



ACTPS Secure Employment Discussion Paper

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INTRODUCTION

The Government's Commitment

The current ACT Government outlined the following policy commitments 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).

Forward from Mick Gentleman

Minister for Industrial Relations and Workplace Safety

Implementing the Government's commitments

The ACT Government has an ambitious program of reform, designed at implementing more secure employment within the ACT Public Sector (ACTPS¹). We are at the beginning of this journey, which started with our focus on job security for our existing workforce – implemented through the enterprise agreements. The wholistic approach to casual and temporary conversion will continue in partnerships with unions and will also require us to think about how we design work in new ways. As we will need to employ our staff differently, it naturally leads us to prioritise the question of how we can maximise our current and future workforce. We are compelled to understand how we can structure work to attract the right talent; best invest in our existing employees; and to cater for future change with broad skillsets. Workforce capability, flexibility and mobility are key themes in this domain.

We are also in a time of fast-paced, transformational change, where wellbeing, agility and flexibility will contribute to high performance and sustainability. Our future focus will not only be on workforce capability, but on embracing new directions on work design, work/life balance, strategies that harness potential and rethinking how we work in teams.² The Government's preference towards internal resourcing aligns with these new ways of thinking. The Secure Employment Framework is a key deliverable of the Government's election campaign commitments regarding the use of privatised services and plays a role in shaping how we deliver the work of the ACTPS in the future. This complements the conversion arrangements in the ACTPS enterprise agreements favouring internal employment.

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

² Deloitte, *The social enterprise in a world disrupted: Leading the shift from survive to thrive. Global Human Capital Trends*, 2021.

The Secure Employment Framework has a two-fold focus:

- 1) Legislate and introduce a whole-of-Government policy to prevent the outsourcing and privatisation of public sector jobs where they can be performed by public servants, and
- 2) Implement secure employment within the ACTPS by assessing temporary and casual positions to determine if they should be converted to permanency. The existing work of casual and temporary conversion is currently undertaken by the Insecure Work Taskforce, which from August onwards, will be converted into the new Secure Workforce Conversion Policy, in line with amendments to *the Fair Work Act 2009* (FWA).

This discussion paper focusses on the first element which is known as the Insourcing Framework. The Insourcing Framework is the central element of the consultation process by CMTEDD with stakeholders. The paper presents the issues and considerations in implementing the required legislative reform and is structured with discussion points that will guide the initial consultation. The paper is intended to highlight the key factors that will be considered in the design deliberations. Several questions are raised in the discussion paper which relate to issues that may be particularly important in determining the appropriate policy response. The responses to these questions will contribute to the development of the Insourcing Framework.

The objectives of the secure employment program of work are to:

- Ensure the Insourcing Framework and the Secure Workforce Conversion processes support the Government's election commitments;
- Design a mechanism that aligns with building workforce capability in the ACTPS;
- Deliver legislative change that is required to cater for a comprehensive assessment process which is engineered to shift practice to insourcing where possible; and
- Ensure the Insourcing Framework aligns with the benefits of administrative reform regarding secure employment.

A small team has been established in CMTEDD to develop and implement the body of work required to establish our approach to secure employment across the ACTPS. Constructive feedback and debate will contribute to the overall design of a whole-of-government Insourcing Framework that will deliver the Government's commitment.

APPLICATION

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

PART 1 – THE RATIONALE FOR INSOURCING

Alignment with ACTPS Values

By implementing a whole of Government approach that supports insourcing with sustainable long-term change, we have a unique opportunity to embrace our values. This contributes to unifying our workforce and adopting signature behaviours which guide the design of our work and how we work.

Respect - Embedding objectivity, transparency and accountability in the design and operation of the Insourcing Framework.

Integrity - Ensuring that Government services assessed through the Insourcing Framework reflects what it means to be an ethical employer.

Collaboration - Continuing with and building on workforce capability across the ACTPS and with unions and industry.

Innovation - Utilising the Insourcing Framework to think differently and challenge ourselves to go 'outside the box' when implementing the model best suited for the delivery of Government services.

Why implement an Insourcing Framework?

