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# Submission to Consultation on Broader Economic Benefits Guidance in Procurements

## Introduction and Summary

TechnologyOne appreciates the opportunity to comment regarding guidance on the consideration of broader economic benefits in the Commonwealth Procurement Rules.

Improved guidance is necessary and urgent to support procurements – especially technology procurements – for two reasons.

Firstly, the guidance is inadequate to deliver the policy objective of the requirement at 4.7 that broader economic benefits are considered in procurement decisions, especially in technology procurements. The existing requirement lends itself to simplistic, direct measures such as direct employment and spending on local suppliers. This over-simplification risks creating distortions that disfavor some businesses and those with the most modern solutions. For example, firms established locally may not be required to recruit as many staff, and the benefits from modern systems may introduce more automation, efficiency and standardization, making them simpler to implement and less labor intensive to operate, releasing resources to other functions. TechnologyOne has seen examples of this distortion in procurement processes.

Secondly, in the absence of effective guidance to value the more broadly the economic contribution of tender respondents, there exists an unfair competitive environment biased in favor of overseas providers. Respondents bearing costs associated with delivering additional benefits to the Australian economy (e.g tax and R&D investment resulting in domestically owned IP) do not have these costs offset through a recognition of the value of these benefits. This is inconsistent with both the intention of Rule 4.7 and the procurement non-discrimination principle.

## Understanding Economic Benefits, Deficiency in Existing Guidelines and Competitive Discrimination

TechnologyOne submits that a more effective assessment of the economic benefits that would result from a procurement decision is crucial to ensuring the CPRs are applied in a way that both achieves the objectives of Rule 4.7 of the guidelines and Government policy, and addresses existing market distortions in Government procurement.

The requirement for the rules to be applied in a way that does not discriminate against suppliers based on their nationality should be expected to address both positive and negative discrimination.



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For example, at present, an organization that is organized in such a way as to pay no or minimal tax in Australia is at an advantage to an organization that does pay Australian tax as a resident taxpayer. The tax the non-resident business returns as a cost of supply in Australia for a given product or service is lower than that paid by a resident Australian provider.

The Government has recognized this is a relevant consideration in procurement. Tax residency has been reportable in procurements over $200,000 since 2023, but this is not a weighted consideration and is not part of the guidance for assessing Rule 4.7. This is an obvious anomaly that should be corrected.

Similarly, the existing guidance provided to the CPRs specifically refers only to a requirement to value Intellectual Property transferred to Australia.

TechnologyOne strongly agrees IP is a crucial economic benefit that should be valued. Access to IP is the foundation of a modern, balanced economy.

But if the value of IP transferred to Australia for use under a specific contract should be considered in a procurement, IP invented, developed and commercialized, and owned in Australia should, by definition, be not only considered but also valued more highly.

This would directly support the investment in R&D required locally to create and commercialise ideas, and support future export potential.

Economic benefits that are derived from procurements from Australian technology businesses that should be considered when assessing offers to supply include:

- Locally conducted R&D
- The creation of Australian owned Intellectual Property
- Investment in local skills development
- Higher propensity to pay tax through Australian residency
- Local employment
- Local training
- Greater domestic wealth creation through shareholder returns
- Higher economic multiplier

A firm conducting all of these activities locally would clearly be contributing greater economic benefit than one not. Equally, they would be incurring more cost locally that had to be recognized and recovered as a cost of sale locally.

Suppliers conducting these activities overseas can avoid these local costs. Failing to recognize the benefits not only misses important values one provider might deliver over another, but also has the unintended outcome of placing suppliers conducting more of these activities in Australia in a disadvantaged competitive position.

TechnologyOne therefore submits any meaningful comparison of the broader and retained economic benefits between competing offers to supply must consider these factors for both of these reasons.

The relative importance of these factors as an economic contributor is likely to be different between industries. The economic value from a contract in the construction sector is likely to be more heavily weighted to local jobs and trade-based training opportunities. The enduring economic value from a contract in the ICT sector is likely to be more heavily weighted to the domestic creation and retention of IP.

## Approach 1: Listing Benefits

One approach to correcting this gap in the guidance could be to simply provide procuring officers an expanded list of factors from which economic benefit is derived to which they must give weighed consideration, based on the above. This list is likely to be weighted differently in the ICT sector to some others, as per the above point.

For example, the weighted value of IP created and retained in Australia would be the sources of greatest retained economic benefits in the ICT industries. Jobs and apprenticeships may be the highest value in a large construction project.

For the purpose of determining if community wealth is created through shareholder returns, public companies could simple be asked if their primary listing was on the ASX, or, for private companies, if they were at least 51 percent Australian owned. This could be weighted as higher in industries recognized as critical.

This list of benefits to be taken into account could be provided to procuring officers in the form of a drop-down menu in priority according to weighted importance. These could largely be provided as yes/no questions, with a total score calculated at the end, based on the simple total of “yes” responses.

This would have minimal impact on the administration burden for either respondents or procurement officers and provide little room for ambiguity or lack of clarity.

## Approach 2: Calculating Retained Economic Benefit

An alternative approach would be to seek to capture the retained economic benefit from a procurement through a measure of the local wealth created from revenue derived under a specific contract. This could be achieved by applying established market metrics.

