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SENATE

Official Committee Hansard

FINANCE AND PUBLIC ADMINISTRATION LEGISLA-
TION COMMITTEE

Consideration of Estimates

MONDAY, 24 NOVEMBER 1997

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SENATE

Monday, 24 November 1997

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Portfolios: Parliament; Prime Minister and Cabinet; Finance and Administration

Members: Senator Gibson (*Chair*), Senator Murray (*Deputy Chair*), Senators Heffernan, Lundy, Ray and Watson

The committee met at 8.07 p.m.

DEPARTMENT OF FINANCE AND ADMINISTRATION

Proposed additional expenditure, \$157,853,000 (Document A).

Proposed additional expenditure, \$27,220,000 (Document C).

Consideration resumed from 20 November.

In Attendance

Senator Hill, Minister for the Environment

Department of Finance and Administration—

Program 10—OGIT

Ms Glenys Roper, Acting Chief Government Information Officer

Dr Diana Banks, Assistant Secretary, Telecommunications and Government Systems

Ms Anne Steward, Assistant Secretary, Strategic Planning and Policy

Mr Steve Fielding, Project Director, Year 2000 Project Office

Program 11—OAS & IT Outsourcing

Mr Mike Hutchinson, Chief Executive

Mr Peter Elliott, Business Manager

Mr Simon Lewis, Acting Executive Director, Aviation and Defence Industry

Mr Robin Renwick, Acting Senior Director, Aviation and Defence Industry

Mr Tony Eaton, Acting Senior Director, Aviation and Defence Industry

Mr Clive Davidson, Executive Director, Telstra

Ms Jan Mason, Senior Director, Telstra

Mr David Yarra, Senior Director, Telstra

Mr Greg Cunningham, Director, Telstra

Mr Jonathan Hutson, Acting Executive Director, Trade Sales

Mr Mark Heazlett, Senior Director, Trade Sales

Ms Judy Hurditch, Special Adviser, Trade Sales

Ms Alyson McGlynn, Director, Trade Sales

Ms Rhondda Purtell, Director, Trade Sales

Mr Ross Smith, Executive Coordinator, IT Outsourcing

Mr Mike Herron, Assistant Secretary, IT Outsourcing

Ms Gillian Marks, Executive Director, IT Outsourcing

Ms Trixie Makay, Acting Assistant Secretary, IT Outsourcing

Mr Tim Stafford, Director, Administration, IT Outsourcing

CHAIR—I declare open this public hearing of the Finance and Public Administration Legislation Committee. Today we are continuing our consideration of the additional estimates and we will be examining programs 10 and 11 of the finance and administration portfolio. I welcome Minister Hill and officers from the finance and administration portfolio.

It is proposed that because there are probably only a few questions in the first half of program 11, the Office of Asset Sales, we will start with that first and thereby excuse those officers from this hearing. We will then go back to program 10, the Office of Government Information Technology, and then finish off with the IT outsourcing in program 11. Minister, did you have an opening statement?

Senator HILL—No.

Program 11—Office of Asset Sales

Senator LUNDY—With respect to the structure of the Office of Asset Sales and Information Technology Outsourcing, what is the structural split within that office? I want to get that clarified so I am not forgoing any opportunities later on.

Mr Hutchinson—The amalgamation of the former Office of Asset Sales with the information technology outsourcing project office from the former OGIT is still being developed. It will be a couple of weeks before we settle it down but, very broadly, there are three groups within the former Office of Asset Sales which execute asset sales projects and there are three branches within one group of the information technology outsourcing project office that will be brought together in collocated premises within the next two weeks. However, until recently the functions have been managed separately and it is only in the last two weeks that we have started to put in place any integration between the two groups.

Senator LUNDY—What is the relationship with the offices of the former Office of Asset Sales and the new part, IT Outsourcing? Is there any overlap, apart from you in terms of your management?

Mr Hutchinson—At the moment, the overlap is in terms of me and my responsibilities and the joint responsibilities of the accounting and administration functions. We are starting to develop joint responsibilities in respect of policies, procedures, audit, accountability, and things of that sort.

Senator LUNDY—In terms of the original schedule, we were notified that it was Office of Asset Sales and IT, as distinct from the whole group. I have a couple of questions for the Office of Asset Sales as distinct from IT. They go to seeking confirmation from the Office of Asset Sales that all issues relating to due diligence for the Telstra float were in fact adhered to and the appropriate information supplied, particularly with respect to federal legislation.

Mr Hutchinson—Sorry, particularly with respect to?

Senator LUNDY—Federal legislation, federal bills.

Mr Hutchinson—The due diligence process for the Telstra sale is a process that is put in place to ensure that the prospectus meets the requirements of both Australian corporations law

and corporations law in other jurisdictions where the offer is being made; in particular, the Securities and Exchange Commission of the United States. It is a series of processes which draw upon the Commonwealth and the company to ensure that all material issues are addressed, considered, and included in the offer documents where they are relevant and material.

The process was chaired by a leading investment banker engaged by the Commonwealth for that purpose. The committee has had representation from the Commonwealth, the company, the Commonwealth's lawyers, both domestic and international, and the company's lawyers, both domestic and international, and there was representation in the process from the Office of Asset Sales and the Department of Communications and the Arts in order to ensure that all the information that should be disclosed in the process was disclosed.

A series of contacts was made with all Commonwealth agencies and departments of relevance to ensure that they understood the materiality tests that were being applied and that information was disclosed to the committee for consideration.

It is our view that the due diligence process has been executed satisfactorily. It has certainly been attested to by legal sign-offs by our legal advisers. However, the ultimate test of any due diligence process is only if it is ever challenged at law. There has been no suggestion of any challenge at law to this point.

Senator LUNDY—Minister, are you prepared to make a statement with respect to your satisfaction that due diligence has been satisfactory?

Senator Hill—I accept the advice of the officers.

Mr Hutchinson—Can I point out that the Minister for Finance and Administration, in signing the offer documents and in agreeing to the completion of the sale, has personally satisfied himself on the basis of the assurances and sign-offs provided in the process as to the satisfactory nature of the process. That is a legal requirement in order to complete the process within the regulatory framework.

Senator LUNDY—And obviously he did that?

Mr Hutchinson—He did that, yes.

Senator LUNDY—Okay. That is all I have on that part of it.

CHAIR—That completes the Office of Asset Sales, program 11. Minister, we will go back to program 10—Office of Government Information Technology.

[8.15 p.m.]

Program 10—Office of Government Information Technology

Senator LUNDY—With respect to the changes that were announced recently, can you provide a general explanation for the distinction between the duties of OGIT and the duties that were hived off to OASIT?

Ms Roper—I took up duty today as the Acting Chief Government Information Officer, and so I will need to rely fairly extensively on my colleagues in providing information to the committee.

Senator LUNDY—Welcome to estimates.

Ms Roper—Thank you. I have been involved in them in other situations. Was the last part of your question about the difference in the roles between what OGIT is doing now and IT Outsourcing?

Senator LUNDY—Yes. Basically I am looking for a general description as to the split in the Office of Government Information Technology and the areas—

Ms Roper—OGIT has a very important ongoing role. It is going to continue to work with Commonwealth agencies and the state territory governments to ensure that there is a consistent implementation of policy and greater interoperability of systems. It also has two very important future and ongoing roles. It has a lot of work in relation to the issue of the year 2000 and it has an important role also in savings in the telecommunications area. The expected savings are quite significant this year and again next year.

Senator LUNDY—What are the anticipated figures for this year and next year and any other out years that you have figures on?

Ms Roper—They are expected to be around \$25 million this year and \$30 million next year.

Senator LUNDY—How are those targets structured into the various portfolio budget statements at this stage?

Ms Roper—I might ask Diana Banks to take that question.

Dr Banks—I will have to take that on notice, inasmuch as what happened was that, when the proposals went forward, they were put forward as whole of government savings. The structuring back into the individual budgets would have been done during the budget process.

Senator LUNDY—Were those savings to be found in the telecommunications area?

Dr Banks—In the purchasing of telecommunications.

Senator LUNDY—With respect to the whole of government telecommunications initiative, can you describe the main platforms of that particular initiative?

Dr Banks—Yes. There are several. The first one is that there is a range of savings to be made in simply purchasing telecommunications services so that, rather than agencies purchasing their own, there is the opportunity to aggregate demand: there are significant savings there. The second area relates largely to what we would call non-tariff savings. They are the savings that accrue simply because agencies do not need to go through the acquisition process on an individual basis. By that I mean that there are opportunities for OGIT to provide advice to a particular agency about the particular services they want, whereas in the past they may have used consultancy services to do that. Maybe I can provide you with an elaborated answer on that.

Senator LUNDY—Yes, that would be very useful. I would like to know about a general issue back with ‘clients first’ and the establishment of the Office of Government Information Technology, which was extensively around the commitment to whole of government strategy. With this recent restructuring—perhaps this is one for the minister—is the commitment still there for an application of whole of government IT strategy?

Ms Roper—Perhaps I could answer. Yes, there is a very strong commitment there. Certainly, the minister recently put out a press release to that effect. There is really leading-edge work on things like the year 2000 and shared systems suites. The user authentication framework is another major one that has an across-government framework and, as I mentioned before, the telecommunications issues and navigation issues. Another important one is the single entry point to government through Intranet and Internet projects.

Senator LUNDY—Where does the responsibility lie with the implementation of the whole of government IT strategy? Is that with OGIT, or is it a blend of OGIT and OASIT? Can you clarify for me where this whole of government strategy is being driven from?

Ms Roper—The area that sits now with OAS is the IT Outsourcing area, as Mike Hutchinson was talking about previously, and that is a very specific task—a major one, but specific—in terms of what it has got to achieve, which is IT outsourcing for agencies within the Commonwealth. OGIT has a broader charter and a broader framework in looking at how government may be able to achieve efficiencies and how it can work better using IT.

Senator LUNDY—I do not think you have answered my question. Can you tell me if OGIT is running the government's IT strategy?

Ms Roper—The implementation part, yes.

Senator LUNDY—With respect to the current proposals for outsourcing and the cluster model relying on a steering committee from across agencies within each particular cluster, who provides the infrastructure and support and coordination mechanisms to each of those steering committees that will run each individual cluster: you, or the Office of Asset Sales?

Ms Roper—Essentially it is the Office of Asset Sales. Essentially there are still some areas and issues to be worked out in terms of what is a relatively new arrangement; but, because that is primarily the focus of IT Outsourcing, that is where it will sit.

Senator LUNDY—And do you think the outsourcing of the Commonwealth government's infrastructure forms a critical part of the whole of government approach to IT?

Ms Roper—Infrastructure?

Senator LUNDY—The current outsourcing program.

Mr Hutchinson—Senator, clearly the outsourcing of IT within the models you have just discussed is a key component of the government's whole of government approach to IT strategy. But the policy has been settled, and it is in its implementation phase that the Office of Asset Sales and Information Technology Outsourcing is engaged. In terms of the overarching policy framework and the related initiatives that still rest with the Office of Government Information Technology, clearly, my office and Ms Roper's will be working very closely together within the same portfolio and answerable to the same minister.

Senator LUNDY—That still does not answer the question that I asked. Perhaps you would like to refer it to the minister. Do you think that the IT outsourcing program is a critical element of the government's whole of government IT strategy?

Ms Roper—Yes.

Senator Hill—Yes.

Mr Hutchinson—Yes, it is.

Senator LUNDY—Okay. So who is running it: OGIT or the Office of Asset Sales?

Mr Hutchinson—The Office of Asset Sales and Information Technology Outsourcing is running the implementation of that initiative.

Senator LUNDY—Okay. So OGIT does not have control of the critical component of the Commonwealth government's whole of government IT plan?

Mr Hutchinson—OGIT and the Chief Government Information Officer originated the policy advice to government and have set the policy parameters and are still involved in a liaison and overarching policy sense, but the mechanical implementation—and it is rather more than mechanical, but the implementation—and the simple execution and project management of the implementation have been transferred by the minister to the agency that I am responsible for, because it is much more an implementation task than a policy development and coordination task.

Senator LUNDY—Can you tell me precisely what role OGIT has in the outsourcing program?

Ms Roper—The outsourcing program is now a separate implementation program that is being undertaken as part of, and jointly with, the OAS.

Senator LUNDY—So you don't have anything to do with it?

