

THE COMMONWEALTH PURCHASING FRAMEWORK

Introduction

- 3.1 This chapter reviews some of the key features of the Commonwealth purchasing framework. In 1997, the Commonwealth introduced a devolved purchasing framework in which individual agencies have more flexibility and responsibility to manage their own purchasing arrangements.
- 3.2 In this chapter, the Committee has taken a constructive approach in seeking to identify elements of the current approach which need improvement. It became apparent, through the conduct of the inquiry, that the Commonwealth's new approach to purchasing lacked coherence and coordination. In addition, there was a lack of accountability at the senior levels of the public service. If purchasing is to receive the attention that it deserves from senior officers and CEOs of departments then there must be greater levels of accountability and assessment of performance. The Committee would like to see a 'systems' approach, or greater integration and coordination of activities, to the management of purchasing. Therefore, the following key items have been selected for discussion:
- Financial Management and Accountability Regulation 8;
 - the accountability and performance of CEOs;
 - value for money;
 - culture, training and education;

- contract management; and
 - endorsed supplier arrangements.
- 3.3 The Committee addresses each of these issues and assesses current appropriateness and or effectiveness of the existing arrangements, and then suggests ways in which each of these areas should be improved. Progress in each of these areas could help to improve Commonwealth purchasing and provide a more effective systematic approach to the purchasing framework.
- 3.4 The following section provides an overview of the core policies and principles included in the current *Commonwealth Procurement Guidelines*.

Core policies and principles

- 3.5 Under the *Financial Management and Accountability Act 1997* (FMA Act), Chief Executive Officers of Commonwealth agencies are individually responsible for managing their organisations' purchasing activities. The *Commonwealth Procurement Guidelines, Core Policies and Principles, March 1998* (CPGs), state that 'when developing their own Chief Executive Instructions about procurement, agencies should take account of the CPGs'.¹ Commonwealth entities that come under the *Commonwealth Authorities and Companies Act 1997* are not subject to the CPGs.
- 3.6 The CPGs of March 1998 consist of 22 pages which have been scaled down from the previous version released in July 1997. The current CPGs 'allow agencies to decide how best to handle their affairs, taking account of their own circumstances and the nature of the markets in which they are operating'.²
- 3.7 The CPGs state that the 'fundamental objective of Commonwealth Procurement is to provide the means to efficiently and effectively deliver the Government's programs'.³ As set out in the CPGs, there are six core principles which underpin the procurement activities of government agencies. These include:
- value for money;
 - open and effective competition;
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1 Department of Finance and Administration, *Commonwealth Procurement Guidelines, Core Policies and Principles, March 1998*, p. 1.

2 *Commonwealth Procurement Guidelines, Core Policies and Principles, March 1998*, p. 1.

3 *Commonwealth Procurement Guidelines, Core Policies and Principles, March 1998*, p. 1.

- ethics and fair dealing;
- accountability and reporting;
- national competitiveness and industry development; and
- support for other Commonwealth policies.

3.8 Key parts of the Commonwealth Procurement Guidelines are reproduced in the following boxed area.

Value for money

Value for money is the essential test against which agencies must justify any procurement outcome. It is not an attribute or criterion in itself but is a basis for comparing alternative solutions.

Price alone is not often a reliable indicator of value for money. Best value for money means the best available outcome when all relevant costs and benefits over the procurement cycle are considered. Buyers will not necessarily obtain the best available value for money by accepting the lowest-priced offer that meets mandatory requirements.

The determination of relative value for money includes:

- evaluating what suppliers offer in a comprehensive and fully professional manner by taking account of the costs and benefits involved on a whole of life basis;
- establishing or verifying the competence, viability and capability of the prospective suppliers to perform the contract;
- confirming that what suppliers offer complies with requirements including fitness for purpose and time frames, and reflects an understanding of the needs of the end user;
- ensuring avoidance of unnecessary costs and reduction of other costs of all kinds wherever possible, for example, through clarification and negotiation; and
- ensuring that any legal agreements entered into are appropriate and protect the Commonwealth's interests.