An example of a methodology to measure economic benefits more fairly in procurement processes was created and supported by an industry alliance in a paper provided to the NSW Government Sovereign Procurement Taskforce in 2020. This is in the attached report on Page 8 and is partially extracted as Appendix A below for your convenience.

Equity markets capture the relationship between revenue (i.e a contract value for this purpose) and wealth creation through the price-sales ratio.

The price-sales ratio represents an established, accepted market measure of the economic benefit – or wealth – derived from sales which could be applied to procurement processes. This would require minimal additional administrative effort and would require little discretion on the part of procurement officers if they were provided with annual benchmark multiples for industries, derived from public markets.



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For example, if a contract relates to a procurement in an industry that has a benchmark price-sales ratio of 4, the wealth created by a procurement valued at $200,000 would be $800,000.

It would require a question to the effect of:

"Is the organization public and, if so, is its primary listing on the ASX (i.e not a subsidiary of an overseas company? If the company is private, is it at least 51 percent Australian owned?"

If the answer to either question is yes, a benchmark industry multiple could be used to calculate the wealth effect of the procurement. These benchmarks could be calculated annually and published by the Department of Finance.

The NSW Taskforce then used this benchmark to derive an estimate of the wealth creation impact of a procurement response.

## Thresholds

The recent reduction in the threshold for Rule 4.7 for all non-construction procurements is welcome. The previous threshold of $4 million was too high and precluded the vast majority of ICT contracts. In so doing, it denied the community the opportunity to gain value from the broader economic benefits that might derive from most ICT contracts.

However, both for consistency and to give better reflect the economic benefit derived by the community of procurements of different values, we believe further changes should be implemented.

We recommend the requirement to consider broader economic benefits as a weighted consideration starts at 10 percent for procurements of $200,000 to $2 million in value, rising to 20 percent for $2 million to $5 million and 30 percent for above $5 million.

Establishing the initial tier at $200,000 brings the measure into line with the threshold at which tax residency must be reported. Given that this is a fundamental contributor to broader economic benefits, it makes sense to use this as the initial benchmark threshold for Rule 4.7 to apply as a requirement.

The increased weightings represent the greater economic impact of procurements as the quantum of taxpayers' money spent rises in value.

We believe this proposal, properly framed and based on either of the above proposed approaches will not materially increase the compliance burden on either industry or procurement officials. It would, however, have a material impact on the overall economic benefit flowing to the broader community and economy from spending by the Federal Government.

## Panels

Given the increasing proportion of ICT procurement that can only be undertaken through panels, the important contribution these industries make to present and future economic welfare, and the minimal administrative burden from either of the two proposed approaches above, we believe the broader guidance on economic benefits should be incorporated into those panels as a matter of urgency.



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We recommend those on the panels are asked to respond to the questions for inclusion in the information provided on the panels as soon as the CPR guidance is updated, and that this information is published prominently to procurement officers using the panel, as a reminder of their obligation to consider these factors in their buying decisions.

## Conclusion

The Government has repeatedly made clear its position that broader economic benefits should be considered in procurements by Government agencies. The guidance in the CPRs is inadequate to achieve this outcome. Worse, the guidance could have the unintended effects of both putting Australian providers at a competitive disadvantage by valuing economic contribution from overseas providers but not from Australians, and result in buying choices in favor of proposals that provide lower economic benefit.

The guidelines can be made more effective through either a greater level of specificity and ranking of types of economic benefits, which would likely be differently ranked and weighted for different industries, or through a single calculation of retained economic benefits based on equity market valuations.

TechnologyOne would be pleased to contribute further to this process if the Department believes we can be of assistance.

Please contact:

[redacted]

[redacted]

Appendix A

The Retained Economic Benefit is the sum total of the following as a result of the procurement:
• the estimated direct pay of Australians including temporary and permanent residents
• the estimated direct tax paid within Australia
• national wealth creation - the estimated increase in value to market capitalization of sovereign companies based on industry market valuations as a result of direct spend
• the estimated direct spend with Australian companies that are not the seller

Where 1/10th of the Retained Economic Benefit is divided by the Total Procurement Value. (The 1/10th adjustment is means that the "multiplier effect" is not recognised above 10x)

$$\frac{Retained\ Economic\ Benefit}{Total\ Procurement\ Value} \times 0.1$$

At the start of the Australian Financial Year an independent party would determine the public market (ASX where available) sector rates for ICT/digital valuations, for example:
• Resellers: 0.1 x revenue
• System Integrators: 1 x revenue
• SaaS: 5 x revenue
• IaaS: 15 x revenue
• Data Centre: 30 x revenue

For a $1m procurement example of an Australian SaaS service, the Retained Economic Benefit would be the sum of:
• Pay, $300,000 in implementation staffing costs
• Tax, $100,000 in taxes
• Wealth, $4.75 million ($0.95 million at a 5x multiple)
• Spend, $50,000 on third party contractors

This creates a total of $5.2 million in Retained Economic Benefit to Australia

Where the total procurement value is $1m and the Retained Economic Benefit is:
• $0.5m the seller would get 5% of the evaluation criteria
• $1.0m the seller would get 10% of the evaluation criteria
• $2.0m the seller would get 20% of the evaluation criteria
• $5.2m the seller would get 52% of the evaluation criteria
• $10.0m the seller would get 100% of the evaluation criteria



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