Mr Hutchinson—The responsibility for implementing the policy that has now been put in place rests through my office with the minister. I would expect to continue to liaise with Ms Roper and her colleagues to ensure that we move forward consistently with the framework that they originated and put in place. It would be a consultation arrangement, much as we would consult with any other government agency with an interest and responsibility. But they have no accountability for our work.

Senator LUNDY—No; that has become patently clear. So you work directly to the minister's office, as opposed to through the Office of Government Information Technology?

Mr Hutchinson—That is correct.

Senator LUNDY—In terms of the actual contact you have with the Office of Government Information Technology, can you describe for the committee the fora or the context in which that contact would occur? How will that relationship exist under this structure?

Mr Hutchinson—We have not put in place any formal mechanisms, quite simply because the changed relationships are so new and the people involved in managing them are so new; but we see no difficulty in managing that on at least an informal basis initially and then putting in place formal mechanisms—if and when that becomes appropriate.

Senator LUNDY—The minister made this decision to split off the critical area of IT outsourcing, which is an essential platform of the whole of government IT program, without clarifying the relationship between the various offices and the actual role that you are playing. I am getting a very clear message that there is a lot of structural stuff that still needs to be sorted out. What I am concerned about, given the magnitude of this work and the speed with which the government is progressing this particular program, is that the administrative structures have not yet been defined. Unless you can convince me otherwise, I think that statement will stand.

Mr Hutchinson—It would be fair to say in response to your question that, first of all, the IT outsourcing initiative is a critical element of the government's overall outsourcing strategy, but not necessarily the critical element, as I think your question characterised it. The minister has assigned clear responsibility to the Office of Asset Sales and Information Technology Outsourcing to execute the project. To that extent, the responsibility has been removed from the Office of Government Information Technology and the Chief Government Information Officer.

The formal structures exist in the sense that I have a formal accountability to the minister, and I have formal accountability for the office. The office has structures in place in project teams which have accountability through me to the minister for executing the projects that are defined. The Chief Government Information Officer has a structure in place that enables OGIT to acquit its responsibilities.

The only undefined structural element is the question of any formal relationship between the Office of Asset Sales and Information Technology Outsourcing, on the one hand, and the Office of Government Information Technology, on the other. That is undefined, because it needs to be worked out between the two organisations, and it was not until today that the

acting head of the Office of Government Information Technology and the substantive head of the OASITO were both, firstly, in Canberra and, secondly, at work.

Before any definition is entered into, I want to sit down and talk to Glenys Roper about how, when she has assessed her job, she thinks we need to proceed. At the moment, there is no apparent need for any formal structural relationship beyond the informal relationships that exist among agencies within any portfolio that operate in a networking sense to achieve the government's objectives.

Senator LUNDY—Minister, is it the usual process to make an administrative decision and implement it without having the actual relationships between the new structures resolved?

Senator Hill—It sounds quite reasonable to me. It seems to me that it would work. I do not see what the problem is, actually.

Senator LUNDY—Do you think that is okay to administer a departmental restructuring like that?

Senator Hill—Are there any problems with the administration?

Mr Hutchinson—Senator, it is a very small, very specialised and very focused organisation. We can over-structure it to death or we can just get on with the job. I must say that I and my colleagues prefer to get on with the job and solve problems, if there are any problems, as they arise rather than put into place standing structural mechanisms when there is no clear need for them.

Senator LUNDY—Do you think that the appropriate approach when you are dealing with such large contracts and potential contracts being outsourced, with the involvement of the private sector through what was put forward as a competitive tendering process, is to administer it on the hop?

Senator Hill—That is not quite what was said.

Mr Hutchinson—Senator, what I was talking about was administering the relationship between the Office of Asset Sales and Information Technology Outsourcing and OGIT. I was not talking about how, within the Office of Asset Sales and Information Technology Outsourcing, we would discipline the processes of contracting and competitive tendering. That is very different.

Senator LUNDY—Do you think it is a fair comment to make, however, that because of the criticism that has been coming forward from industry of this whole process it was incumbent upon this government to sort out these relationships prior to making any structural change to the department?

Senator Hill—I have just been reading the minister's media release of 6 November 1997. It seems to set it out pretty clearly. He talked about the change of officers and then said:

I have decided to take this opportunity to move the Information Technology Infrastructure Outsourcing Initiative from OGIT to the Office of Asset Sales. This Office will be renamed the Office of Asset Sales and IT Outsourcing.

This move will give the IT outsourcing initiative greater access to a pool of staff skilled in the management of large scale projects. These skills will be particularly important now that the initiative has moved from a policy phase into implementation which will involve intensive periods of due diligence, tender evaluation and contract negotiations. The amalgamation will enable efficient utilisation of resources to manage the variable workload across the two functions.

The Office of Government Information Technology will maintain its vital policy and implementation role in identifying and promoting the most efficient and effective manner of IT&T use across the Commonwealth.

It will continue its excellent and leading edge work on projects including the Year 2000, Shared Systems Suite, User Authentication Framework, Telecommunications and Navigation Issues, Single Entry Point to Government and Internet and Intranet projects.

It seems to me that it is all set out quite clearly and logically and is in the process now of being implemented. I do not really see what the difficulty is. It seems to me that the structures are relatively clear from that press release. The responsibilities are relatively clear and it seems that the two parts are getting on with their job.

Senator LUNDY—Thank you, Minister, that was somewhat helpful although I think probably everyone in this room has read that press release.

Senator Hill—I had not.

Senator LUNDY—You learn something every day. I still want to return to my original question about the distinction between the duties. Perhaps I can go to the specific area that is unresolved with respect to the management of the clusters across agencies. Is that responsibility with OGIT to coordinate in terms of each cluster, given cluster arrangements ostensibly certainly fell previously into the area of policy and whole of government strategy, or does that specific responsibility lie with the Office of Asset Sales and IT Outsourcing?

Ms Roper—It lies now with the Office of Asset Sales because, as Mike mentioned before, this is part of the implementation. It is quite squarely in the Office of Asset Sales and Information.

Senator LUNDY—So does OGIT have no say now on how the different clusters are formed and the relationships between the different agencies in forming those clusters?

Ms Roper—That is right.

Senator LUNDY—Are the current cluster proposals and the strategic alignment of various agencies out of your hands?

Ms Roper—That is right.

Senator LUNDY—Does that strike you as somewhat detracting from your ability to provide whole of government IT direction?

Ms Roper—No, I do not think so. I think that this is now at implementation phase and the outsourcing of the Office of Asset Sales and Information Technology is getting ahead with that implementation. OGIT has a whole range of functions that it has been pursuing up to date and will continue to pursue in the future.

Senator LUNDY—I will pursue those points with the Office of Asset Sales and Information Technology. I will just go back to some of the earlier points you mentioned with respect to what OGIT is actually doing. Perhaps you can tell me what sort of transfer of staff and resources occurred when OGIT was split?

Ms Steward—About 26 staff are now forming part of the IT outsourcing within the office of OASIT.

Senator LUNDY—Can you take on notice to provide all the details of the officers transferred, with their positions, and who remains at OGIT and their classifications?

Ms Steward—Yes.

Senator LUNDY—With respect to industry development, what role does OGIT have on industry development issues in relation to Commonwealth government IT?

Dr Banks—There are a couple of areas where we deal specifically with industry development. The first one is the shared systems initiative, which kicked off in 1995. We worked closely with DIST to make sure that the successful tenderers in that initiative—and overall there have been 15—first of all were endorsed suppliers, but, secondly, demonstrated a commitment to industry development. One of the really significant outcomes of that project has been that in the records management area four out of five successful tenderers have been Australian owned companies. The fifth one, through BHP IT, is taking on a very large role in industry development in this country.

Senator LUNDY—Is that in respect of telecommunications?

Dr Banks—No, that is shared systems. In relation to telecommunications, one of the significant initiatives that we completed towards the middle of this year was the establishment of a selected panel of Internet service providers. I am just trying to think of the exact quantum. Certainly the majority of them—eight out of nine or nine out of 10—are Australian owned companies.

Senator LUNDY—With respect to the various elements of industry development considerations, whether in shared systems or Internet service providers or telecommunications, what is the mechanism used by OGIT to ensure that those industry development provisions are adhered to?

Dr Banks—The endorsed supplier status is in and of itself a status that you can lose if you do not adhere to the requirements of the Australian government or, in particular, the Department of Industry, Science and Tourism. One of the requirements we have contractually is that the successful tenderers maintain that endorsed supplier status.

Senator LUNDY—In terms of that particular status, what changes have occurred recently in how that status is achieved and to the process of becoming part of the various select panels?

Dr Banks—The acquisition of that status is the process that is managed by DIST, and previously DAS, and it is simply a status that we take. We do not have any influence over how suppliers might achieve that status.

Senator LUNDY—You say that you have no control over how they achieve that particular status with respect to the IT outsourcing that I know you no longer have. Was there any process of establishing an endorsed supplier process with respect to the current government IT outsourcing program?

Ms Marks—Do you mean executive director? For the cluster 3 tender we have asked that contractors have endorsed supplier status. Endorsed supplier status in terms of the DAS requirements, as it was then known, was basically about capability, in terms of the contractor's capability.

Senator LUNDY—In terms of achieving endorsed supplier status, can you describe how one would go about achieving that?

Mr Hutchinson—At the moment the office is not in the business of granting endorsed supplier status, merely—

Senator LUNDY—I appreciate that. I am just asking for an explanation.

Mr Hutchinson—We are merely in the business of requiring tenderers to have that status. It is not within the Office of Asset Sales's charter to enter into consideration of whether someone should or should not be an endorsed supplier, or how they obtain endorsed supplier status. We believe that would belong to what is now an irrelevant unit of the Department of Finance rather than to us.

Senator LUNDY—For the benefit of the committee can you describe what the process is to achieve endorsed supplier status?

Mr Hutchinson—I do not know and my agency has no responsibility for that function. I would be very reluctant to have my people talk about it, lest those who do have some responsibility have a different perspective. The best I can do is to take that on notice, consult my colleagues in the Department of Finance, and get you a written answer from the authoritative source.

Senator LUNDY—With respect to the Office of Government Information Technology, as an office do you have a list of current participants in terms of who has achieved endorsed supplier status in the IT outsourcing program?

Ms Roper—No, I do not.

Senator LUNDY—Although you are looking at industry development issues, you do not have an idea of who the participants are in this critical area?

Ms Roper—This is part of the implementation of IT outsourcing and that no longer resides with the Office of Government Information Technology.

Senator LUNDY—So even in terms of the IT outsourcing, the industry development aspects of that as well have gone from OGIT. So you do not have any role to play with industry development.

Ms Roper—That is right.

Senator LUNDY—If the issue relates in any way to the areas that are going to be outsourced under—

Ms Roper—Essentially IT outsourcing now is a discrete implementation task and so it no longer sits with the Office of Government Information Technology.

Senator LUNDY—Okay. I am just trying to get a picture of just how much of the government's whole of government IT strategy has actually been sectioned off, and critical elements like industry development, of course, form a significant part of that program.

Ms Roper—I think that there are very significant industry development components that remain in the Office of Government Information Technology, including all of those that we outlined earlier. The issue of IT outsourcing is an implementation issue that is now being done in the Office of Asset Sales.

Senator LUNDY—Within the last six weeks, has OGIT issued any directives or memos to participants in the IT outsourcing program that bear any relation to, or impact upon, the conduct of those participants in the IT outsourcing program?

Ms Roper—No.

Mr Smith—All responsibilities for all instructions, directions, guidance, and information on IT outsourcing, comes from the OASIT office and not from OGIT.

Senator LUNDY—Since when?

Mr Smith—From the day of the administrative announcement.

Senator LUNDY—Which was?

Mr Smith—The press release was issued 6 November. Prior to that date, of course, information would have been issued from OGIT, because I belonged to OGIT at that point. It would have emanated from my office, that is the IT outsourcing office, which was a discrete office within OGIT previously. There would be no reason for the rest of OGIT to have issued any statement in relation to the IT outsourcing projects specifically.

Senator LUNDY—This is where we get back to the distinctions. What you are saying is, yes, you did issue some statements in that regard when you were under their auspices. That is the information I am looking for. Could you describe the nature of all of those directives and give me the dates and relative content of each of those directives that were issued to vendors participating in the IT outsourcing program?

