



Dr Shona Batge
Committee Secretary
Senate Education, Employment and Workplace Relations
References Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

MT 10/928

Dear Dr Batge

I write in reference to your recent correspondence seeking answers to questions on notice taken during my testimony to the Senate Education, Employment and Workplace Relations References Committee's inquiry into the Primary Schools for the 21st Century program, delivered in Sydney on 18 May 2010.

I am pleased to provide the Committee with the following responses to these questions on notice.

Q: The cost of buildings constructed both by and outside Building the Education Revolution

A: At an early stage in the program a sheet of indicative costs was distributed by the department.

These costs were rough cost estimates for the superstructures of buildings only. They did not include appropriate allowances for design, site investigation, planning, heritage, ecology, bushfire protection, engineering, connection to utilities, foundations, footings, furnishings, commissioning, and other items required to provide schools with buildings that are safe, durable and ready for occupation. Further, they did not include estimates of program or project management expenses.

I am further informed that while template designs have been provided on the Department of Education and Training's website, in keeping with the demands of the Commonwealth Government's guidelines for BER to use template designs wherever possible, these were never published with indicative costs attached.

Costs for structures delivered under BER, as well as under other major capital works schemes, can vary greatly depending on the nature of the scope of works, specific site considerations, location, and a variety of other factors, and it is not possible to identify a particular "cost" for such structures.

Q: Value for money audits

A: We are not able to release this information at this time. To protect the integrity of the audit process, it is important that data about where and when audits are being conducted is not revealed. Not all audit results will be released publicly, but those that are will be made available on the BER website.

Q: Senator Barnett – whether Tottenham Central School is subject to an audit

A: The work at Tottenham Central School is being audited.

Q: Senator Barnett – audits of the project at Hastings Public School, and more broadly about an audit of Covered Outdoor Learning Area projects

A: As indicated the audit of Hastings Public School's project is available on our dedicated website, www.ber.nsw.gov.au. The review of covered outdoor learning areas is not complete. The Minister for Education and Training will decide in due course whether or not to publish it on the BER website.

Q: Senator Barnett – information that was removed from this website

A: I am informed that a small number of school project budgets were temporarily removed while revaluations occurred. I have provided a table listing various reviews and their terms of reference at TAB A.

Q: Senator Barnett – audits being conducted within the Building the Education Revolution program office

A: I would refer the Committee to the outline of audits provided at TAB B.

Q: Senator Back – regarding the NSW Department of Education and Training's reporting arrangements to the Commonwealth

A: I am advised that our reports can best be obtained by contacting the Department of Education, Employment and Workplace Relations, which holds this data.

Q: Senator Back – precedent and the requirement for school Principals managing their projects under Primary Schools for the 21st Century

A: Senator Back's line of enquiry relates to a breach of the Occupational Health and Safety Act. Under that act a first offence can result in a fine to a corporation of up to \$550,000 and in the case of an individual, a maximum of \$55,000.

A breach of the Occupational Health and Safety Act is a criminal offence and therefore cannot be insured against.

In advising principals of their obligations if they chose to self manage, the department told principals:

"All construction work carries risk. Even a simple activity like painting involves making sure painters working up ladders are safe, proper barricading prevents access to the work area and paint fumes and other chemicals don't affect people.

Occupational health and safety is regulated by state legislation. In NSW the laws are quite strict and require the person in charge of the workplace (in this instance it will be primarily you and not the department or our contractors) to do everything within their power to make sure the workplace is safe.

This is a serious obligation, and you need to keep in mind that you will be responsible for the safety of visiting workers as well as your usual teaching and school support staff, students and school visitors.

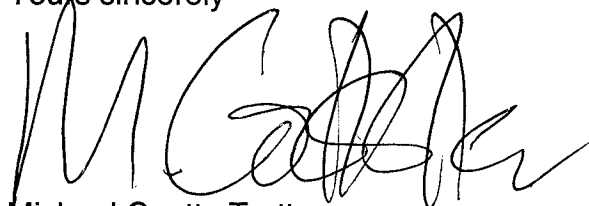
The best way to meet your obligations is to engage an experienced contractor with a good track record for safety management who then implements a well thought out and enforced OH&S management plan."

Q: Senator Barnett – query regarding communications between my office or other areas of the Department of Education and Training and the office of the Deputy Prime Minister regarding Building the Education Revolution

A: The department has provided information to the Commonwealth on many matters associated with the BER. In an economic stimulus program of this scale and timetable I would expect that other education authorities have had similar discussions.

It should be noted the NSW Government's Nation Building and Job Building Taskforce has also commissioned its own review and assurance activities.

