently built as a system-wide approach which is fit for purpose to the ACTPS. It will be developed in consultation with Directorates, Public Sector entities, Industry, unions and the not-for-profit sector. This will ensure that the design of the Framework reflects the decision-making features, considerations and dialogue that is expected when deciding how Government services or works are best delivered. To design the Framework in this way, the ACT Government will partner with a professional consultancy. The supplier will develop the Insourcing Framework including advice, development of evaluation methodology and conducting the pilot. The Statement of Requirements developed for the tender articulated parameters which are detailed in the Scope of Works at Appendix A.

Designing the Insourcing Framework

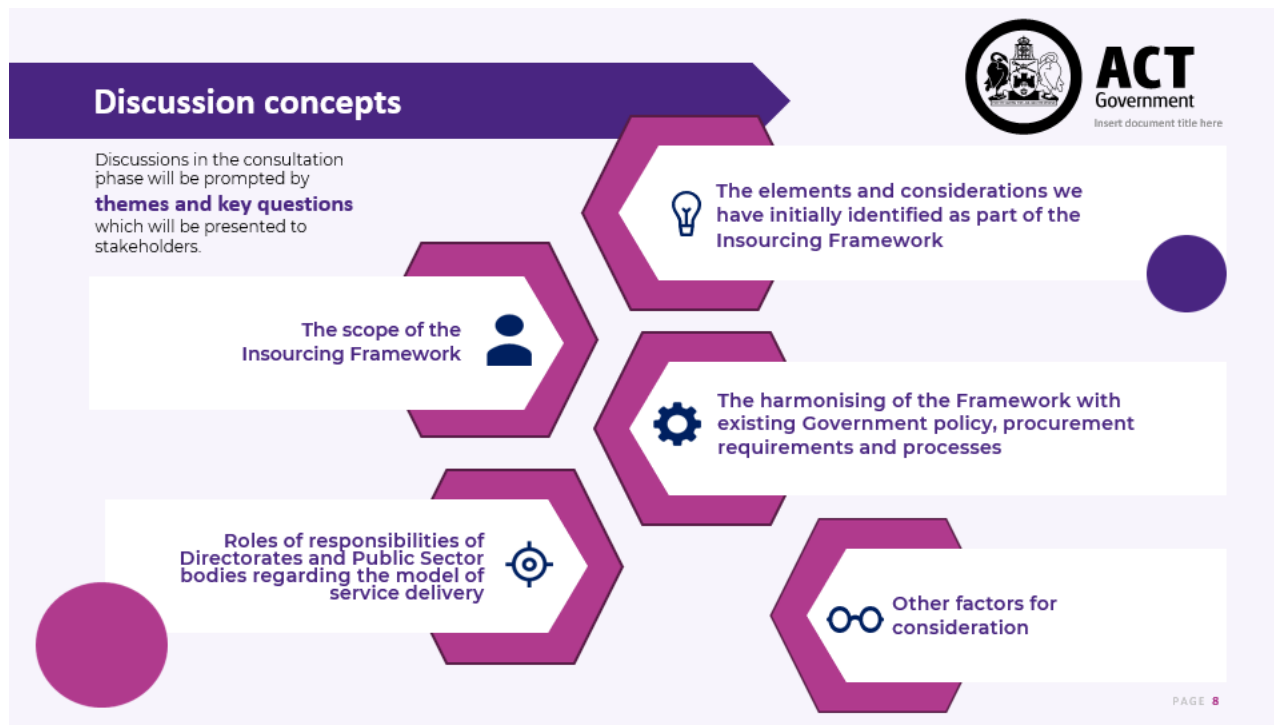
Objectively designing and developing the Insourcing Framework, it's pilot and evaluation methodology.



PART 3 - CONSULTATION

What will the consultation include?