Open and effective competition

The principle requires effort and research by buying agencies to get the best possible outcome from the market by ensuring that:

- there is reasonable access for suppliers to procurement opportunities and that available opportunities are notified in the *Gazette*;

- where market circumstances limit competition, agencies recognise this and use procurement methods that take account of it;
- adequate and timely information is provided to suppliers to enable them to bid; and
- bias and favouritism are eliminated.

Agencies should ensure that:

- they provide opportunities for Australian and New Zealand industry, particularly small to medium enterprises, to provide a comprehensive offer or proposal;
- the costs of bidding for opportunities do not deter competent suppliers; and
- costs incurred in promoting competition are at least commensurate with the benefits received.

Ethics and fair dealing

Commonwealth staff associated with procurement, particularly those dealing directly with suppliers, should ensure that they:

- recognise and deal with conflicts of interest;
- deal with suppliers even-handedly;
- do not compromise the Commonwealth's standing through acceptance of gifts or hospitality; and
- are scrupulous in their use of public property.

Accountability and reporting

Accountability involves ensuring individuals and organisations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability. So is good record keeping.

National competitiveness and industry development

Government, as a major purchaser of goods and services, can act as a positive force to promote national competitive advantage and to develop competitive Australian and New Zealand (ANZ) industry through encouraging:

- competitive businesses with enhanced capacity to grow, invest, innovate and export;

- ease of access and reduced costs of doing business with government, particularly for small to medium enterprises (SMEs); and
- value added activities, and the training and skills development of the workforce.

When setting selection criteria, agencies should ensure that they encourage participation by SMEs as direct suppliers or as subcontractors. Unless there is a strong reason to do otherwise, agencies should not attribute weightings to particular criteria that might discriminate against small businesses.

The Industrial Supplies Office network (ISONET) can help buyers, both government and non-government, to identify capable ANZ suppliers, especially SMEs.

The Government maintains its commitment that Commonwealth departments and agencies will source at least 10% of their purchasing from SMEs.

Support for other Commonwealth policies

The Commonwealth uses its procurement to support a range of policies. These include:

- policies to ensure the preservation of the environment and the national estate;
- workplace relations policy, particularly freedom of association;
- policies to advance the interests of Aboriginal and Torres Strait Islander people;
- affirmative action;
- occupational health and safety;
- trade and foreign policy; and
- Commonwealth–State coordination and cooperation.

Source: Department of Finance and Administration, Australian Government Procurement Guidelines, Core Policies and Principles, March 1998.

3.9 Evidence to the inquiry supported the previous principles but there was criticism with the way some of the principles were being implemented. ISONET stated:

...we have very little difficulty with the policy of government in terms of its procurement, but we do have some difficulty in looking at the implementation and the way in which that policy is being achieved. Finally, in the last part of the paper, we believe

that there needs to be a completion of the monitoring loop in some way or another to ensure that what is being supposedly enunciated as government policy is in fact being achieved in the procurement process of government.

- 3.10 The following sections of this chapter will discuss parts of the CPGs, and associated issues, that were found to be deficient and in need of improvement. The rate and speed of devolution of the purchasing function is part of this debate but due to its significance was dealt with separately in the previous chapter.

Financial Management and Accountability Regulation 8

- 3.11 Financial Management and Accountability Regulation 8 requires that officials performing duties in relation to the procurement of property or services *must have regard to* the CPGs, and must make written records of any actions that are not consistent with the guidelines and their reasons for doing so.
- 3.12 Investigation by the Committee revealed that different agencies had different interpretations of FMAR 8. The Australian National Audit Office (ANAO) maintained that under FMAR 8, there was no 'firm legal requirement' to apply the CPGs.⁴ In contrast, Centrelink noted an inconsistency with how a 'guideline' could be issued as a force of law under the FMA Act. In view of this concern, Centrelink sought legal advice who confirmed 'that where you see the words 'shall have regard to' it is as good as saying 'at law, you will do'.⁵
- 3.13 In view of the different interpretations of FMAR 8, the Committee sought advice from the Australian Government Solicitor (AGS). The AGS interprets FMAR 8 to 'mean that officials have an obligation to take into account the guidelines but that, having met their obligation to take account of the guidelines, they may exercise discretion as to whether in the particular case it is necessary or appropriate to act in accordance with the guidelines'.⁶