Governments in the UK, Canada and here in Australia have moved to insourcing previously contracted-out government services. Emerging evidence suggests that assessing the appropriate model for how a Government service should be delivered is critical to ensuring that objectives are achieved. The UK and Canada examples have been implemented, with significant movement towards insourcing notable since 2011 and are evidence that benefits such as better employment conditions, secure employment outcomes, flexibility, greater control, synergies and alignment to core business can be achieved.³

The ACTPS Insourcing Framework will:

- **Assess the suitability of service delivery for government work -**

The Insourcing Framework will be thoughtfully constructed to ensure that every element is designed to objectively assess how suitable a particular service is for insourcing, outsourcing or a hybrid model.

³ Strategy and Transformation Office CMTEDD, *Insourcing government contracts Case studies*, 2021.

- **Place 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 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 and will embed wellbeing considerations in the development of 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 bodies 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 to this assessment.

- **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 cater for these factors in the decision-making criteria.

- **Provide opportunity for direct alignment with core activities –**

Through the Insourcing Framework, Directorates and Public Sector bodies will conduct a thorough review of services and contracts which have served their term, presenting the opportunity to directly align services with core activities.

- **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, service improvements or savings through workforce mobility -**

At the core of the Insourcing Framework will be an assessment model. The model will prompt analysis of opportunities for internal synergies, improvements, or savings through mobility, which may result in advantages at the Directorate/agency level, and across the ACTPS.

PART 2 - THE INSOURCING FRAMEWORK

What is the Insourcing Framework?

The Insourcing Framework will be fit for purpose to the ACTPS context and developed in consultation with Directorates, Public Sector bodies, unions and industry. This will ensure that the design of the Framework features the elements required when considering how Government services are best delivered.

Like anything new, the look and feel of the Framework will develop over the course of the consultation phase. At this stage, we anticipate that the Framework will include:

- Legislative basis;
- Guiding principles;
- Identification of factors underpinning the design of the Framework;
- An assessment model at the core of its operation;
- A targeted workforce capability investment logic;
- Decision making criteria;
- Responsibilities of all Directorates and Public Sector bodies;
- A descriptor of delegations;
- A tailored process for using the Framework;
- Training in its use; and
- Clear linkages to existing procurement and participation policies and processes.

What is the scope of the Insourcing Framework?

Without limiting the discussion, the Framework includes the following:

IN-SCOPE	OUT-OF-SCOPE
Any contract with a procurement threshold of \$200,000 and above	Grant-funding arrangements
New Contracts, including renewals	Procurements managed by Major Projects Canberra
Same industries as in the <i>Government Procurement Act 2001</i>	Existing contracts

PART 3 - CONSULTATION

What will the consultation include?

Discussions in the consultation phase will be prompted by themes and key questions which are presented below. The discussion will be guided by the expected components of the Insourcing Framework which at this stage are:

- The scope of the Insourcing Framework;
- The elements we have initially identified as part of the Insourcing Framework;
- The harmonising of the Framework with existing procurement policy, requirements and processes;
- The roles of responsibilities of Directorates and Public Sector bodies regarding the management of service model delivery; and
- Other factors for consideration.

These have been broken down further into essential elements which will form part of the Insourcing Framework package. They are:

- Guiding principles;
- Identification of factors underpinning the design of the Framework;
- An assessment model at the core of its operation;
- Decision making criteria;
- Responsibilities of all Directorates and Public Sector bodies;
- A descriptor of delegations;
- A tailored process for using the Framework; and
- Clear linkages to existing procurement and participation policies and processes.

Discussion Concepts

Themes that will guide the discussion in relation to the consultation scope are posed to Directorates and Public Sector bodies and unions. Together we will discuss the considerations which are informed by lessons learned in the Australian, UK and Canadian contexts and current commentary in academic literature.

Guiding principles		
Theme	Considerations	Discussion Questions
Government policy	Social and economic impacts, the competitive nature of the market, alignment to core Government business and cost implications to Government are key discussion points.	Generally speaking, what Government functions should be translated into services which then should be insourced or outsourced? What value should be attached to the public interest?