Mr Smith—Senator, as you would appreciate, in a complex transaction like the one we are dealing with, there are a number of exchanges of correspondence, and documentation issued. The list is just so long, as it is an interactive process that you have in a project of this kind. For us to go back and research all the files as to what was actually put between us and all the potential bidders—of which there are many, as you know—would be a major exercise. If you could perhaps be more specific about a particular area, I might be able to address those issues for you now if you had anything in particular in mind.

Senator LUNDY—I have another question in mind. First of all, I have a question with respect to any directives that may have emanated from your office about the conduct of vendors in the IT outsourcing program, particularly with respect to public statements they may or may not make.

Mr Smith—We have a series of protocols for this project: protocols for the bidders, protocols for my own staff and officers, and protocols for agency staff. In the protocols for industry there was a reference to contact with the media. It is important in a project of this kind that we do not have a situation where potential bidders are running a campaign of some kind to either enhance their own position or undermine the position of others in a bidding process.

When we issued the instruction that there would be no media contact in relation to cluster 3—we did not talk about the IT outsourcing initiative in general; it was a specific cluster 3 protocol, and that was made clear—I gave, in explanation to an industry briefing that we had, that very example. I have since had several conversations with the AIIA and AEEMA on that very point, and they all agree with me. They agree with my interpretation of media contact that is acceptable if we are all going to be satisfied that the integrity of the process is intact.

I was speaking the other day to AIIA and they actually said to me that they want to be, at the end of this process, able to say that we were all satisfied with the process, and that the examples I gave, one by one, about contact with the media—someone running a campaign either to enhance their own position or to undermine the process or to undermine a tenderer—would all be unacceptable behaviour to AIIA. So, as far as I am concerned, there has been a dialogue between myself and industry, and I think we now all understand the policy statement that we issued. Indeed, I think it is a fair position in terms of protecting the integrity of the process.

Senator LUNDY—You said that directive was issued with respect to cluster 3 only. What other work is it carrying besides cluster 3?

Mr Smith—At the moment we are in the process of examining the rest of the agencies and how the cluster strategy might unfold across the initiative. I have been asked for and will provide a briefing to ministers, hopefully over the next few weeks, as to how the cluster strategy will unfold over the next 18 months or so. Basically, we are doing some work now about who are logical partners for whom, when in fact the clusters should actually be presented to the market, and so on. We need to put that to government in the next few weeks or so. We are still formulating our views as to how that should be put together, so it would be only speculation on my part at this point.

Senator LUNDY—Can you confirm that 15 clusters are being considered?

Mr Smith—No I cannot confirm that. I do not know where 15 clusters have come from. As far as we are concerned, we are looking at the strategy. It is very important for a strategy of this kind, in terms of our own position and that of the players in the game, to ensure that we have a manageable number of clusters. This is a process which is resource intensive on our side and on industry side, and on agency side as well, so it is in our interest to have the number of clusters that is going to get the best outcome for the government in terms of this whole initiative.

Fifteen is not a number we would sign up to. It is something less than that. As I said, we are still in the process of formulating our views about that to give advice to government.

Senator LUNDY—There was much work put into the previous proposals surrounding the range of clusters, of which cluster 3 was one. What has happened to those cluster arrangements?

Mr Smith—They were proposed arrangements. Our first priority was to endorse the cluster 3 arrangement. It is now proceeding down a tendering process, as you are aware—

Senator LUNDY—Yes; I will come back to that.

Mr Smith—Any proposed work or proposals that were put up in the past are now being examined, which is quite the right thing to do because things move on, things change—

Senator LUNDY—So you are re-examining the whole cluster proposal, outside of cluster 3?

Mr Smith—No; what we are doing is going through and testing and analysing to confirm what was proposed in the first instance. Whether that manifests—

Senator LUNDY—What do you mean by testing and analysing?

Mr Smith—We have to go back and test the fundamentals that are still valid today. Proposals were made some time ago. Before we would clearly make any announcements about those cluster strategies, it is appropriate to go back and test and confirm that they are still valid today. That is the process—

Senator LUNDY—Yes. Who is doing that work?

Mr Smith—We are doing that inside this office.

Senator LUNDY—Okay. What is your approach to testing and confirming the validity of the former cluster models?

Mr Smith—As I said, the broad parameters are what makes sense in terms of the mainframes, mid-range and desktops, what common functions there might be across the agencies, what capacity industry has to respond to a set of clusters into the marketplace. So

there are some broad parameters that we are testing it against. It is difficult for me to comment much more beyond that because I have yet to brief the government on that matter.

Senator LUNDY—I think it is a very worthy point, worth trying to follow up, as to what degree of re-analysis is occurring, given that what we are dealing with, as we have already heard from Mr Hutchinson and others, is that the program is set in place, it has been handed over to you to implement, yet what I am hearing now is a complete reconfirmation testing analysis of the whole cluster model.

Mr Smith—No, Senator; what I said was, and I stand by the view, that it was appropriate to confirm proposals that were developed some time ago.

Senator LUNDY—But in what context? What has changed that has meant you have got to go back and revisit the rest of the cluster models, and ostensibly all you have got concretely to implement is cluster 3, which has metamorphosed over a period of time anyway?

Mr Smith—Senator, you have to go back and test the basic assumptions. Let us hypothesise and say that there is a group of agencies that it was decided might be a logical fit a year ago. You have to go back and see whether they still have the same business parameters, do they have the same charter—

Senator LUNDY—The only ones that have changed are in cluster 3. Who else has changed significantly?

Senator Hill—Mr Chairman, could I interrupt for a minute?

CHAIR—Yes, Minister.

Senator Hill—I am just wondering whether OGIT is still needed.

Senator LUNDY—Yes. I should point out that, because these issues cross-relate I do have some issues that I want to go back to OGIT with. Perhaps we can just continue on this line with respect to the cluster structures and then I can go back to OGIT, Minister. But I do take your point.

Senator Hill—Can we then finish OGIT off, so to speak?

Senator LUNDY—Yes, I will do my best. Thank you.

Senator Hill—You are suggesting it has already happened, aren't you? I will get myself into trouble here!

Mr Hutchinson—Senator, could I suggest that what the Office is now doing is not revisiting the whole cluster model but, as we move to implement the cluster model, ensuring that the composition of the clusters on which our predecessors had formed a prima facie view will in fact, as we take it forward to the implementation stage, hang together properly in a contractual and holistic sense as a basis for a tender. So it really is not revisiting the cluster model as such, but developing it to the stage at which we can then develop and award tenders.

Senator LUNDY—I think it is a fair comment to make on my part that there is some inconsistency between what has been described as a handing over of an implementation process to the Office of Asset Sales and IT Outsourcing, and what we have just heard from Mr Smith which describes essentially some policy considerations on the actual cluster structure and testing, as you say, of base assumptions around the cluster model, of revisiting and testing and confirming the structure with respect to mainframe, mid-range and desktops across the agencies.

Mr Hutchinson—Senator, it is not unusual in implementing a project, be it an asset sale or an information technology outsourcing, or any other project within government, for the implementors to have to revisit the detail of the policy framework they have been handed or to work through the second, third and fourth order detail of that policy framework. We do it frequently on major asset sales. To my knowledge, it is done on most major policy implementations. This is no difference.

Senator LUNDY—What is the time frame for finalising the cluster structure?

Mr Hutchinson—I do not believe the government has yet announced a time frame, beyond the broad time frames it announced when it first announced its IT outsourcing initiative, which, as I recall, had an end of 1998 date in it and a date in 1999 for desktop. Beyond that, the government has not announced a more detailed timetable and I do not think I want to pre-empt the government's consideration of these matters by speculating as to what other timetable milestones might later be identified.

Senator LUNDY—What are the consultative processes you have in place to progress this assessment process you have just described?

Mr Smith—In the last few weeks it has been my job to go around and talk to key principals of key agencies to confirm the information that we have within our organisation to see that it is still valid today and to see whether any of their business growth requirements may have changed, as I pointed out before. We are in the process of doing that now. It is direct dialogue with key executives in the agencies.

Senator LUNDY—Have you been provided with the updated business case requirements of all the agencies?

Mr Smith—We are collecting the information, yes.

Senator LUNDY—Can you provide the committee with the information relating to those business case requirements?

Mr Smith—As I said, it will form the basis of advice I give to the government so I am unable to divulge that information at present.

Senator LUNDY—Are you claiming some type of cabinet-in-confidence for that information?

Mr Smith—No, I am not, it is just that what we are doing is collecting information on the basis of which we brief the minister and until I have briefed the minister on those matters it would be pre-empting anything he might want to do with that information.

Mr Hutchinson—Senator, the information we will be collecting by way of business case information, when suitably digested and assembled with other agencies within a cluster, will form part of a commercial request for tenders that the Commonwealth will issue. We believe it is in the Commonwealth's interest to restrict the release of that information until a request for tender is framed.

Senator LUNDY—Are you going to claim commercial-in-confidence for that data?

Mr Hutchinson—We are going to claim the Commonwealth's commercial interest, which is slightly different.

Senator LUNDY—Can I suggest that is not eligible in terms of denying this committee the opportunity to scrutinise that type of information. Can I put on notice my request for the

business case requirements that are provided by the agencies to the Office of Asset Sales and IT Outsourcing?

Mr Hutchinson—Senator, if the committee makes a request that we have difficulty with then we would undertake to refer that request to the minister.

Senator LUNDY—Thank you. Are you consulting with industry at all as part of this process?

Mr Smith—I have had discussions with AIIA and AEEMA and that is an ongoing dialogue process, despite some of the press speculation about that matter. Sure, we are talking to the associations, and I have people through my office every day from industry talking about their views on the capacity of industry to respond to an approach of this kind.

Senator LUNDY—Have you called for general participation by the industry to provide its views to you, or are you restricting your consultations to the industry associations and those that have the resources to come by your office?

Mr Smith—In the briefings that we gave the industry we made it quite clear that we would encourage people to enter into dialogue with us. The communications flow is quite significant between ourselves and industry. Industry are very keen to provide their views on this initiative because it is very important for them, as it is for us. Their views are taken into consideration. It is a fairly open dialogue process that exists between our office and industry generally.

Senator LUNDY—How are you publicly accountable for your decision making processes arising out of those consultations? What type of record keeping do you keep from those meetings?

Mr Hutchinson—The records that will be kept will be records necessary to ensure that the Australian National Audit Office can carry out ex post efficiency audits of the process and will be sufficient to ensure that any accountability to the minister or the parliament can be addressed, including records of key decisions, key approvals, and the arguments and advice that go to those approvals. That really has to do with parliamentary accountability rather than any sense of direct accountability to the public because much of the information in there will be commercial-in-confidence, or will have Commonwealth interests at stake. Therefore, we look to the ANAO as our primary accountability mechanism between ourselves, the minister and the parliament.

Senator LUNDY—What role does the independent probity auditor that the government appointed have?

Mr Hutchinson—The independent probity auditor is there to advise us of process, of compliance with process, and to monitor compliance with process. Part of his role is ensuring that the process we adopt is correct, that it is adhered to, and that a proper documentary trail exists to demonstrate that we adhered to it. The probity auditor has another function, which is to work with us in defining the protocols concerning the conduct of our relationship with industry and with other interested parties to ensure that they are beyond criticism.

Senator LUNDY—So the independent probity auditor would be advised of all of the consultations that you have with industry on matters of consultation with respect to the whole program. Is that correct?

Mr Hutchinson—It is not necessarily the case that the probity auditor would be advised of every individual consultation. The probity auditor will be across our relationship with

industry, will have approved the protocols of that relationship, and will have access to the documentary record where a documentary record exists, because you do not make a record of every phone call you have in life. However, the probity auditor will not be a party to that consultation. That would affect his independence.

Senator LUNDY—I will come back to that issue as well, but I would like to go back now to the Office of Government Information Technology and follow up a couple of points, and then I hope to be able to let the officers from OGIT go.

Concerning the projects mentioned earlier in terms of interoperability and other matters, with respect to the single entry point that you mentioned and the government's presence on the Internet, can you describe how you liaise across agencies? What are your structures for your cross-agency consultations on that project?

Dr Banks—The single entry point initiative is actually broader than the Commonwealth, yet the Commonwealth plays a key role in what is a national approach to making sure that electronic services are available in both state and Commonwealth information areas. Within the Commonwealth, the process thus far has been our participation in a single entry point initiative to do with business. It is a project that has been facilitated out of workplace reform and small business.

