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Senator KIM CARR: Isn't that what the Auditor-General drew our attention to in the past about these arrangements, about not having open contracts for these contracts?

Mr Nockels : The Auditor-General has issued some reports on the garrison support contract; that's correct.

Senator KIM CARR: Has he complained or made observations about limited tenders of these types?

Mr Pezzullo : I think it's best if I take that question. As we've covered in these proceedings before, the Auditor-General has made the very proper and self-evident point that, all things being equal, as long as there are no other exigencies in play, you should always go for an open tender. But the Commonwealth always has to have regard to exigencies—are there diplomatic factors, are there factors to do with on-the-ground matters?

Senator KIM CARR: They are the standard questions that have been raised.

Mr Pezzullo : Yes.

Senator KIM CARR: In this case—

Mr Pezzullo : In relation to those exigencies, if you can justify why you have gone for a more restricted process, you need to be able to document both your rationale—

Senator KIM CARR: So you will be able to tell the committee why you've gone for a limited tender in this case?

Mr Pezzullo : Yes, they pertain to the exigencies that we're confronted with. Mr Nockels can add to that.

Mr Nockels : The Commonwealth procurement rules are what, as Commonwealth officers, we need to follow. Those rules talk about the fact that if the Commonwealth has gone to market, which we had in this case, and the market has not been able to come back and deliver us with a candidate, a preferred tenderer, then we can move to a limited tender.

Senator KIM CARR: So these were the only people available; is that the nub of it?

Ms Newton : Yes, we've made expressions of interest in addition to having gone to tender and there was nobody else in the market that was actually interested in the contract. So we went directly to Canstruct.

Senator KIM CARR: I've got it. That's your explanation, that Canstruct are the only ones who presented themselves. So it is a six-month contract for \$8 million?

Ms Newton : No, that's incorrect.

Senator KIM CARR: Not correct?

Ms Newton : No. The letter of intent was about transferring services and staff, potentially, from Broadspectrum across to Canstruct so that they had adequate people as well as the information technology and skills to be able to perform the contract. That was \$8,199,160 that was paid up-front as that letter of intent whilst we completed on the final contract negotiations.

Senator KIM CARR: So the \$8,100,000 is an up-front payment?

Ms Newton : For them to prepare and be ready to take on the contract as well as make offers to staff so that they will be available and ready to commence the contract as of 1 November.

Senator KIM CARR: This is transmission of business, is it? So you've got to pay out redundancies and the like, do you?

Ms Newton : That's Broadspectrum's role in terms of ceasing their contract.

Senator KIM CARR: You don't make any payments for those?

Ms Newton : My understanding is no.

Mr Nockels : No. That's a matter for Broadspectrum, so, when staff depart from Broadspectrum, they would pick that up or the transfer to Canstruct.

Senator KIM CARR: But there's no question about the department having responsibilities? The \$8 million is an up-front payment to the new entity so they're ready to roll?

Ms Newton : Broadspectrum were providing notice of four weeks or five weeks to their staff before leaving. It was enabling those staff to transfer across and have continuity of employment.

Senator KIM CARR: And you're not ready to sign a new contract yet? Is that the case?

Ms Newton : We're in the final stages of being able to complete that contract, but of course we also have to consult with the government of Nauru.

Mr Pezzullo : But it's imminent, isn't it?

Ms Newton : Yes, it's imminent.

Mr Pezzullo : I would say it's imminent.

Senator KIM CARR: So the approval authority is who?

Ms Newton : It's me.