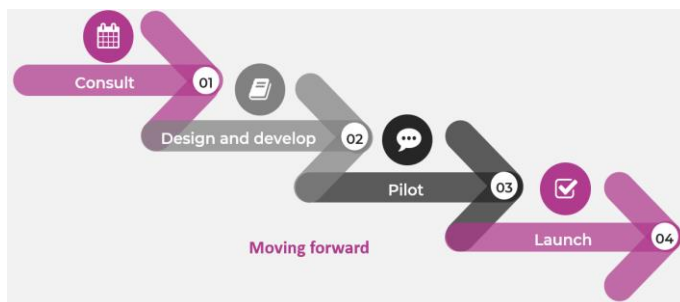
Discussions in the consultation phase will be prompted by themes and key questions which are presented in Discussion Paper #1 and below. The discussion will also be guided by the themes that arise from the insourcing lessons learned in a range of contexts, and from the perspective and issues raised by Directorates and Public Sector entities. The consultation will be guided by the supplier to achieve the scope of works (Appendix A).



PART 4 – THE JOURNEY TO IMPLEMENTATION

Implementation phases

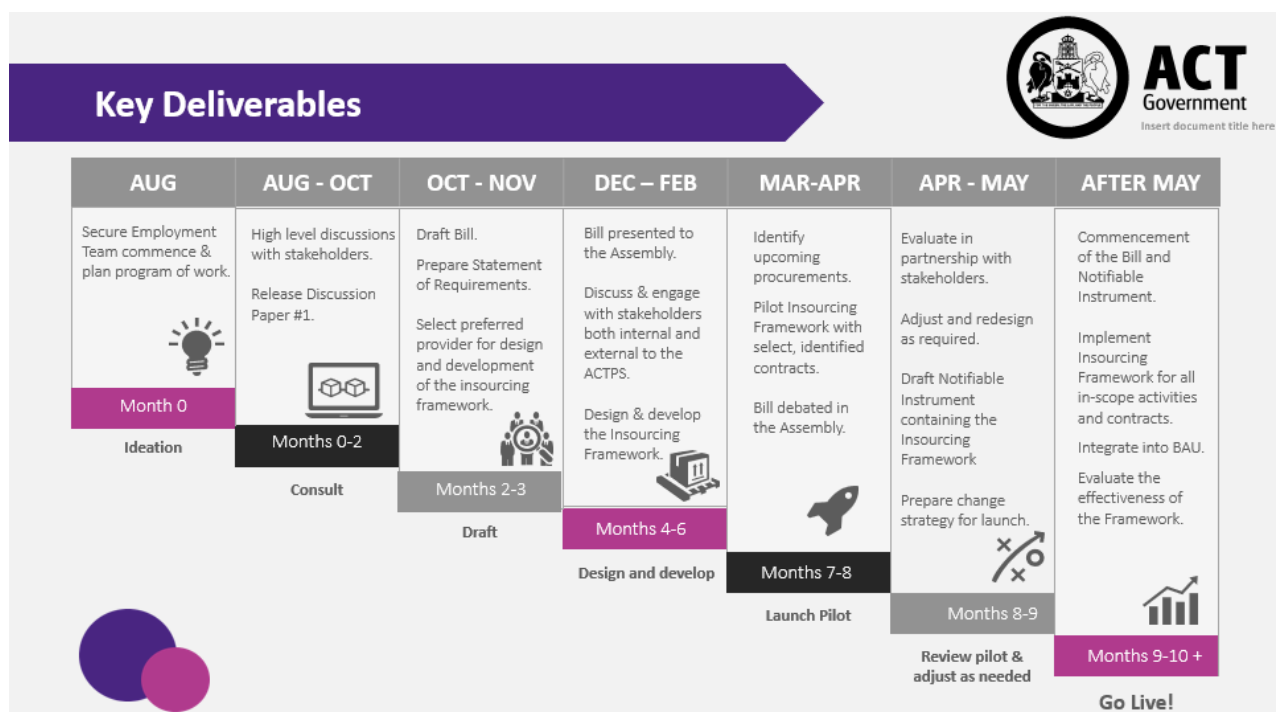
The Insourcing Framework will be implemented through four distinct phases, which includes a pilot prior to final 'go-live'.