4 Mr Tony Minchin, Australian National Audit Office, *Transcript*, p. 115.

5 Mr Neil Goodwin, Centrelink, *Transcript*, p. 128.

6 Attorney-General's Department, *Submission*, p. S485.

- 3.14 Some industry groups criticised the flexibility that agencies have in choosing to apply the CPGs. Australian Business stated:

What the process needs is some clear rules. It does not need guidelines. It needs rules; it needs regulations that people are forced to follow.⁷

- 3.15 The ANAO drew attention to the fact that other parts of the Financial Management and Accountability Regulations are more prescriptive. In particular, the ANAO focused on FMAR 9.⁸ This regulation requires officers who are approving expenditure to act in accordance with the policies of the Commonwealth.

Conclusions

- 3.16 Financial Management and Accountability Regulation 8 is one of the overarching regulations which all agencies under the Financial Management and Accountability Act must follow. It is apparent that there is confusion amongst agencies in how FMAR 8 should be interpreted. This is a case in point that, in the current devolved environment, the regulations and guidelines must be clearly enunciated and consistently interpreted and applied.
- 3.17 FMAR 8 requires purchasing officers to have regard to the *Commonwealth Purchasing Guidelines* but, after having done so, they are under no legal requirement to follow them. FMAR 8(2) requires purchasing officers to record reasons why they have deviated from the CPGs.
- 3.18 FMAR 8 is part of the current purchasing strategy which hands back to agencies almost sole responsibility for purchasing. The objective is to streamline purchasing, make it more flexible, cut red tape and facilitate working with industry. FMAR 8 seeks to give individual agencies flexibility by allowing agencies to reject the CPGs if, in specific purchasing situations, they are not relevant. The Committee acknowledges and supports the need for flexibility and the need for improved service delivery. However, FMAR 8 has created confusion amongst agencies in how it should be interpreted. No agencies have indicated that the flexibility offered by FMAR 8 has helped to improve their purchasing functions. The Committee asserts that if the discretion in FMAR8 is removed, then agencies will have more incentive to acknowledge and adhere to the CPGs. This will help to create a cultural shift that embraces greater recognition of the importance of government purchasing.

⁷ Mr Peter Anderson, Australian Business, *Transcript*, p. 520.

⁸ Mr Ian McPhee, Australian National Audit Office, *Transcript*, p. 117.

Therefore, the Committee recommends that FMAR 8 be amended to read that purchasing officers *must act in accordance* with the *Commonwealth Purchasing Guidelines*.

Recommendation 2

- 3.19 That **Financial Management and Accountability Regulation 8** be amended to read that ‘An Official performing duties in relation to the procurement of property or services must act in accordance with the Commonwealth Procurement Guidelines’.

CEOs – accountability and performance

- 3.20 Under the current purchasing framework, agency Chief Executive Officers (CEOs) have more responsibility to administer the purchasing function. The Department of Finance and Administration (DoFA) commented that ‘under the *Financial Management and Accountability Act 1997* Commonwealth agencies’ CEOs are individually responsible for managing their organisations’ purchasing activities within a broad framework of purchasing policy, principles and Government requirements’.⁹
- 3.21 Section 52 of the FMA Act, *Chief Executive Instructions*, state that ‘the regulations may authorise Chief Executives to give instructions to officials in their agencies on any matter on which regulations may be made under the Act’. Section 53 provides for a CEO to delegate the powers referred to in section 52. Relevant parts of FMAR 6 state:
- 6(1) The Chief Executive of an Agency is authorised to give instructions (to be called ‘Chief Executive Instructions’) to officials in that Agency on any matter necessary or convenient for carrying out or giving to the Act or these regulations, and, in particular:
 - (a) on any of the following matters:
 - i) handling, spending and accounting for public money;
 - (ii) making commitments to spend public money;
 - (iii) recovering amounts owing to the Commonwealth;

⁹ Department of Finance and Administration, *Submission*, p. S199.