Best practice	Where new services or renewal of existing contracts come up for tender, productivity – the effectiveness/efficiency of the service is of great importance.	<p>How should 'best value' be defined?</p> <p>How should 'best value' be assessed?</p> <p>What factors /criteria should be included?</p>
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Identification of factors underpinning the design of the Framework		
Theme	Considerations	Discussion Questions
Building workforce capability	Secure and direct employment arrangements need to be prioritised in how best to manage projects and deliver services.	<p>How can positive industrial relations practices be achieved through the Insourcing Framework assessment process?</p> <p>What factors should be prioritised in the character of the future workforce to cater for future changes in service delivery?</p> <p>What points of proof support the determination that there is capacity to securely employ and upskill in-house staff?</p>
Purchasing principles	By design, the Insourcing Framework must intersect with the procurement process in a way that achieves the Government's commitments.	What practical elements need to be taken into consideration in respect to the alignment between the Insourcing Framework and the purchasing principles?

An assessment model at the core of its operation		
Theme	Considerations	Discussion Questions
Transparent	Accountability and lines of responsibility are key elements of the way the Insourcing Framework operates.	What features will assure Directorates and Public Sector bodies of the transparency the Insourcing Framework?
Objective	The intention of the Insourcing Framework is to embed objectivity in the assessment outcome and resulting service delivery model decision.	What features will assure Directorates and Public Sector bodies of the objectivity of the Insourcing Framework?
Comprehensive	The Insourcing Framework needs to address all the relevant elements that are required for a trusted assessment outcome and decision.	What features will assure Directorates and Public Sector bodies of the comprehensive nature of the Insourcing Framework?
Unique	The principles of the Framework should support the unique nature of services.	How should the Framework cater for unique requirements across the ACTPS?

Decision making criteria		
Theme	Considerations	Discussion Questions
Government policy	The relationship between outsourcing/insourcing and Executive responsibility in the delivery of Government services is fundamental to deciding the best mode for delivering such services to the community.	<p>Within the scope already identified in this paper:</p> <p>What should the Insourcing Framework apply to?</p> <p>What should the Insourcing Framework not apply to?</p>
Purchasing principles	The assessment outcome and decisions require comprehensive information to be submitted.	How should the Framework adequately capture comprehensive information about procurements?
Documented inputs and outputs from the assessment process	As with any assessment model, the quality of the assessment result is dependent upon the inputs. How the output (assessment result) is framed will impact on how the assessment outcome can be used to inform decisions.	<p>What inputs are required into the model for the assessment?</p> <p>What assessment outcome information should the assessment model provide back to Directorates and Public Sector bodies?</p>
Consistency in assessments	Identifying common factors used in other assessment models overseas and in Australia will help inform best practice and provide a benchmark for elements which will result in consistency.	What is needed to ensure consistency in the assessment outcome?

Responsibilities of all Directorates and Public Sector bodies		
Theme	Considerations	Discussion Questions
Portfolio Ministers	The Executive branch implements Government policy. Ministers are responsible for their portfolio areas and are collectively responsible for the decisions of Cabinet.	Which decisions will Ministers be responsible for in the assessment process?
Directorates and Public Sector bodies	Accountability in decision making ensures the Government's commitment will be met.	Where should Directorates and Public Sector bodies have control and influence over decisions?

A descriptor of delegations		
Theme	Considerations	Discussion Questions
Powers and functions	Clearly outlined criteria are necessary to embedding objectivity, transparency and accountability in any decision-making process.	What factors need to be considered in relation to the powers and functions of delegates?

Decision makers	Smooth operation of the Insourcing Framework will rely on the appropriate decision makers being involved in the assessment process.	Are there any unusual factors that need to be considered regarding the decision makers?
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A tailored process for using the Framework		
Theme	Considerations	Discussion Questions
Procurement ACT	The interface with Procurement ACT will be crucial to the smooth operation of the Insourcing Framework.	How will the Framework harmonise with existing procurement policies?
Usability	The design phase will work on streamlining processes and synergising where possible.	What factors might impact on the usability of the Framework?

Clear linkages to existing procurement and participation policies and processes		
Theme	Considerations	Discussion Questions
Procurement ACT	Having clear and practical intersection points and linkages that are streamlined into existing processes will impact on how the Framework will operate.	How and where should the Framework link to purchasing principles, existing procurement policies and processes?
Directorates and Public Sector bodies	All Directorates and Public Sector bodies will be included in the application of the Framework. Unique factors identified in consultation will be considered in the design phase.	Are there any unique factors that need to be included from a Directorate and Public Sector body perspective regarding procurement policy and processes?
External stakeholders	In line with the unique factors, identifying relevant external stakeholders who need to be included in the design phase (and the rationale for this) is important.	Should external stakeholders be included in the linkages between the Insourcing Framework and the procurement process?
Service delivery	When the service delivery model shifts, workforce, market factors, infrastructure and technology (to name a few) all take time to build and establish. Transitional arrangements are key to successful change.	In the scenario that service delivery model needs to shift, what, if any transitional arrangements should be in place to cater for continued service delivery?