There are a few projects, which is the reason I am casting around to see what order I can tell them to you, Senator Lundy. At the national level, the on-line council, which is the council of ministers representing each state and territory as well as the Commonwealth, and is chaired by Senator Alston, is particularly interested in interoperability being achieved by ensuring that not only Commonwealth agencies but also Commonwealth and state agencies pursue the same standards and protocols. Our participating in that is through one of the working groups, the government technology and telecommunications committee.

Senator LUNDY—And regarding the year 2000 issue, at what point are the government departments at in terms of benchmarking their compliance?

Ms Steward—Agencies are providing the office with details of their progress. In terms of compliance, that information is coming in at this point in time.

Senator LUNDY—Can you take on notice that that information be provided to the committee?

Ms Steward—I will take on notice to identify that if we can.

Senator LUNDY—Are you satisfied that the agencies will meet the deadline of proving their compliance with the requirements?

Ms Steward—That will be identified as part of their information that they supply to the office and we will look at that.

Senator LUNDY—What is your time frame for collating that information?

Ms Steward—That information is still currently coming in from agencies. We hope to have the analysis of that completed toward the end of the year.

Senator LUNDY—Just for the purposes of the record, when is that process due to be completed?

Ms Steward—Which process, Senator?

Senator LUNDY—That of agencies being able to demonstrate compliance.

Ms Steward—That will be an ongoing process. They will be reporting quarterly, so we will be continuing to look at their progress.

Senator LUNDY—Are they supposed to have all that work finalised by mid-1998?

Ms Steward—That is correct. That is the aim to enable the work to be undertaken.

Senator LUNDY—Is it the view of OGIT that that is on target?

Ms Steward—At this point in time, the agencies are preparing information for us to be able to look at that.

Senator LUNDY—Have you any reason to believe that there will be any problems?

Ms Steward—It is too early for an opinion on that, Senator. We are awaiting the information from the agencies.

Senator LUNDY—Who collates that from the agencies? Who do you work with?

Ms Steward—There is a small team within OGIT itself looking after that activity for Commonwealth agencies.

Senator LUNDY—That team consults with each specific agency?

Ms Steward—That is correct.

Senator LUNDY—With respect to the relationship with the Office of Asset Sales and Information Technology, given that there is this developing cluster model, do you have any relationship with the way that the particular clusters are potentially going to deal with the year 2000 issue and this team within OGIT?

Ms Steward—Not on a cluster basis, Senator. We are looking at the individual agencies.

Senator LUNDY—I suppose this is where some of these cross relationships get complicated. How does the imposition of the cluster model affect the individual agency strategies in benchmarking and achieving year 2000 compliance?

Mr Hutchinson—Senator, please bear in mind that this is fairly recent stuff for me, at least in this incarnation. It is my understanding that the year 2000 program primarily resides in applications rather than in the supporting infrastructure. To the extent that it resides in applications, the responsibility for resolving year 2000 remains with the agency and their management of their applications.

To the extent that the year 2000 program resides in supporting infrastructure, it is an industry wide problem, but we would expect to see the year 2000 compliance mandate of OGIT extend to our contracts with outsourcing tenderers. I have drawn the distinction between the applications that presently reside with the agencies and the infrastructure that we are outsourcing. To the extent that there is any problem with the infrastructure, OGIT's requirements for year 2000 compliance will be given effect through our contract tenderers.

Senator LUNDY—So it might well become an element within the request for tender for any potential cluster.

Ms Makay—Within an analysis of the IT sector, that is correct, Senator.

Senator LUNDY—In terms of OGIT's coordinating role in establishing those benchmarks, I presume that this forms part of what will one day be some type of liaison or interrelationship between OGIT and the Office of Asset Sales and IT? Is that a reasonable assumption?

Ms Roper—To the extent that there is an overlap or a relationship that is required in that area, yes.

Senator LUNDY—Are there any other issues of government policy that will impact upon the work of the Office of Asset Sales and IT Outsourcing?

Senator Hill—What do you mean?

Senator LUNDY—Minister, in case you have not been following it, after a number of assertions about the handing over of a whole project to the Office of Asset Sales and IT—and that being allowed to be implemented distinctly—we have just discovered yet another area where there are outstanding policy issues that are yet to be resolved with respect to the whole of government and the work of OGIT flowing across to the work of the Office of Asset Sales and IT Outsourcing.

Senator Hill—If you have got questions that relate to some other area which you say is of a similar kind, you can ask the question, but you cannot simply go fishing. You cannot ask the officers if there are any other areas they think might be relevant that they might bring to your attention.

Senator LUNDY—Okay.

Senator Hill—We cannot make it too easy for you.

Senator LUNDY—Okay, it was an opportunity to save some time, perhaps. Let us go to telecommunications.

Senator Hill—Actually, it might have expanded the debate.

Senator LUNDY—I will just work through the list.

Senator Hill—Probably there are not any other areas, anyway.

Senator LUNDY—Could we go to the issue of telecommunications?

Senator Hill—Do we still need OGIT?

Senator LUNDY—Yes. In telecommunications, you described \$64 million worth of savings over two years?

Dr Banks—It is a little bit more than that. We did \$10 million last year. It is \$28.95 million in this financial year and it will be \$35.54 million in the next financial year.

Senator LUNDY—Please help me out here. In terms of achieving those savings in the telecommunications infrastructure linking of the Commonwealth departments, I understand that there is a project under way to put in place some bandwidth—a bit of pipe, if you like—connecting the Commonwealth departments. Could you describe how that particular initiative fits in with this savings goal?

Dr Banks—The project you are referring to is project ICON and it links 14 government departments in the parliamentary triangle. What you described as the pipe I think is a good explanation. It is what most people refer to it as. It is a large capacity bandwidth and there are two areas where there will be significant savings. One will be in the area of telephony, that is, they will be able to use that network to make local calls at no cost as opposed to local calls at the standard rate. The other area where they will be able to make savings is in the area of not needing to use leased lines, so they will be giving up that level of expenditure as well, Senator.

Senator LUNDY—Leased lines for what purpose? Data transfer?

Dr Banks—Data transfer.

Senator LUNDY—In terms of the actual cluster contracts, is it envisaged that the potential vendors of the various clusters will have access to this ICON infrastructure?

Ms Makay—If it is relevant to the scope of work being considered by the clustered agencies.

Senator LUNDY—If it is relevant to the scope of work—by that I presume affecting the actual departments that are involved in the ICON project specifically—what sort of arrangement is envisaged by perhaps OGIT or the Office of Asset Sales and IT Outsourcing as to the relationship between a potential vendor and access to ICON?

Ms Makay—I might refer that to my colleagues at OGIT.

Dr Banks—I must be frank and say that I had not anticipated the scope of work that was going through in the outsourcing was necessarily relevant at the business level to the sorts of services that would be provided in ICON. That does not mean that there are not crossovers, but without detail as to what the scope of business might be, it is difficult to speculate, Senator.

Mr Hutchinson—Senator, I expect that the successful tenderer for the IT outsourcing will have within its infrastructure configuration a need for some telecommunications capacity, some bandwidth or pipe width. To the extent that the Commonwealth already has available that required bandwidth or pipe width under this project, then I would expect that that bandwidth would be made available to the clients of the outsource agency to deploy, to offset and defray the cost. It is consistent with the economies of scale and scope argument for IT outsourcing and for whole of government telecommunications. It is consistent with those arguments for contractors to the Commonwealth to be able to use those economies of scale and scope in servicing the Commonwealth. That seems to me an eminently reasonable way of sharing the costs, or spreading the costs, across a wider usage base.

Exactly how that will work out will depend on a case-by-case basis with the facilities that the successful contractor can offer, the prices he can offer, the costs of providing IT under a separate contract or the cost of providing IT under the project that OGIT has in place. It is a case of coming up with the most cost-effective outcome.

Senator LUNDY—Given that we know some of the potential vendors in the IT outsourcing project have relationships with telecommunications carriers, how then do you justify project ICON—perhaps this is one for you, Minister—given that ostensibly what you are setting up is a high bandwidth piece of infrastructure that could offset costs for the outsourcing contracts if the scope of the particular cluster projects excludes—or should I say includes—the actual infrastructure?

Senator Hill—I think I will take advice on that, Senator.

Mr Hutchinson—Senator, even if a service provider who has a relationship with a telecommunications company—and I believe there is at least one—were to offer bandwidth from its telecommunications affiliate, it may still be the case that the economies of scale and scope are such that we may be better off requiring that contractor to utilise the bandwidth to be provided by OGIT. It would depend on the costs and the way it was analysed. Even if there is one or more than one potential tenderer who has a relationship with a telecommunications company, not all of them have such a relationship and we need to ensure that all the potential tenderers get the opportunity to pitch for this work on a basis that allows the Commonwealth

to come up with the best and most cost-effective solution for its needs, bearing in mind the government's other objectives from IT outsourcing.

Senator LUNDY—So with the implementation of the telecommunications project ICON, is it something that will just be reviewed by the Office of Asset Sales as to its validity for inclusion in any potential RFT or are you going to leave the scope open enough for the vendors to be able to call the shots? What is the intention?

Mr Hutchinson—Subject to any views my colleagues who have been more deeply immersed in the documentation than I have can offer, my view is that we would in the first instance ask the tenderers to identify what they would propose and then only interfere with the tenderers' intention if we believe we can achieve an improvement by substituting our own network for one that they propose. I am not being corrected, I think.

CHAIR—Are we getting towards the end of OGIT?

Senator LUNDY—Yes, we are getting there. I want to go back to the actual ICON project. To what extent is that project contingent upon the savings outcomes? You have listed those savings outcomes in the out-years of \$30 million. Is that for the next financial year of 1998-99?

Dr Banks—Yes.

Senator LUNDY—Those particular savings are ostensibly if the government agencies utilise that particular piece of infrastructure. Is that right?

Dr Banks—That is a very small part of the savings basket. My estimate is that the contribution of the savings from ICON to the quantum that we are talking about is around \$2 million.

Senator LUNDY—Where does the rest of the savings come from?

Dr Banks—Aggregation of demand, volume discounts by having agencies purchase from existing contractual arrangements and the non-tariff savings that I mentioned before.

Senator LUNDY—How much is ICON costing?

Dr Banks—The cost of introducing ICON was about half a million dollars.

Senator LUNDY—With respect to OGIT's overall work, can you provide the full description of officers and their roles?

Ms Steward—Yes.

Senator LUNDY—That is all I have on OGIT at the moment.

ACTING CHAIR (Senator Heffernan)—That concludes program 10. I am informed that asset sales are not involved with IT, so anyone who fits that category can feel free to leave.
[9.28 p.m.]

Program 11—Office of Asset Sales and IT Outsourcing

Senator LUNDY—I want to go back to questions that I was asking earlier about the cluster arrangements. You have not been able to advise the committee of the current cluster proposal. When do you envisage that you will be able to advise on what the cluster arrangements will be?

Mr Hutchinson—That is a matter on which the office will liaise with the minister for finance. I would not like to foreshadow here the nature or timing of my advice to the minister.

Senator LUNDY—With respect to your inability to provide even an indication of that timing, can you at least provide the committee with a description of the process leading up to how you will make that decision about the cluster structure?

Mr Hutchinson—The decision about the cluster structure is a decision clearly for ministers.

Senator LUNDY—That is not what I am asking.

Mr Hutchinson—I was just indicating that we will not make the decision; ministers will make the decision. As to the process of analysis and debate that will be gone through, I think Mr Smith went into that in some detail earlier. I am not sure there is very much more we can say on that matter in this hearing.

Senator LUNDY—What is the current timetable for cluster 3?

Ms Makay—The timetable for cluster 3 has contract finalisation at the end of the first quarter of the next calendar year.

Senator LUNDY—When do tenders close for cluster 3?

Ms Makay—On 2 December.

Senator LUNDY—With respect to the content of cluster 3, to what degree have the industry development proposals been locked in place?

Mr Hutchinson—The industry development aspects of the cluster 3 proposal require the first initiative to be taken by the tenderer in outlining industry development proposals within their tender. Therefore, until the tenders are received, we will not know the nature of the industry development proposals that are being made on a commercial basis. Nor will we know the opening bid for the lock-in that the tenderers are proposing.