(iv) using, or disposing of, public money; and

(v) acquiring property that is to be public property.

3.22 No evidence was received on the extent to which CEOs of Commonwealth agencies involve themselves or are assessed on their performance against purchasing objectives. The Victorian Government Purchasing Board (VGPB) reported that its CEOs are held to a high level of accountability. The VGPB stated:

...the first point is accountability. In Victoria the Kennett government made the Chief Executive Officer of each of the departments accountable. So the buck stops with the Chief Executive Officer in relation to performance and procurement and is written into performance agreements and so on, as I understand it.¹⁰

3.23 As a contrast to this discussion, the Committee examined how the US Government assesses the performance and results of its public sector. The basis for assessment and accountability in the US Government is the *Government Performance and Results Act 1993*.

US Government Performance and Results Act 1993

3.24 The US Government has focused on the need for more accountability and monitoring of performance by introducing the *Government Performance and Results Act 1993*. The broad objective of this Act is to ensure that waste and inefficiency in public administration are identified and consequent action taken. However, other parts of the Act provide a useful comparison in respect to the requirement for performance objectives to be set and performance monitored and reported to the President and Congress. The findings and purpose of the Act are shown below:

3.25 Section 2. Findings and Purpose

(a) FINDINGS – The Congress finds that:

- (1) waste and inefficiency in Federal programs undermine the confidence of the American people in the Government and reduces the Federal Government's ability to address adequately vital public needs;
- (2) Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of

¹⁰ Mr Roy Duncanson, Victorian Government Purchasing Board, *Transcript*, p. 476.

insufficient articulation of program goals and inadequate information on program performance; and

- (3) congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results.

(b) PURPOSES- The purposes of this Act are to--

- (1) improve the confidence of the American people in the capability of the Federal Government, by systematically holding Federal agencies accountable for achieving program results;
- (2) initiate program performance reform with a series of pilot projects in setting program goals, measuring program performance against those goals, and reporting publicly on their progress;
- (3) improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction;
- (4) help Federal managers improve service delivery, by requiring that they plan for meeting program objectives and by providing them with information about program results and service quality;
- (5) improve congressional decision-making by providing more objective information on achieving statutory objectives, and on the relative effectiveness and efficiency of Federal programs and spending; and
- (6) improve internal management of the Federal Government.¹¹

3.26 In addition, the Act makes provision for the head of each agency to prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

Conclusions

3.27 The responsibility and accountability of Chief Executive Officers (CEOs) for purchasing activities is a key element of achieving an effective purchasing framework. The Financial Management and Accountability Act and accompanying regulations allocate responsibility for purchasing to CEOs. The Committee suspects that some CEOs are not involved and do not place a lot of importance on their role in managing their agencies' purchasing. This is because CEOs obviously will focus on their core

11 <http://freedom.house.gov/results/legislation/pl103-62.asp>

objectives that may relate, for example, to service delivery or policy development. It is unlikely, therefore, that the performance of CEOs will be measured on their management of procurement. This is in contrast with the model used in the Victorian Government where CEOs are held to account for, and part of their performance is assessed on, how effectively they administer the purchasing function.

- 3.28 The US *Government Performance and Results Act 1993* provides for agency heads to report performance against objectives to the President and the Congress for each financial year. The Committee has cited this example for the purpose of showing the need to assign accountability and measure the performance of agency heads and their departments in delivering agreed performance objectives. In the case of the US Government, they have legislated these requirements.
- 3.29 The Committee asserts that the purchasing framework can be improved if CEOs are held to greater account for their administration of this activity. The Committee considers government purchasing and its associated multiplier effects to be a significant factor in our economy. Under the current purchasing framework, CEOs are given responsibility for purchasing but there does not appear to be appropriate measures of accountability and performance assessment consistent with this responsibility. Therefore, the Committee believes there is merit in the creation of formal performance measures regarding purchasing administration. These should include indicators for how effectively CEOs have performed against the key objectives in the Commonwealth Procurement Guidelines and Chief Executive Instructions of agencies.
- 3.30 The Committee would like the purchasing function to evolve to the point where CEOs ask, for example, how effectively their agency is applying the value for money principle, and whether more can be done to maximise the opportunities for ANZ industry.