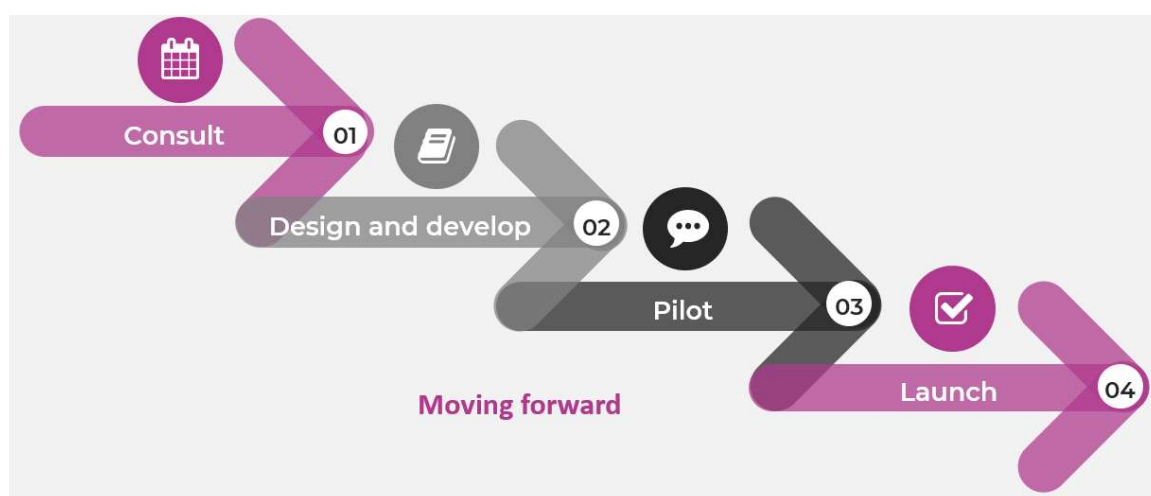
Other factors for consideration		
Theme	Considerations	Discussion Questions
Outsourcing to insourcing	Transmission of business and industrial factors need to be included in the discussions.	What factors will clearly demonstrate that insourcing is in the public interest'; and competitive on an overall 'best value' basis?

Insourcing to outsourcing	The Government has made a commitment to enshrine ACTPS conditions in services which move from insourced to being outsourced.	What factors will clearly demonstrate that it is in the public interest that services should be contracted out?
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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?

We anticipate that the Insourcing Framework will be launched in May 2022. Our key deliverables are:

AUG	AUG - OCT	SEP - NOV	DEC	JAN - FEB	MAR	APR - MAY
Secure Employment Team commence & plan program of work.	Discuss & engage stakeholders: • Directorates and Public Sector bodies • Unions • Industry	Introduce Bill in conjunction with Parliamentary Counsel's Office. Procure assessment model. Draft components.	Finalise draft Insourcing Framework. Build Insourcing Framework package. Build pilot with stakeholders.	Identify upcoming procurements. Trial Insourcing Framework with select, identified contracts.	Evaluate in partnership with stakeholders. Adjust and redesign as required. Prepare collateral and marketing for launch.	Implement Insourcing Framework for all in-scope activities and contracts. Integrate into BAU. Evaluate the effectiveness of the Framework.
						
Month 0	Months 0-2	Months 1-3	Month 4	Months 5-6	Month 7	Months 8-9
Ideation	Consult	Design and develop	Insourcing Framework Package Finalised	Launch Pilot	Review pilot & adjust as needed	Go Live!

REFERENCES

The relevant sources referenced in this Discussion Paper are:

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- ACT Labor Policy Position Document, [act-labor-policy-position-document-updated-141020.pdf \(actlabor.org.au\)](#), October 2020.
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Approval Authority

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