When will the Insourcing Framework commence?

It is anticipated that the Insourcing Framework will be launched upon the promulgation of the Notifiable Instrument and commencement of the amendment to the *Financial Management Act 1996* as determined by the Chief Minister with the passing of the Bill. Expected timeframes are from mid-2022.

Broadly speaking, the key deliverables are:



APPENDIX A – THE SCOPE OF WORKS

The Insourcing Framework will be objectively and transparently designed. The scope of works being undertaken are detailed below:

ADVICE ON LEARNINGS FROM SIMILAR INSOURCING SOLUTIONS IMPLEMENTED BY PUBLIC SECTOR JURISDICTIONS IN AUSTRALIA AND GLOBALLY – DUE: NOV 2021

To support the operationalisation of the Insourcing Framework, leading edge, evidence-based, best practice research and business advice is required on:

- a) insourcing practice in public sector jurisdictions in Australia and globally, and
- b) learnings for the ACT Government.

This advice should synthesise what worked, and what did not work with relevant examples.

A FRAMEWORK FOR INSOURCING THAT MEETS THE EXPECTATIONS OF GOVERNMENT AND CATERERS FOR THE NEEDS OF THE ACTPS – DUE: END MAY 2022

As stated above, the Insourcing Framework will include:

- Guiding principles;
- Identification of factors underpinning the design of the Framework;
- An evaluation model at the core of its operation;
- Decision-making criteria;
- A mechanism for ensuring compliance and dealing with non-compliance;
- A process for using the Framework; and
- Clear linkages to existing procurement practices

The evaluation model at the centre of the Insourcing Framework should consider the following elements:

- Alignment to the future direction and priorities of the ACTPS;
- Economic costs/benefits;
- Social costs/benefits;
- Environmental costs/benefits;
- Public interest test; and
- The ACT Government's Wellness Indicators.

The Framework will include consideration of the pathway to insourcing. This includes factors such as:

- Industrial relations considerations;
- Workforce considerations;
- Transmission of business;
- Programming of insourcing (which may include short term outsourcing while planning is conducted and executed);
- Workforce supply and demand;
- Capital procurement considerations;
- Technology and intellectual property requirements;
- Infrastructure requirements; and
- Talent acquisition.

It is envisaged that users of the Framework will input data and information on the above elements into the evaluation model. These will be considered in the evaluation along with additional factors outlined above. This information will result in a synthesised package produced by the Secure Employment team for the relevant Minister/s to consider. At this stage it is anticipated that the package will contain:

- An evaluation of alignment to the future direction of the ACTPS;
- An analysis of economic, social and environment factors;
- An analysis of public interest;
- An analysis of market assessment;
- A benchmarking of current market salary and conditions;
- An analysis of the alignment of service aims/outcomes with each Territory entities' strategy, core business and activities;
- An assessment of our readiness to insource in respect to timing and preparedness;
- An assessment of the industrial relations considerations;
- An assessment of what component of current ACTPS workforce can be accessed and diverted into an insourced service through skills uplift, capability enhancement and mobility, agility and flexibility;
- An assessment of what future workforce is required to deliver the insourced service;
- An assessment of future workforce synergies, service improvements or savings that can be gained through mobility, agility and flexibility of the insourced workforce required for service delivery;
- A forecast of future service demand of the service, and
- An identification of current and future labour market supply and demand of the service.

IDENTIFY THE TYPE OF DATA REQUIRED TO SUPPORT DECISIONS WHEN USING THE INSOURCING FRAMEWORK – DUE: FEB 2021

This work concerns identifying quality data inputs for the Framework. The recommended list of data sources will enable us to establish clear policy direction with ACTPS and Public Sector entities on the data sources to submit information into the Framework's evaluation tool.

This will enable the ACTPS to utilise validated data sources in forming an evaluation recommendation for the relevant Minister/s. This will deliver consistent, quality-assured standards of inputs and evaluation information.