Senator LUNDY—So the requirements in the RFT might not be met by potential tenderers. Is that what you are saying?

Mr Hutchinson—The requirements in the RFT, as I understand them, require the tenderer to nominate the industry development proposals. Any tenderer who does not nominate an industry development proposal, and therefore does not comply with the RFT, risks being considered no further. With the exception of the requirement for endorsed supplier status, the only obligation on them is to make proposals, firstly, as to substance and, secondly, as to contractual commitment that they are prepared to enter into.

Senator LUNDY—With respect to the industry development provisions within cluster 3, you are saying that the priorities that have been outlined and the relationships with local industry do not form part of the mandatory base of the request for tender.

Mr Hutchinson—I am sorry; I do not understand you.

Senator LUNDY—They do not form part of what is compulsorily required in terms of the government's consideration of this tender.

Mr Smith—I am not sure immediately which bits of the RFT you are referring to.

Senator LUNDY—I am referring specifically to section 22.

Mr Hutchinson—I do not have a copy of 22, and I am not 100 per cent sure what it calls for.

Senator LUNDY—I am referring to whatever section it is within the request for tender that relates specifically to the industry development requirements that were announced by the

minister. I am asking what status they have in terms of their mandatory nature or otherwise when you come to consider the tenders.

Mr Hutchinson—It is mandatory that industry development proposals be submitted. It is mandatory that the tenderer indicates, firstly, the nature of those proposals and, secondly, the extent to which they are prepared to be locked in contractually and the sanctions they are prepared to accept in that contract for any breach of those obligations. The nature of those obligations will depend, in the first instance, upon the commercial judgment of the tenderer.

The tenderer will decide what industry development obligations it is prepared to offer the Commonwealth and what industry development steps make commercial sense for it. We will not specify the industry development obligations. However, depending on the nature of the proposals, we may choose to negotiate with the parties to strengthen the commitment to those obligations or flesh them out depending on their nature. But we are seeking innovative industry development proposals from commercial parties, rather than bureaucratic or political industry development obligations that may have no substantive effect.

Mr Smith—Senator, just in clarification, throughout the guidance that we gave on industry development, the government stated a clear preference for relationships with small and medium enterprises.

Senator LUNDY—My understanding was that there are a number of areas that the government declared a preference for.

Mr Smith—No. There are some broad objectives that the government stated in the document. It went to regional development and employment; it went to international competitiveness; and it went to such things as supporting growth in the IT industry in Australia. Broad guidance was given in relation to the objectives of this initiative. Mr Hutchinson has outlined that the emphasis was on sustainability into the future and relationships with small and medium enterprises in Australia.

Senator LUNDY—From what you have described—the way that those requirements, or those expressed preferences of government, have been codified in this RFT, they are of a nature that nothing is specified—you will attempt to quantify and compare the various proposals that come back. In terms of a comparative process in assessing tenders, what weighting will be applied to the industry development factors contained in RFTs?

Mr Hutchinson—Senator, it is important to understand that we are not proposing a simple, numeric, aggregate score appraisal of these tenders. What we are seeking to do is to evaluate the tenders in a holistic way and to present the findings in a way that allows the government to understand the trade-offs among the leading tenders.

It is not sensible, and I believe not possible, to decide, before the event, what sort of industry development commitments would be worth what sort of trade-off in price, or what sort of commitment to small and medium sized enterprises would be worth what sort of trade-off in regional development. They are intrinsically judgments that can, and should, only be made by ministers—or by the government as a whole—on the basis of what is put forward.

If we were to develop an ex ante scoring system, then we would be saying, ‘Officials think that this sort of industry development is worth a million dollars; that sort of industry development is worth \$2 million.’ That is intrinsically meaningless as a way of evaluating this sort of proposal, where we are seeking commercially innovative and sustainable approaches. We are saying, ‘These are important.’ We are saying, ‘To some extent, some things are more

important than others.’ But we are not saying what the trade-off among the various selection criteria is, because, in essence, that is a matter for ministers once the thing has been distilled.

It is our experience, in other quarters, that quite often you end up with a very easy decision, because the proposal that is best on one important attribute is often best on many attributes, and you end up with an outstanding winner and you do not actually need to make the trade-off decisions.

It is also our experience that when you do need to make those trade-off decisions it is not too difficult to reduce them to judgments which present a fairly stark choice to ministers and which say, ‘You can have this one for this much money, or that one for that much money, and the non-money difference between them is this. Do you think the non-money difference is worth it? Yes or no?’ Ministers are skilled and experienced—and, indeed, engaged—to make just those decisions.

Senator LUNDY—In terms of making that assessment, what processes or steps have been put in place to ensure that there is a degree, at least, of public accountability? You have already alluded to the fact that those sorts of considerations are very difficult to quantify and the fact that, in terms of procurement guidelines, once again the minister will be called upon to use his discretionary power under those procurement guidelines, given the various ambiguities of each tender.

Mr Hutchinson—The process is one of qualitative analysis, documentation and reports, drawing on relevant committees and, in the case of industry development, also drawing on the expertise of our colleagues in the Department of Industry, Science and Tourism.

Senator LUNDY—So the decision making process will effectively be a group of those parties?

Mr Hutchinson—No, the decision advisory process will draw on the work of those parties, be synthesised by the executive staff of the Office of Asset Sales and Information Technology Outsourcing and be presented to relevant ministers for decision.

Senator LUNDY—What about where you have got a cluster across a group of agencies? We have heard previously that that contract or that RFT will be managed by a multi-agency, a cluster based steering committee. What role will that committee play in the decision making process and that advisory group that you have just described?

Mr Hutchinson—The views of that steering committee will be sought and will be reflected in the advice that is provided to ministers. I have just been reminded that I omitted a step in the process: the evaluation methodologies, but not the evaluation itself, will be reviewed by the probity auditor and compliance with the methodology will also be reviewed by the probity auditor.

But to come back to the committees, the steering committee’s views will be reflected in the advice that will go to the minister. I believe the minister has indicated that the decision making forum is himself and the Minister for Industry, Science and Tourism after consultation with the ministers whose agencies are affected by the cluster. So that actually gives the agencies that are represented on the steering committee two voices: firstly, through the steering committee into the evaluation framework that goes to ministers for consideration and, secondly, their own line accountability to advise their own minister how their agency fares in a particular cluster.

Senator LUNDY—With that particular steering committee—the cluster steering committee, if you like—what role do they have post the decision to actually award the tender for that particular cluster?

Mr Smith—Once a contract is in place it is then within the cluster to decide how that arrangement will be managed through the period of the contract. There are several models. The steering committee for cluster 3 is currently reviewing some models and will settle that shortly. It goes to having perhaps one agency manage it on behalf of other agencies. You have a team approach to it. There are all sorts of possibilities and that is now being considered in relation to cluster 3.

Senator LUNDY—Who is the actual contract going to be with?

Mr Hutchinson—The Commonwealth.

Senator LUNDY—Is it the process that the Commonwealth then nominates the manager or the agency group responsible for the administration of conduct?

Mr Smith—Correct.

Senator LUNDY—And that is what you have yet to resolve?

Mr Smith—What we have said is that post contract it will have to be a contract management role. Who actually takes up that role in relation to cluster 3 is yet to be determined by the cluster itself. In a sense, that is a neutral issue for potential bidders. What we are saying is that by the time the contract is placed all that detail will be clear and will be documented in the contract.

Senator LUNDY—So people are tendering at the moment without knowing who they are going to be dealing with?

Mr Smith—No, they know they are dealing with three, four or five agencies within the cluster and they know that there will be a management process in managing the contract. Beyond that, I think they would be relatively neutral.

Senator LUNDY—What about things like potential variations to the cluster 3 contract? How will they be addressed, from your point of view? Is that an issue that will come back and involve your office in any way?

Mr Hutchinson—Post-implementation or pre-implementation?

Senator LUNDY—Post.

Mr Hutchinson—That would be a matter for the contract manager to consult all the affected agencies within the cluster and then it would be resolved commercially between the parties as necessary.

Senator LUNDY—And what about pre? Sorry, Mr Smith. You were going to add something?

Mr Smith—Our role in that is to make sure the contract provides for that flexibility in terms of variations downstream and then the implementation is in management of the contract itself.

Senator LUNDY—So you will make sure that flexibility is there?

Mr Smith—In the contract.

Mr Hutchinson—In terms of bringing the contract to finality, by deciding it will be the role of the Office of Asset Sales and Information Technology Outsourcing, in conjunction with

the steering committee, to negotiate the final terms of the contract with the successful tenderer. That is the usual course of any tender: you select the tender subject to contract, you negotiate a contract and you settle it.

Senator LUNDY—On a point of clarification, that selection process will not be done by the cluster group: it will involve yourselves as well. At what point does the cluster group take control of the contract? I think you see what I am saying.

Mr Hutchinson—The cluster group takes responsibility for operating under the contract, once the contract is executed. It is our project management task to bring the contract to execution stage. In getting to that stage we will, of course, work with the steering committee. It would be most unusual for us to do anything that the steering committee is not comfortable with, but the steering committee's executive role in blessing the project management arrangement cuts in once the contract is signed and once we have acquitted our project responsibility of getting the contract to that point.

Senator LUNDY—So they have to wear any flaws in the contract, in that they did not have involvement in that decision to actually let it.

Mr Hutchinson—First of all, it would be most unusual for us to have a flawed contract at all, we hope; but it would be most unusual for us to bequeath any contract to an executing agency without having consulted in detail with the executing agency on the nature of the contract beforehand. That is not the same thing as giving them everything they want; nonetheless, it would put them in a position where they were fully informed as to what was required. This happens frequently with asset sales, where the former owning agency has some post-sale management responsibilities and has an ongoing role. To make it clear, we would anticipate that the steering committee or the agencies represented in the cluster would be included within not only the evaluation team but also the negotiating team.

Mr Smith—Indeed, the draft contract that is now with bidders for comment was cleared by all agencies.

Senator Lundy—Involving cluster 3?

Mr Smith—Yes.

Senator LUNDY—Is that the process you will go through for each cluster?

Mr Smith—I see no reason to vary that process. The agencies have to live with the contract, and we would be looking for them to sign off on the contract in every cluster, I suspect.

Senator LUNDY—In terms of post-contract, using cluster 3 as an example, if there are issues in relation to potential variations for that contract, what is your office's involvement then? Is there any?

Mr Smith—I do not contemplate any. As in any contract, and as in all the hundreds of contracts that I have signed over the years, there is always the contemplation of a variation in every contract. We are providing that contemplation of variation, and then it is for project managers or contract managers to implement and manage that, throughout the period of the contract.

Senator LUNDY—Following up on the issues with respect to the probity auditor, can you describe the role of the probity auditor and the work of that probity auditor, to date?

Mr Smith—The role of the probity auditor is broadly to audit the process that we are undertaking at the moment and to ensure, essentially, the things that you would expect a

probity auditor to ensure: transparency, and whether it is fair, unbiased and accountable. He will also audit and advise us on actual or potential conflicts of interest. As Mr Hutchinson has indicated, the auditor will audit and advise on tender evaluation methodologies and selection processes employed in the projects. He has advised us on matters in relation to probity guidelines and he in fact has conducted a number of probity briefings for agencies in cluster 3 in relation to probity and an awareness of the requirements of the conduct and behaviour in this type of sensitive commercial arrangement. That is broadly the role that is contemplated.

Senator LUNDY—Who is the probity auditor?

Mr Smith—The probity auditor is Mr Stephen Marks. He has his own firm—I think it is called Stephen G. Marks & Co.—based in Melbourne.

Senator LUNDY—What was the selection process for that independent probity auditor, and who conducted it?

Ms Marks—The initiative probity team originally conducted a competitive tender process for probity auditor. It was a selective list. We went to the national audit partners of the six big firms, Price Waterhouse, Coopers & Lybrand, Deloitte, et cetera. We ran a thorough process and interviewed all three candidates who responded—some did not respond at all. Through that process, we conducted a review of any conflicts of interest that those companies might have. As a result of that process, we were not satisfied that the preferred candidate could be cleared satisfactorily of any conflicts of interest, since these firms are very large and have a lot of client relationships that may impact on our project and because we also have a large coverage of the IT&T industry.