Recommendation 3

- 3.31 **Measurement of the performance of the senior management, including Chief Executive Officers, of Commonwealth agencies should include reference to how efficiently and effectively the purchasing function is administered, and whether agreed objectives are being met, such as ANZ content and the commitment to maximise opportunities for SMEs.**

Value for money

- 3.32 The application of the value for money principle of Commonwealth purchasing was heavily criticised by industry groups. In regard to value for money, the CPGs state:

Value for money is the essential test against which agencies must justify any procurement outcome. It is not an attribute or criterion in itself but is a basis for comparing alternative solutions.

Price alone is not often a reliable indicator of value for money. Best value for money means the best available outcome when all relevant cost and benefits over the procurement cycle are considered. Buyers will not necessarily obtain the best available value for money by accepting the lowest-priced offer that meets mandatory requirements.¹²

- 3.33 Most industry groups claimed that value for money was being interpreted and applied as the lowest purchase price. The Australian Industry Group, Defence Council indicated that value for money as a principle was well defined but poorly applied because of the complexity and time involved in making definitive decisions about value for money.¹³ Australian Paper stated:

...all of the associated tangible and non-tangible cost and benefits elements of the equation are significant but almost entirely ignored in purchasing decisions due to the difficulty of such calculations. Consequently, purchase price comparisons become effective surrogates for proper 'value for money' considerations.¹⁴

- 3.34 The view of Australian Industry Group, Defence Council and Australian Paper was shared by the Institute of Mercantile Agents, Ballistics Innovations, and Queensland Chamber of Commerce and Industry.¹⁵ The Commercial Furniture Industry Association of Australia commented:

I think that the notion of value for money sounds good, but evidence seems to suggest that it does not take into account or incorporate any life cycle costing. There really does seem to be a drive for the lowest price. While it is called value for money, at the end of the day there are not very many examples where the lowest

12 *Commonwealth Procurement Guidelines, Core Policies and Principles*, p. 3.

13 Mr Greg Johannes, Australian Industry Group, Defence Council, *Transcript*, p. 10.

14 Australian Paper Pty Ltd., *Submission*, p. S179.

15 Institute of Mercantile Agents, *Submission*, p. S45; Ballistics Innovations, *Submission*, p. S51; and Queensland Chamber of Commerce and Industry, *Submission*, p. S239.

price does not win. The lowest price does not always take into account life cycle costing.¹⁶

- 3.35 In contrast, all agencies examined by the Committee cited a range of appropriate factors, such as quality, through life support and disposal, when explaining and interpreting the value for money principle. Environment Australia, for example, stated:

I think we have fairly laid out in our own purchasing instructions that value for money does not just rest on price. We have given some guidance as to other aspects that could be taken into account with value for money. Value for money would become difficult in the more complex contracts where there were whole of life considerations—maintenance, durability and the like. But we certainly do give guidance to the department.¹⁷

- 3.36 One of the objectives of the Committee was to examine how agencies perform against their value for money objective. The CPGs state that ‘value for money is the essential test against which agencies must justify any procurement outcome’.¹⁸ Therefore, the Committee asked agencies to provide performance information relating to the value for money objective of purchasing policy. In general, agencies ignored or misinterpreted this question. Most agencies defined value for money but could not provide evidence of any systematic approach to assessing performance in determining value for money. The then Department of Social Security stated:

There is no performance information for the portfolio showing ‘the efficiency and effectiveness of your agency in achieving...‘value for money’ and ‘open and effective competition’. Such data may be able to be obtained on an individual major project or contract basis, through such mechanisms as post implementation reviews and/or audits. However, to plan for, monitor, capture, analyse and report on ‘efficiency and effectiveness’ in purchasing and contracting generally is likely to entail considerable re-engineering of existing processes and systems for any agency.¹⁹

- 3.37 This lack of information regarding value for money has also been demonstrated by performance audits conducted by the ANAO. The ANAO stated:

16 Mrs Genevieve Power, The Commercial Furniture Industry Association of Australia, *Transcript*, p. 300.

17 Mr Andrew McKinlay, Environment Australia, *Transcript*, p. 19.

18 *Commonwealth Procurement Guidelines, Core Policies and Principles*, p. 3.