Yours sincerely



Michael Coutts-Trotter
DIRECTOR-GENERAL OF EDUCATION AND TRAINING
MANAGING DIRECTOR OF TAFE NSW

16 June 2010

BER Reviews /Inquiries

9 June 2010

NSW Reviews/Inquiries

- a) Review of Implementation of the Nation Building Jobs Plan (NBJP) in NSW and Potential Application to Other Projects
Dr Neil Shepherd & Dr Peter Abelson
- b) Inquiry into the Building Education Revolution (BER)
NSW Parliament General Purpose Standing Committee No.2
- c) Building the Education Revolution – P21 component
NSW Audit Office

Commonwealth Reviews/Inquiries

- d) Commonwealth BER Implementation Taskforce
Brad Orgill
- e) BER Program – Primary Schools for the 21st Century
Australian National Audit Office
- f) Primary Schools for the 21st Century
Australian Senate Education, Employment & Workplace Relations Committee

Review / Inquiry Name	Commissioned by	Review conducted by	Aim of Review / Inquiry	Submissions due by	Report released / inquiry held	Comments / Status
(a) Review of	Premier of NSW	Dr Neil Shepherd and	Terms of Reference include: 1. The effectiveness of the <i>National</i>	14 May 2010	Report back to Premier by	Submissions being

Review / Inquiry Name	Commissioned by	Review conducted by	Aim of Review / Inquiry	Submissions due by	Report released / inquiry held	Comments / Status
<p>Implementation of the National Building Jobs Plan (NBJP) in NSW and Potential Applications to Other Projects</p>		<p>Dr Peter Abelson</p>	<p><i>Building Jobs Plan (State Infrastructure Delivery) Act 2009</i> in facilitating the implementation of the National Building Jobs Plan (NBJP) in NSW;</p> <p>2. The exercise by the Coordinator General of the functions conferred by the Act in accordance with section 30 of the Act;</p> <p>3. The legal and economic benefits and consequences of applying the principles of this legislation, and the manner in which it has been implemented, to other significant projects or classes of projects in NSW; and</p> <p>4. The options and mechanisms for applying the principles should they be applied to such projects or classes of projects in NSW.</p>		<p>the end of July 2010.</p>	<p>received</p>
<p>(b) Inquiry into the BER</p>	<p>Legislative Council of NSW (Upper House Inquiry)</p>	<p>The General Purpose Standing Committee No.2</p>	<p>Terms of Reference include:</p> <ol style="list-style-type: none"> 1. The levels and appropriateness of fees and charges imposed by various NSW Govt agencies 2. Whether costs charged for construction of BER projects are in line with industry standards 3. The effectiveness of government oversight and review of contracts signed between Head Contractors and the NSW Government 	<p>7 June 2010</p>	<p>Public hearings held 18 and 30 June 2010</p>	<p>Submissions being received</p>

Review / Inquiry Name	Commissioned by	Review conducted by	Aim of Review / Inquiry	Submissions due by	Report released / inquiry held	Comments / Status
(c) Building the Education Revolution - P21 component	NSW Auditor-General	NSW Audit Office	<p>4. The use of local builders and tradespeople during the construction of BER projects</p> <p>5. Whether outcomes were of acceptable quality and suitable to the needs of each individual school.</p> <p>The objective of the audit is to assess the adequacy and effectiveness of the governance arrangements put in place to manage the following risks under the Primary Schools for the 21st Century component of the BER:</p> <ul style="list-style-type: none"> • Constructing unneeded buildings/facilities • New buildings/facilities not meeting school needs • Cost of construction exceed industry benchmarks • Construction quality is inadequate • Non compliance with government procurement standards • Inequity in the awarding construction work • Not taking advantage of economies of scale • Inadequate handling of complaints • Inadequate outcomes from self managed projects 	N/A	Finalise by 30 June 2010	Start mid April 2010

Review / Inquiry Name	Commissioned by	Review conducted by	Aim of Review / Inquiry	Submissions due by	Report released / inquiry held	Comments / Status
(d) Commonwealth BER Implementation Taskforce	Deputy Prime Minister	Led by Brad Orgill (former Chairman and Chief Executive Officer of United Bank of Switzerland (USB))	<p>Terms of Reference include:</p> <ol style="list-style-type: none"> 1. Receive, investigate and respond to complaints regarding the full operation of BER, including individual school projects, in particular: <ol style="list-style-type: none"> (a) by referring complaints or evidence of potential breaches of the law, regulations or guidelines to the appropriate authority for action; and (b) ensuring arrangements are in place between the Commonwealth and States and Territories to minimise duplication of complaints handling processes. 2. Assess value for money aspects of individual projects, including project oversight and administration; 3. Investigate and assess at its own discretion areas of the operation of BER, especially as they impinge on the outcomes of projects at schools; 4. Make recommendations to the responsible authority about changes to policy, contracts or projects required to ensure the 	Ongoing	Initially after three months, then every six months	Commenced 3 May 2010