As a result of that, we did not make a selection decision from that process. We then found out about Mr Marks, who originally had been in contact with the Office of Asset Sales, registering as having some capability as a probity auditor. By this stage we had a fairly urgent requirement to get a probity auditor on board and we approached him regarding his capability. We cleared him of conflicts of interest and we also asked him for a quotation of fees. Mr Smith and I interviewed the probity auditor and, from there, we engaged him.

Senator LUNDY—The person engaged as the probity auditor was not part of the competitive process, as such?

Ms Marks—No, he was not. I should point out that there are not many probity auditors in Australia actually doing this work.

Senator LUNDY—In terms of the nature of that approach, was that in writing? Was it a letter to the office? Or was it an informal approach?

Ms Marks—It was originally a telephone contact that I made myself with Mr Marks. I should point out that I am not related to him.

Senator LUNDY—The question did cross my mind.

Ms Marks—Not at all; not the probity auditor. It was originally a telephone contact with him, and we asked him if he could respond fairly quickly on some requirements—basically those based on our competitive tender—and he was asked to respond to those in writing. He was actually given those requirements in writing and asked to respond to those in writing to me with his fees, his curriculum vitae, his resume of work, plus his referees. From that process, we interviewed him personally after we received his information and response. Then I followed up two out of the three referees that we were given, who both responded positively about Mr Marks and his ability.

Senator LUNDY—Had you had any involvement with his company before? Or was the approach just out of the blue?

Mr Smith—No. In terms of background of identification, when our attempts to satisfy the open and effective competition principles of the procurement guidelines were unsuccessful, we made enquiries of the Office of Asset Sales, who advised us that they had been approached by Mr Stephen Marks—who, as in a matter of interest, has acted as a probity auditor for the Victorian government in its privatisation program and has also acted, or is currently acting, for the Tasmanian government in this particular role. So he was identified through that process. We made an approach to him on that basis.

Senator LUNDY—What areas of work for the Victorian government?

Ms Marks—He was involved in the docklands project and the electricity privatisation projects in Victoria. They are the ones that come to my memory at the moment.

Mr Smith—I think he may also—but I stand to be corrected—have been involved in Tabcorp. But all privatisation work in Victoria was with the Victorian government in this particular role.

Senator LUNDY—And what exactly has he been doing?

Mr Smith—I gave you an outline of the sorts of things he has been doing. In a practical sense, that is what he has been doing. He has conducted probity briefings for agency staff. He has cleared the protocols that I referred to earlier at this hearing in relation to individuals in our office and with the industry and with agency staff.

Senator LUNDY—So in terms of cleared protocols and that sort of process, does he supply a written report, opinion or view to your office to provide that clearance? What is the actual mechanism?

Mr Smith—It varies. In some cases we have a document that we might refer to him and we say, 'Would you please examine, analyse and provide us with any comments or clearance or sign off?' In other cases he has a more key role in drafting. He has a more significant role in drafting the protocols, for example, which is his particular area of expertise. So it would vary issue by issue, but essentially he has to sign off. He writes us a letter in terms of a sign off, for example in conflicts of interest, saying, 'I have examined the case that you have presented to me. I see no reason for us to do anything in particular' or 'I am happy with the process' or whatever and it is signed off 'probity auditor'. But it does vary on the issue that is in front of him at the time. Ms Marks just points out that he signs off on the RFT, for example. So it does vary depending on what he is actually looking at. He does essentially sign off in writing on all the things we ask him to do.

Senator LUNDY—Can you provide the committee with all of that documentation?

Mr Smith—Which committee are we talking about? The steering committee?

Senator LUNDY—Provide this estimates committee with all the documentation that you have been given by the independent probity auditor.

Mr Smith—Are you asking if he has provided it or will he?

Mr Hutchinson—Can I take that on notice? I would like to review that documentation. We will provide the committee with as much of it as we can. Any that we have any doubts about we shall consult the minister. I have not yet personally had the chance to review all that documentation, but in principle that information is certainly available for the accountability process, but whether it is best made available to this committee or best made available through

the Australia National Audit Office is a question for judgment that I have not yet been able to exercise.

Senator LUNDY—Yes. That is a very interesting response, Mr Hutchinson, given that an independent probity auditor has been put in place ostensibly to help satisfy criticisms of the industry about process. Now I am hearing some hesitancy in that proof of the signing off of each particular process may not be publicly available.

Mr Hutchinson—All you are hearing is my usual notorious caution about hastily volunteering to give information to committees before I have looked at it.

Senator LUNDY—My experience is that, if you are going to refuse or qualify the delivery of information to a committee, you need to be able to cite at least one reason, for example, cabinet in confidence in relation to advice provided by minister. So, unless you are prepared to cite that, I ask that you take the question on notice and provide that documentation.

Mr Hutchinson—I have indicated that I will take the question on notice. I will provide what documentation is appropriate and any that I have reservations about I will consult the minister on. Of course, any that is withheld will be withheld for one of the usual reasons that information is withheld from a committee. It will not be withheld lightly.

Senator LUNDY—No, I cannot imagine it would. Minister, could I ask you your views of the appropriateness of the provision of such advice to this committee, given that we are dealing with an independent probity auditor?

Senator Hill—I think it will probably be okay, as I understand the document and the purpose of the document, but out of courtesy to Minister Fahey, I would like to refer it back to him first. On the face of it, it seems to be something that the committee could reasonably require to satisfy itself that the processes are being conducted properly.

Senator LUNDY—You would think so, particularly given the context in which the minister appointed the independent probity auditor. It was very much in the context of reassuring the industry and the general public that due process was being adhered to.

Senator Hill—That is the way I would see it. I will just check if there is any reason that escapes me in the immediate sense as to why I might be wrong.

Mr Hutchinson—My colleagues are reminding me of one dimension of the probity auditor's work that may cause a slight difficulty and that is where either external or internal parties have declared a situation that could amount to a conflict of interest, such as a personal investment by an officer in some shares or a client relationship that a law firm may have. That may prima facie raise a concern about conflict of interest that we wish the probity auditor to think through with us and come to a view on as to whether this is a conflict of interest that is material or not.

It is possible that the probity auditor's report on those situations could disclose the substance of them in a way that might breach the privacy of the personal affairs of the officer or that may breach the business confidentiality of the party disclosing to us. We would not want to create a situation in which officers were reluctant to disclose their personal financial affairs for the purpose of probity clearance or a situation in which contractors decided to conceal business relationships from us rather than have them subject to scrutiny if there was a risk of those documents being tabled.

That would be a class of documents in relation to which I would probably propose to indicate the nature of them to you, but withhold the substance of them from the committee because of the fact that this committee's information is on the public record. Indeed, in my

other capacity of running assets sales, I have had officers disclose to me personal investment decisions they have made that they wanted on the confidential record lest it be thought that they had a conflict of interest.

Senator Hill—But we can take that all that into account. As a government that favours transparency, we will do our best to meet your request.

Senator LUNDY—I am so pleased to hear your comment on that, Minister. Can I also again ask if it is the intention of this government to ensure that that is precisely the nature of the information that is required to satisfy any potential challenge as to the probity of this process that needs to become public?

Senator Hill—I think there can be a situation where governments may well have acted upon that information, but it still might be unfair to particular individuals to put it on the public record. But I have not seen the documents and that is why I said I would prefer to take it on notice and we will have a look. We will endeavour to put as much on the public record as possible.

Senator LUNDY—I would expect that, unless that information becomes available, such a probity auditor is essentially a paper tiger and serves no purpose whatsoever in terms of reassuring either industry or the public that due process and probity are being adhered to.

Senator Hill—Yes, but there may be a distinction between some sort of bottom line certificate and content. I think it should be looked at further.

Senator LUNDY—Okay.

ACTING CHAIR (Senator Heffernan)—I think it would be timely for everybody to have a five minute break now.

Sitting suspended from 10.05 p.m. to 10.14 p.m.

Senator LUNDY—Going back to the issue of the independent probity auditor, could you also take on notice provision of any documentation or advice provided by the independent probity auditor specifically with respect to signing off on processes, as opposed to the actual considerations by the probity auditor in reaching those decisions?

Mr Hutchinson—We can certainly take that on notice.

Senator LUNDY—I have a final question with respect to the probity auditor's role in assessing the recent decisions by the Office of Asset Sales, IT Outsourcing and the Department of Finance on IBM-GSA's role with the contract for IT services for your office. Can you describe the changes that have taken place that were articulated by the minister last week in the chamber? He read out the same brief again today following question time. Can you just articulate for the committee precisely the decisions that have led to those changes?

Mr Hutchinson—Senator, I do not believe that this was an issue that ever got to the probity auditor because it was a consideration that came to mind at a management level as soon as the minister mooted the merger of the Office of Asset Sales and the Information Technology Outsourcing Project Office. It was a consideration at the time that the Information Technology Outsourcing Office was to be merged into the Office of Asset Sales.

The Office of Asset Sales had already been joined into the Department of Finance's IT outsourcing exercise with IBM-GSA for about two weeks and it occurred to me immediately the minister mooted the merger that we would have a problem with IBM-GSA. It was not a problem of substance, but a problem of perception. Competitors might consider that IBM-GSA,

in managing our desktop network, could be thought to have access to confidential information held on that network that dealt with projects in which they may have an interest.

I therefore took the decision in principle that once the officers were co-located—and that is still a couple of weeks off—we could not continue to have IBM-GSA support our desktop network. And what the minister announced was that we would be negotiating with the Department of Finance and with IBM-GSA to: firstly, co-locate the office and our IT equipment, and then, secondly, find an alternative solution to IBM-GSA to manage our network in order that the integrity of our information, the information on that network, was not only protected, but was seen to be protected.

That process is still being developed because the two offices are not co-located; the networks are not coincident, and the information on the IT outsourcing office's network is still protected from IBM-GSA and will be at all times up to and following the physical co-location. Exactly what contracts we will be entering into to put in place an alternative service provider to IBM-GSA is still not settled, but we are having some negotiations with some parties.

Senator LUNDY—What impact does that process that you have just described have on the absorption of the former DAS functions underneath the DoFA IBM-GSA contract?

Mr Hutchinson—Since both OGIT and the Office of Asset Sales are functionally and accountably separate from the Department of Finance, we have no transparency of that arrangement at all. It is not something that is within our remit—it passes beyond our notice.

Senator LUNDY—With respect to the IT functions formerly performed by DAS support services, how are they being integrated into the DoFA IT operation?

Mr Hutchinson—I have no knowledge of the integration. I have only a very general awareness of the integration between DAS and DoFA into DoFA and the IT outsourcing arrangements. It is not something that is my responsibility, or that I am aware of.

Senator LUNDY—The contract that exists between IBM-GSA, the Department of Veterans' Affairs, the Department of Finance, and now the former sections of DAS, is something that is completely distinct from the Office of Asset Sales and IT Outsourcing?

Mr Hutchinson—The former Office of Asset Sales was drawn into the IBM-GSA contract quite simply because we, in turn, had outsourced all our IT support to the Department of Finance. When the Department of Finance outsourced that to IBM-GSA, they were essentially vetting a contract that I had with the Department of Finance. I was only addressing your question from the perspective of a customer of the contract.

From an IT outsourcing perspective, the Department of Finance-Veterans' Affairs arrangement is an arrangement that predates my responsibility and predates Mr Smith's. It is a matter that, from my dim recollection, was gone into at some length in former estimates hearings with the Department of Finance. I really would not want to reopen that one on the basis of me having no knowledge.

Senator LUNDY—Indeed. So in terms of the process that you are going through of revisiting cluster structures, looking at base assumptions and all the other things that you mentioned, Mr Smith, the Department of Veterans' Affairs, the Department of Finance and the operations formerly part of DAS are not part of that review process?

Mr Hutchinson—All I am doing is looking at a way in which I can ensure that the Office of Asset Sales and IT Outsourcing has a desktop—because that is all we use—environment, a desktop network, that is beyond criticism that our contractor who runs it may be using information on that network improperly. There is no suggestion that the contractor could or

would use that information, but we need to make it quite clear that, even if they could or would, they cannot. We are going to put it beyond doubt with appropriate contractual arrangements.

Senator LUNDY—That does not answer my question at all. Perhaps, Mr Smith, you could answer that?

Mr Smith—I do not have anything further to add on that.