19 Department of Social Security, *Submission*, p. S228.

The ANAO has conducted a number of audits that have assessed whether purchasing activities, and specifically the contracting process has obtained value for money. In many of the audits conducted, the ANAO found that in a number of instances the Departments had not assessed whether the contracting arrangements, or in some cases the decision to contract out at all, were successful in obtaining value for money.²⁰

- 3.38 The Department of Defence (Defence) was one of the few departments to address the issue of efficiency and effectiveness in determining value for money. Defence stated:

The efficiency and effectiveness of Defence in achieving value for money may be visible through the audit process when the question of value for money is specifically addressed. To date Defence has received generally positive outcomes to audit reviews; however, the validity of any independent assessment of the efficiency and effectiveness of achieving value for money will depend on how closely the audit criteria match the value for money parameters originally used by Defence during source selection.²¹

Conclusions

- 3.39 The Commonwealth Procurement Guidelines state that 'best value for money means the best available outcomes when all relevant costs and benefits over the procurement cycle are considered'. Price alone is not often a reliable indicator of value for money.
- 3.40 There is general support from industry for the definition of value for money used by Commonwealth agencies. Most Commonwealth agencies provided an effective definition of value for money in their submissions or when asked about this issue at public hearings. However, most industry groups argued that value for money was simply being interpreted as the lowest purchase price. In response to this accusation, most agencies could not provide evidence of their efficiency and effectiveness in determining value for money.
- 3.41 The Committee supports the current definition of value for money but there is no evidence to show that this principle is being applied correctly or consistently. The Committee acknowledges that the tender process is complex and that there are numerous issues that are considered in making
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20 Australian National Audit Office, *Submission*, p. S84.

21 Department of Defence, *Submission*, p. S339.

value for money determinations. But the complexity of the issue is no excuse for making quick decisions that essentially focus on price. After all, value for money is the essential test against which agencies must justify any procurement outcome.

- 3.42 Agency CEOs and heads of procurement have a responsibility to ensure that the value for money principle is being applied correctly and evidence should be collected to demonstrate this. CEOs should request that their agencies' evaluation plan include an assessment of value for money. In addition, internal audit should be used more to randomly select tenders and assess value for money determinations.
- 3.43 At the whole of government level, the Australian National Audit Office (ANAO) should increase the number of performance audits on the purchasing function of agencies and give special attention to the implementation of purchasing principles such as value for money.
- 3.44 The Committee will request CEOs, from June 2000, to furnish the JCPAA with results from its internal audits that relate to purchasing activities. In cases where internal audits have not been conducted, the Committee will request CEOs to show cause why they should not be summoned to appear before the Committee to review their purchasing activities.
- 3.45 In addition, the Committee will, during the next two years, pay special regard to ANAO performance audits that focus on government purchasing.

Culture, training and education

- 3.46 The interpretation and application of the value for money principle leads into a discussion about the culture, training, education and competency of purchasing officers. The Bevis Report was critical of the purchasing culture existing at the time. The Bevis Report reported that anecdotal evidence suggested that there was an 'attitudinal problem among government purchasers which results in a reluctance to purchase from Australian suppliers'.²² In the current inquiry there was less anecdotal evidence indicating that a negative purchasing culture exists to the same degree as in 1994. The Australian Industry Group, Defence Council commented that 'a culture still persists in many areas—though, admittedly, it is on the decline—which equates Australian industry with

²² House of Representatives Standing Committee on Industry, Science and Technology, *Australian Government Purchasing Policies: Buying our Future*, AGPS, Canberra, 1994, p. xv.