Review / Inquiry Name	Commissioned by	Review conducted by	Aim of Review / Inquiry	Submissions due by	Report released / inquiry held	Comments / Status
(e) BER Program - Primary Schools for the 21st Century	Commonwealth Government	Commonwealth Auditor-General	objectives of the BER are realised. To examine the effectiveness of the department's establishment of the Primary Schools for the 21st Century element of the BER program	N/A	Winter 2010	Complete
(f) Primary Schools for the 21st Century	Parliament of Australia Senate	Senate Education, Employment & Workplace Relations Committee	(a) Consideration of the Federal Government's Primary Schools for the 21st Century program, with particular reference to: (i) the conditions and criteria for project funding, (ii) the use of local and non-local contractors, (iii) the role of state governments, (iv) timing and budget issues, including duplication, (v) requirements for school signs and plaques, (vi) the management of the program; and (b) other related matters.	Further submissions to be received up to 23 April 2010		Started September 2009. First public hearing 30 November Canberra Public hearings held 17 May 2010, Melbourne; 18 May 2010, Sydney; 19 May 2010, Canberra

Building the Education Revolution Integrated Program Office Audit Process – Building the Education Revolution Integrated Program Office Audit Sub-Committee Overview

The following audits are being undertaken within the Building the Education Revolution Integrated Program Office Governance Unit.

1. Site Management Audits and Environmental Reviews (Primary Schools for the 21st Century and Science and Language Centres for 21st Century Secondary Schools projects)

Audit Objectives

To examine the management of risks associated with;

1. the delivery and management of Building the Education Revolution projects at the site level.
2. communications between the project site and other project stakeholders (eg: Managing Contractor regional and head offices, Integrated Program Office and School Principals)
3. project reporting to the Building the Education Revolution Integrated Program Office
4. conformance to environmental site conditions

Audit Scope

1. Site safety (includes Safety Management Plans, Material Safety Data Sheets etc)
2. Site conditions
3. Scope of work undertaken
4. Quality of work
5. Communication between site stakeholders (eg: Site Manager and School Principal)
6. Child Protection management conditions.

2. Managing Contractor Procurement Methodology Audits (Primary Schools for the 21st Century projects)

Audit Objectives

A compliance audit that examines the procurement process to be used by each Managing Contractor with respect to the Primary Schools for the 21st Century element of Building the Education Revolution to ensure that it complies with the New South Wales Government Code of Practice for Procurement.

Audit Scope

An assessment undertaken against the following elements of the New South Wales Government Code of Practice for Procurement;

- Tender methods and process
- Evaluation criteria
- Submission of tenders
- Confidentiality
- Evaluation of tenders
- Clarification of tenders
- Tender negotiation
- Outcomes of tenders
- Debriefings

3. Audits of the Managing Contractor Tender documentation

Audit Objectives

To examine the Managing Contractor tendering documentation for a sample of Primary Schools for the 21st Century projects to;

- Establish compliance with New South Wales Government Tendering Guidelines, and
- Ensure that original tender documentation is consistent with information provided to the Building the Education Revolution Integrated Program Office
- Identify any areas of potential concern in relation to project cost, fraud or corruption
- Assist in the assessment of whether value for money is being achieved

Audit Scope

All original tender documentation for around 10 percent of randomly selected projects from each Primary Schools for the 21st Century Managing Contractor will be examined.

Where identified as being necessary to achieve the audit objectives during the progress of the audit, any records relating to sub-contractor will also be examined.

4. Audits of the Regional Asset Management Units Invoice Processing

Audit Objectives

Review of a sample of Building the Education Revolution National School Pride projects to ensure compliance with New South Wales Government Code of Practice for Procurement, to ensure that payment procedures are compliant with the Public Finance and Audit Act 1983 and Department of Education and Training procedures.

Audit Scope

Approximately 10 percent of randomly selected projects from each Asset Management Unit-managed National School Pride project will be examined within each regional Asset Management Unit.

5. Audits in response to Specific Concerns raised in relation to a Specific Project

Audit Objectives

Special audit reviews of individual projects in response to concerns raised by any stakeholder in the project (eg: School Principal, contractor etc)

Audit Scope

Any project which is referred to the Governance Unit that has specific concerns in relation to;

- Project cost (including comparisons to other similar projects)
- Value for money
- Project tendering concerns