Senator LUNDY—Can I reiterate my question. My question had, with respect to Mr Hutchinson, moved to a different area. In your considerations of reviewing the cluster structures, are the Department of Veterans' Affairs, the Department of Finance or operations formerly under DAS and now part of DoFA, part of that process of re-establishing benchmarks and analysing the base assumptions of the business case for outsourcing, or are those three areas distinct from that process?

Mr Smith—The contractual arrangements that DVA have in place and that the Department of Finance have in place in relation to outsourcing are not part of my initiative, and therefore I am not looking at that at all.

Senator LUNDY—All right. So it does not factor into your considerations. Does that detract in some way from the scope of that particular project in analysing the assumptions that underlie the outsourcing program?

Mr Smith—Sorry, Senator, I missed that question.

Mr Hutchinson—I think I can answer it. My recollection from some former responsibilities is that the Veterans' Affairs outsourcing to IBM-GSA, as it turned out, proceeded ahead of the whole of government outsourcing because, in part, of the stage it had reached as a stand-alone initiative but also, in part, because it provided an opportunity for some experience to be gained with IT outsourcing and an opportunity for some benchmarks to be established.

Similarly, the Department of Finance joining that arrangement predated the whole of government initiative in such a way that it would have been inappropriate to intervene to stop it at the time. But they are, if you like, issues or steps that were in place at the time that the whole of government outsourcing was started. It is part of the fact that you never start one of these things with a clean slate. You cannot get everybody in the starting gate at the same time, because it is real life.

And, no, there is no detracting from the initiative because of these pre-existing commitments that agencies of the Commonwealth had entered into before the initiative itself was established. Indeed, it could be argued that the experience of those two agencies proceeding to this point has helped inform the culture and process of the IT outsourcing initiative more largely and, therefore, the IT outsourcing initiative may be better founded because of the experience of those agencies.

They have made their mistakes; they have learnt their lessons. We can learn from them. They have got some things right that we might not have got right. We can learn from them and get the whole of government process better. Would we have liked to have had everybody in the starting gate at the beginning? Yes, and I guess we would like to have life different.

Senator LUNDY—With respect to the piggybacking of the Department of Finance contract on DVA, what lessons do you think were drawn from that in terms of your comments?

Mr Hutchinson—I would have to sit back and review the detail before I could indicate what the lessons were. All I was doing was outlining that. It should always be possible to learn

lessons from that sort of experience. It could be that others have done the work; I have not done the work.

Senator LUNDY—Mr Hutchinson, in the context of those comments, several of the decisions that were made relating to the extension of that DVA contract did occur after the IT outsourcing program was announced as part of this year's budget. How does that sit with your assertion that the DVA and those contracts piggybacked on top of that can sit in isolation from the current program?

Mr Hutchinson—I did not suggest it in isolation; I just suggested that they were commitments that predated the start of the program. The whole history is one where my understanding is that you have probed quite deeply in these committees. I have not sat through all of those committees, and in the ones I have sat through I have not necessarily listened in as much detail as I perhaps should have done, because I had no responsibility. Therefore, it would be very dangerous for me to go back over that ground again without reading several hundred pages of *Hansard*, which I have not done, and consulting with my colleagues who were closely involved.

Senator LUNDY—Perhaps Mr Smith can assist in that regard. Is it a reasonable assumption that if there is any further piggybacking occurring with respect to existing contracts, that will effectively isolate those participating in that piggybacking from your complete revisit of the cluster structure?

Mr Smith—I do not think it is appropriate for me to comment on arrangements with the Department of Finance in a DVA contract, as Mr Hutchinson has pointed out. What we are undertaking is a competitive process in the cluster arrangement. That is my objective and that is the one we are pursuing.

Senator LUNDY—In terms of your revisiting the number of clusters and the various relationships between the agencies, what position are you in, in terms of your control of the IT outsourcing program, to preclude any further piggybacking on existing contracts?

Mr Hutchinson—My understanding is that were there to be any further piggybacking proposed, then that would require the concurrence of relevant ministers, and that, I think, would be the control mechanism that would be applied, just as the piggybacking that has already taken place also required ministerial concurrence.

Senator LUNDY—Yes, it certainly did. In terms of that ministerial concurrence, are you aware of any further piggybacking being contemplated?

Mr Smith—The answer is no, I am not aware, Senator.

Senator LUNDY—Mr Hutchinson?

Mr Hutchinson—I have asked some of my colleagues and nobody seems to have raised it with us. So, no, I am not aware of any further piggybacking that is being proposed.

Senator LUNDY—Is there anything in place that prevents the further extension of that existing contract with IBM-GSA?

Mr Hutchinson—A further extension beyond—

Senator LUNDY—Beyond its current coverage.

Mr Hutchinson—I do not know the nature of the contract. It would be unlikely that the scope of the contract was incapable of being varied but there is no intention on the part of the Commonwealth to undertake any additional piggybacking. I am being a little bit careful because one option that may be available to IBM-GSA in bidding for work might be to bid

for work on one basis, which would be to extend the scope of the existing contract. If they make that proposal in response to a request for tender, then we will have to evaluate that proposal on its merits at the time that it is made. I am not prepared at this stage to shut that out but I would prefer to only consider any further piggybacking in the context of responses to a request for tender.

Senator LUNDY—Can you clarify for me the value of the DAS component that is now part of the Department of Finance that has been absorbed into the IBM-GSA contract?

Mr Hutchinson—The answer is no, I do not know the dollar value. That would be a matter for the Department of Finance. However, I would not like to characterise that as being an extension of the contract; it was just the contract being adjusted to take account of a change in the workload within the Department of Finance, concurrent with its renaming and changed functions, rather than it being extended to another agency.

Senator LUNDY—Yes, but it does have an impact in terms of the current considerations of the cluster structure that Mr Smith articulated because DAS was formerly part of cluster 3. Is that not the case?

Mr Smith—DAS was a part of cluster 3, correct, and there are elements of the DAS bureau services that remain in cluster 3.

Senator LUNDY—In terms of that sort of flow, what I am trying to find out from you is if there is any more scope, either envisaged or actually in train, for departmental restructuring that could provide for an even greater proportion of work to be absorbed into that IBM-GSA contract?

Mr Hutchinson—Clearly, it is a matter for the government of the day to settle its machinery of government. In other words, it arranges the orders that determine the departmental structures. Clearly, any contracts we put in place on a whole of government basis, whether it be cluster based or otherwise, have to be sufficiently flexible not to fetter the Prime Minister's responsibilities in terms of determining the optimal structure of government.

Therefore, any IT outsourcing contract we put in place must be able to accommodate changes in departmental structures, the creation of departments, the abolition of departments, and the re-allocation of responsibilities between and among departments. That is one of the challenges we have not only in addressing the existing contract between the Commonwealth and IBM-GSA in respect of the two agencies that formed the pre-existing cluster, but also that we have to put in place with any other contracts we develop with IBM-GSA or any other outsourcing tenderer.

There will always have to be scope to add agencies or components of agencies, subtract agencies or components of agencies, if and when the government changes its structure. It has been my experience over 17 years that governments frequently change their structures. Less frequently has it affected the Department of Finance—they only do that about every 20-odd years—but much more frequently has it affected other agencies and other departments.

Senator LUNDY—Very interesting. That degree of flexibility and provision for variation in the contracts, Mr Smith—to what degree does the request for tender accommodate that level of flexibility?

Mr Smith—As I said, it is important in any contract that you write that you do have a provision for flexibility in terms of variation. Every contract contemplates a variation, basically, unless it is a deed, signed under seal. It contemplates variation. This contract is no different; it contemplates variation.

One would expect that in a situation downstream where there was a variation the appropriate delegate at the time would consider the merits of the case in terms of variation. There would be a framework in the contract that allows for variation to occur in whatever circumstances.

Senator LUNDY—Does the RFT for cluster 3 carry the same clause that provided for the piggyback to occur under the DVA contract?

Mr Smith—Are you asking: is there a clause which allows piggybacking in the contract for cluster 3?

Senator LUNDY—That is one way of saying it, yes.

Mr Smith—The answer is no.

Senator LUNDY—So how do you provide for the sort of flexibility that has just been described by Mr Hutchinson?

Mr Smith—What I said to you, Senator, was that the contract does provide for variation. The contract can be varied for a number of reasons. The question you asked me was: was there a clause in the contract which allowed for piggybacking? The answer is no.

Senator LUNDY—You reinterpreted my question.

Mr Smith—You confirmed that I had the right interpretation. There is a variation clause in the contract, as there is in all contracts.

Senator LUNDY—For the circumstance to occur in the cluster 3 contract, as occurred in the DVA contract, there would have to be a formal variation of the contract as opposed to an extension or a piggyback of that contract.

Mr Hutchinson—Senator, the piggyback or extension is a formal variation.

Senator LUNDY—In the original DVA contract, its extension just occurred via ministerial approval. Perhaps you can describe a more formal process of variation beyond that.

Mr Hutchinson—My understanding in outline is that the minister approved that the contract could be varied to accommodate the piggybacking, but the contract itself was then subject to substantial negotiation to ensure that the right levels of service were to be provided and that the contract suited the business case of the Department of Finance. I would say that we would not write a clause into a contract that said that any other agency may join on these terms and conditions. We would have a clause in the contract that says that the contract may be varied to an extent, scope and effect to be determined by mutual negotiation between the parties. The parties then decide whether to renegotiate the contract to achieve the changed objects or call new tenders.

Senator LUNDY—Mr Smith, do you envisage that the cluster based contracts will have that degree of flexibility—that is, to allow agencies to effectively come and go from the various clusters?

Mr Smith—As I said previously this morning, and I can only repeat the point, the contract does provide for variation to be negotiated and agreed by the parties and approved. As Mr Hutchinson points out, it is one potential variation to a contract that is to be considered at the time.

Mr Hutchinson—I would not envisage a contract or situation in which an agency which was part of a cluster could have the cluster sign up to the contract and that agency could then unilaterally, and for its own reasons, walk away from that cluster or walk away and join another contract. From a Commonwealth perspective, there would have to be some change in the circumstances of that agency that would warrant them walking away, just as the change

in the circumstances in the Office of Asset Sales allows us to walk about from the idea of a GSA contract as with Finance.

Senator LUNDY—I think that is my point, Mr Hutchinson. If there is a change in the government's agency structure, in the way that occurred with the Department of Administrative Services joining with the Department of Finance, that is precisely the scenario when there could be a transfer between cluster contracts. I am just trying to get a clear picture on what will be the scope in which Mr Smith and the Office of Asset Sales and Information Technology will allow that to occur.

Mr Smith—The contract does actually contemplate changes in amalgamations and restructuring of agencies. It would be remiss of us not to do so in the sense that, as Mr Hutchinson clearly articulated, you cannot fetter the right of the Prime Minister to make whatever government changes he thinks appropriate for government. The contract does contemplate amalgamations and restructures of agencies.

Senator LUNDY—What contractual mechanisms have you put in place to ensure that agencies do not become captive to a vendor should that circumstance occur? How do you contractually provide for that level of flexibility? What is the mechanism?

Mr Smith—In any variation of contract you have to, first of all, agree the terms between the two parties. In our case, in the Commonwealth, we have to satisfy a delegate that all the principles that underpin Commonwealth procurements that are approved by the Australian government are satisfied. I see no difference in this model in the contracting arrangement with the Commonwealth. A delegate would have to make judgments on the merits of the case, as we do in any contracting decision we take in the Commonwealth.

Senator LUNDY—With the piggyback that occurred between DVA and DoF the delegate actually became the minister—or so the evidence presented before this committee led us to believe. In that circumstance, how do you ensure due diligence of those considerations?

Mr Smith—I am not sure what is contemplated by your question.

Senator LUNDY—It is a question of process and public accountability for any potential variation of that nature.

Mr Hutchinson—I guess I would respond by saying that the minister's decision, in that case, has been subject to a very high level of scrutiny which is therefore a very high level of accountability. I cannot think of any greater level of accountability than having all the officers associated with the process explain their position repeatedly to Senate estimates committees and the minister respond to questions in the parliament. It strikes me as being about the highest level of accountability you can get for that sort of decision making.

To the extent that a decision is of a lesser order of magnitude or attracts less attention, then it falls within the normal operations of a department or an agency and is subject to review on behalf of the parliament by the Auditor-General as part of the Auditor-General's ongoing work program. That is the accountability mechanism that drops into place when no other accountability mechanisms are exercised. The delegate is accountable to the minister for the exercise of those delegations.