Deliverables: A report that includes:

- Recommended data sources that are critical to the operation of the Insourcing Framework.
- Business advice on the dependencies, connective points and sources of information that we currently do not have access to with the view to obtaining these to ensuring the success of the Framework.
- Recommendations on how to harmonise the information required by the Insourcing Framework and other key Government initiatives.

CONDUCT THE INSOURCING FRAMEWORK PILOT THAT WILL ADEQUATELY TEST AND VALIDATE THE INSOURCING FRAMEWORK'S EFFICACY – DUE: MAR-APR 2022

A small number of pilots will be undertaken to test the Insourcing Framework. The pilot will enable the Secure Employment team to evaluate whether the Framework meets the objectives set out above including its ability to:

- Assess alignment with the future direction and priorities of the ACTPS;
- Assess readiness to insource in respect to timing and preparedness;
- Ensure compliance and deal with non-compliance;
- Assess the suitability of service delivery for government work;
- Identify long-term service demands;
- Identify issues if a market or service is not competitive;
- An assessment of the industrial relations considerations
- Include job security and certainty in employment conditions as factors;
- Deliver on flexibility in making changes or adjustments to services, and
- Answer whether there are opportunities for synergies, service improvements or savings through workforce mobility.

As part of this deliverable, current procurements in scope for the Insourcing Framework will need to be scrutinised. The Insourcing Framework pilot must align the Framework's parameters to ensure success and harmonise with existing policy commitments.

Deliverables:

- Conduct and deliver the Insourcing Framework pilot that will adequately test and validate the Insourcing Framework's success.
- Identify the requirements, processes, timings, critical elements, and project plan to ensure the Insourcing Framework can be successfully implemented as scheduled.
- Make recommendations for the BAU operationalisation of the Framework, including identification of resources required (staffing and systems).
- Design the Insourcing Framework ongoing evaluation methodology that will adequately test and validate the Insourcing Framework's success on an ongoing basis.

AN EVALUATION METHODOLOGY TO ASSESS THE PILOT AND WHETHER THE INSOURCING FRAMEWORK IS MEETING EXPECTATIONS – DUE: FEB 2022

The evaluation methodology is key to ensuring the Framework is continually improved and aligned to Government's commitments. Integration of quality controls is key to transparency, instituting good governance and applying due diligence in the operation of the Framework.

Evaluation will be a crucial activity supporting:

- the pilot's success; and
- at regular intervals as BAU after the Framework's launch.

Deliverables: Develop an evaluation methodology that will enable the Secure Employment team to quality control, review and evaluate the operation of the Framework. The evaluation methodology should:

- consider evidence-based best practice that utilises lessons learned in public sector jurisdictions where a similar model has been implemented;
- be able to be used for the pilot and ongoing; and
- be tailored to the Territory's requirements.

REFERENCES

The relevant sources referenced in this Discussion Paper are:

- [ACT Labor Policy Position Document](#), October 2020.
- ACT Government, *Canberra: A statement of Ambition*, 2016.
- ACT Government, [ACT Wellbeing Framework](#).
- [ACTPS Enterprise Agreements](#).
- [ACTPS Fact Sheet Understanding Casual Employment](#).
- [ACTPS Policies and Guidelines](#).
- [ACTPS Secure Workforce Conversion Overview](#).
- [ACTPS Secure Workforce Conversion Policy](#).
- CMTEDD, Secure Employment Discussion Paper #1, August 2021.
- [Fair Work Amendment \(Supporting Australia's Jobs and Economic Recovery\) Act 2021](#).
- [Fair Work Ombudsman Casual Employment Information Statement](#).
- *Fair Work Act 2009 (Cwlth)*.
- *Fair Work Regulations 2009 (Cwlth)*.
- [Parliamentary and Governing Agreement, 10th Legislative Assembly, Australian Capital Territory](#).
- *Public Sector Management Act 1994 (PSM Act)*.
- *Public Sector Management Standards 2016 (PSM Standards)*.

Approval Authority

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December 2021



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DECEMBER 2021