Senator LUNDY—Mindful of the time, I have a couple of other points and I understand the chairman is going to pull things up at 11 o'clock so I would like to move on to a couple of other issues. First of all, with respect to the changes to the Privacy Act that the minister has articulated, because it is on the public record that it is the minister's intention to legislate on the matter of Commonwealth data under the control or in the possession of private sector

vendors, what is your knowledge of the current time frame for that particular bill? How does it impact upon potential vendors participating, particularly in the cluster 3 RFT but more generally in the tendering process, for the remainder of the outsourcing program?

Mr Hutchinson—My understanding is that the responsibility for amending the Privacy Act rests with the Attorney-General's portfolio. I do not immediately have to hand the government's timetable for that amendment. However, our contingency planning, because dealing with the amendments is a matter for the parliament, is to proceed to put in place equivalent contractual obligations within the tender documentation against the contingency that the legislation is not enacted by the time we are ready to implement the contracts. If the legislation is enacted then the contractual provisions will not be necessary or will be struck down. In the event that the legislation is delayed then the contractual provisions will sit there with the same effect until the legislation takes effect. The short answer is that there will or should be no effect on timetable.

Senator LUNDY—How are you going to pre-empt the nature of this legislation?

Mr Hutchinson—I think the policy principles have already been spelt out by the minister. I assume that when we are drafting the details of the contract we will consult the Attorney-General's department to ensure that we have the coverage right. The policy intention is to replicate the Privacy Act provisions that are already there for the public sector. That is a very easy thing to do contractually.

Senator Lundy—I guess the minister's office has guaranteed its passage safely through both houses of parliament.

Senator Hill—We just live in hope.

Senator LUNDY—In terms of that pre-emptive work on your behalf in the cluster 3 contract, can you draw my attention to where those provisions lie in the RFT?

Mr Smith—We can find that out for you and give you that information before we leave here tonight.

Senator LUNDY—Yes, that certainly would be useful.

Mr Smith—It would be in the contract, rather than the RFT.

Senator LUNDY—Have the potential vendors been given the opportunity to peruse what those requirements will be?

Mr Smith—Yes. The draft contract is with bidders now. When they lodge their bids they have to comment on the draft contract—for instance, in terms of their acceptance or otherwise of the conditions of contract that we have laid down. They have before them the contractual obligations that we are placing on them for full compliance with the Privacy Act. We would expect them to respond in terms of that provision, as with any other draft provision that is in the contract, when they lodge bids on 2 December.

Senator LUNDY—Is the vendors' acceptance of that particular contractual requirement relating to privacy—that requirement you hope is going to mirror the legislation—one of the base level requirements before accepting a tender? What status does it have in your considerations?

Mr Hutchinson—It would be my understanding that, subject to any views the minister may have, given the strength of the policy commitment and the public policy importance of the issue it would be inappropriate for the Commonwealth to enter into a contract with any party

that would not accept that obligation. Anybody who tenders on the basis that they are not going to accept the privacy obligation contractually will be wasting their time. It would just be a matter of time—and not much time, I would expect—before the parliament passed legislation requiring them to do so. It strikes me as being a mandatory issue.

Mr Smith—It would actually say something about the tenderer themselves if they were not prepared to sign up to privacy, wouldn't it, Senator?

Senator LUNDY—Sorry, can you speak up?

Mr Smith—It would actually say something about the tenderers themselves in terms of our evaluation of their suitability if they are not prepared to sign up to the Privacy Act provisions. It is a fundamental issue.

Senator LUNDY—Right, so it is mandatory?

Mr Smith—Yes.

Senator LUNDY—How will we, as parliamentarians—with public scrutiny—know the nature of that particular contractual provision and whether or not it has been signed up to?

Mr Hutchinson—That is a question to which at the moment I do not think we have an answer, but I think that it is a perfectly valid question. Before we finalise the process we will ensure that our probity auditor looks at how we should report to the parliament on the substance of the contracts we enter into to address the public policy issues that lie behind them.

Senator LUNDY—With respect to the mandatory nature of adherence to the privacy provisions of the contract, is it likely that at least that part of the contract will be made public? Do you think that is a reasonable position?

Mr Hutchinson—It is possible, but of course the question as to what we make public will be a matter for the minister. The clauses of the contract that deal with privacy are intended in a public policy sense to replicate the obligations that are already imposed upon Commonwealth agencies by the Privacy Act. As such, there would seem to me to be nothing confidential in those provisions and there would seem to be no immediate argument why those provisions should not be made public.

I am not seeking to avoid parliamentary or public scrutiny of those clauses, merely to defer until they have been settled. I expect the parliament might already have enacted the legislation and, therefore, the clauses will not be required. I see very little difficulty in reporting on them. It would strike me that at the very least I would have an obligation to report on the substance of the issue in my annual report to the minister. That report, of course, gets tabled in the parliament.

Senator LUNDY—Concerning the issues that that privacy clause will invoke in the security of data, is it possible for the wording that you are going to be inserting into the contract to be provided to this committee so that it can be available on the public record?

Mr Hutchinson—That is something I need to take on notice. As a matter of process, I am not at liberty to commit the minister to providing anything to the committee.

Senator Hill—You do if I say so.

Mr Hutchinson—All I am at liberty to do is to refer the matter to the minister.

Senator Hill—Is the contract a standard form?

Mr Hutchinson—I do not know that it has yet been fully developed. There is a clause there. We have not yet negotiated with the parties on the other side. Disclosing it on the public record before we have opened the negotiations could cause us some difficulty in negotiations.

Senator Hill—We have to be as open as possible.

Mr Hutchinson—That is entirely the probity of the minister.

Senator Hill—No, it is not. It is my prerogative, too. We have a responsibility to provide everything we reasonably can. If it is commercial-in-confidence, that would be different.

Senator LUNDY—Minister, can you undertake to provide to the committee the provisions of that particular clause of the contract as soon as it is drafted?

Senator Hill—I undertake to have a look at it. If we can, we will.

Senator LUNDY—That is a wonderful demonstration of your commitment to openness and accountability, Minister.

Senator Hill—No, you should give me time and put me to the test.

Senator LUNDY—It is not an unreasonable request.

Senator Hill—It does not seem unreasonable to me.

Senator LUNDY—I am just testing out your altruistic statements about your commitment to probity, Minister. You have just failed dismally.

Senator Hill—We are trying to be helpful.

CHAIR—Senator, the Minister has given an undertaking.

Senator LUNDY—No, he hasn't. He has qualified it.

Senator Hill—I have given an undertaking to treat the matter seriously and look at it carefully.

Senator LUNDY—Terrific. We have not got anywhere on that one. We have not got any commitment to see a clause or make it public. All your fine words, Minister, amount to nothing.

Senator Hill—No. Be patient.

Senator LUNDY—When is it your intention to make that available to industry—before or after tenders close?

Mr Smith—The clause, Senator?

Senator LUNDY—Yes.

Mr Smith—As I indicated a moment ago, the draft contract is with the bidders now.

Senator LUNDY—So you have got a clause.

Mr Smith—There are draft provisions in a contract. I made that point earlier.

Senator LUNDY—I am sorry; I misunderstood completely. Minister, there is a clause. Are you prepared to release it to the committee?

Senator Hill—I am not as nervous as he is. I am trying to establish the basis of his nervousness.

Senator LUNDY—It is within your power to say yes.

Mr Hutchinson—There is a clause addressing this issue in the draft contract that has been provided, under conditions of confidentiality, to draft bidders. None of us here have that clause in front of us and none of us can immediately recall what it says.

Senator LUNDY—But if it reflects all of those elements, then it is not an unreasonable request.

Mr Hutchinson—I understand your request, Senator, and I do not disagree with what you are saying.

Senator LUNDY—We can sit here and qualify it all night, or you can be open and up-front about what you are trying to achieve.

Senator Hill—We will take it on notice, but we will endeavour to provide it. That is the way we are approaching these things.

CHAIR—Thank you, Minister. Any further questions?

Senator LUNDY—Yes—for five minutes. I will just prioritise.

CHAIR—Good.

Senator LUNDY—Have you received any representations from industry on the issue of privacy, on the privacy clause in the contract or, indeed, the potential legislation?

Senator Hill—From who?

Senator LUNDY—From industry or potential vendors.

Mr Smith—Senator, in all the discussions I have had with industry, and there have been many, the issue has not been raised.

Senator LUNDY—Sorry—not been raised?

Mr Smith—In all the discussions I have had with industry, and there have been many, this issue has not been raised with me personally.

Senator LUNDY—What is your interpretation of that?

Mr Smith—I think they, like any good citizens, would have no problems in complying with the requirements, as I said earlier, of the Privacy Act, which are eminently sensible. I think any reasonable person would automatically comply with that.

Senator LUNDY—So it is not really a contentious issue?

Mr Smith—In terms of compliance, I would think not.

Senator LUNDY—Does that make you less nervous about providing the actual clause?

Mr Smith—The minister has already said that that will be taken on notice, Senator.

Senator LUNDY—With respect to the industry development provisions of the cluster 3 RFT, and particularly the requirement for regional employment and involvement of Australian companies and so forth, does the recent sale of IBM's Wangaratta plant to Blue Gum change the status of that plant in the context of the industry development requirements of that RFT?

Mr Smith—Senator, I might be able to get you an answer to that. In the meantime, if you have another question you could go on to that and then I can come back to it.

Senator Hill—We have not got time for too many more.

Senator LUNDY—While they are finding that answer, can I ask who is providing legal advice to you as part of the IT outsourcing program?

Mr Hutchinson—We have legal advice available to us from Minter Ellison and also from Shaw Pittman.

Senator LUNDY—From who?

Mr Hutchinson—Shaw Pittman. Our legal advice is primarily from Minter Ellison. The advice we have from Shaw Pittman is to do with IT outsourcing rather than legal matters.

Senator LUNDY—In terms of that legal advice on IT outsourcing, can you describe the areas upon which you are receiving advice? That is, is it in relation to the structure of the contracts or the cluster structures or whatever?

Mr Smith—Is the question in relation to Shaw Pittman?

Senator LUNDY—Yes.

Mr Smith—Shaw Pittman have a broad role in terms of strategy. They have provided advice to me on matters in relation specifically to cluster 3 and the future roll-out strategy, different issues that emerged of a nature that had to be resolved in the tender process to date. They are, as a matter of routine, asked to provide input based on their very substantial experience in IT outsourcing worldwide. We rely quite heavily on them for strategic matters, pricing issues, costing issues. It is quite a wide-ranging brief that they have.

Senator LUNDY—What is the extent of their Australian experience?

CHAIR—Senator, it is virtually 11 o'clock. Do you have any further questions you want to put on notice?

Senator LUNDY—If I could finish this line of questioning.

CHAIR—Within the next half a minute. You have had three hours.

Mr Hutchinson—The advice we have received from Shaw Pittman is pervasive across the whole of our responsibilities. It will be almost impossible to do anything other than refer to the responsibility of the office and say that Shaw Pittman will advise us on anything and everything within their scope.

Senator LUNDY—Yes, but that is not the question that I asked.

Mr Smith—I understand that they have done work for the South Australian government on outsourcing. They have done work with Telstra, and possibly with AMP as well—some time ago.

Senator LUNDY—Can you please provide the committee with details of the extent of their Australian experience, the background of that company, the tender process by which they were engaged by OGIT, the nature of their contract now with OASITO, the value of their consultancy services, and a description of the consultative services that they provide?

Mr Smith—Will do.

Senator LUNDY—You could also provide that same information with respect to Minter Ellison and any other consultancies or to advice that you as an office are seeking from any external sources, and the value thereof and the description of the particular contracts? Please also provide the committee with the detail of the structure of IT Outsourcing within OAS, and the positions and roles of the officers. Do you have an answer to the question I asked before?

Mr Smith—Could we take that on notice?

Mr Hutchinson—To the extent that the acquisition by Blue Gum of the Wangaratta plant is very recent, the matter has not yet been addressed.

CHAIR—Senator, if you have further questions, you could put them on notice with the secretary tomorrow. That completes the hearing. Thank you, Minister and officers. I understand that this has been a record 38 hours of additional estimates.

Committee adjourned at 11.01 p.m.