higher cost, higher risk and lower quality.²³ The Australian Chamber of Commerce and Industry suggested that there has been a ‘cultural change reflected in the framework and the principles that are there’.²⁴

3.47 Some groups suggested that the level of training and education provided to purchasing officers is inadequate. ISONET Ltd commented that ‘unless purchasing competency training and accreditation levels are given status in Departments through requiring adequate training for specific posts, and providing remuneration incentives to those responsible for purchasing, the use of purchasing power as a facilitator of industry development can diminish significantly’.²⁵ In addition, there was concern about the high rate of turnover of purchasing staff in the area of very large government purchases.²⁶

3.48 Some agencies indicated that they provide training and education opportunities to their staff and have created accredited purchasing units. The Australian Taxation Office (ATO) stated:

...the ATO has three accredited procurement units (APUs) including the corporate services APU, the information technology APU, and the accommodation management services APU. Staff in the three APUs have been accredited or are undergoing training to obtain accreditation in complex procurement.²⁷

3.49 The Department of Agriculture, Fisheries, Forestry—Australia described some of the training opportunities that its staff have access to:

Generally speaking, they have access to the training courses that are widely publicised with the PSMPC or through PSMPC’s role in coordinating a range of APS-wide training courses. In addition to that, they have access to information on what is available coming in from the CTC unit at DOFA and wider such as the course developed by CIT dealing with a certificate of procurement and so forth. They also have access to information and check lists and advice. We have an internal training module that we provide to line areas, dealing with contracting and tendering process.²⁸

23 Mr Greg Johannes, Australian Industry Group, Defence Council, *Transcript*, p. 8.

24 Mr John Martin, Australian Chamber of Commerce and Industry, *Transcript*, p. 314.

25 ISONET Ltd., *Submission*, p. S262.

26 Mr Greg Johannes, Australian Industry Group, Defence Council, *Transcript*, p. 13.

27 Australian Taxation Office, *Submission*, p. S113.

28 Mr David Mitchell, Department of Agriculture, Fisheries, Forestry—Australia, *Transcript*, p. 463.

- 3.50 However, ISONET reported that the majority of purchasing officers are not accredited and do not receive ongoing formal training.²⁹
- 3.51 The CPGs state that Chief Executives are specifically accountable for 'ensuring that all persons undertaking procurement functions, including those officers overseeing and/or approving procurement activities, meet appropriate Commonwealth Procurement Competency Standards'.³⁰ However, in Commonwealth Procurement Circular 98/3 (CPC 98/3), this requirement was changed from mandatory to best practise. DoFA justified this change on the grounds that 'the CPGs are intended to be non-prescriptive, allowing agencies to decide how best to handle their affairs, taking account of their own circumstances, while ensuring the Government's procurement related policies are observed'.³¹ The Australian Purchasing and Supply Consultants commented that all government purchasers should be measured against competency standards and that where necessary the incumbents undergo purchasing training.³²
- 3.52 In relation to CPC 98/3, Defence noted its concern at the apparent downgrading of training and indicated that it has, for the time being, left its training requirements as 'mandatory' and may not change its Chief Executive Instructions.³³ Defence has introduced a systematic approach to training and education of its purchasing officers. Australian Business Ltd commented that 'Defence, in their industry policy statement, have actually mentioned a number of areas where they will be giving project officers who are in project-specific procurement competency training, and they also talk about giving specific procurement training to new graduates who come into the department.'³⁴ The *Defence Industry and Strategic Policy Statement* stated:

29 ISONET, *Transcript*, p. 55.

30 *Commonwealth Procurement Guidelines, Core Policies and Principles*, p. 13.

31 DoFA, CTC, *Commonwealth Procurement Circular 98/3*, August 1998.

32 Australian Purchasing and Supply Consultants, *Submission*, p. S95.

33 Mr John Fitzgerald, Department of Defence, *Transcript*, p. 559.

34 Mr Graham Chalker, Australian Business Ltd, *Transcript*, p. 317.

Through the Defence Reform Program, the Government is implementing mandatory competency levels for all Defence project directors and managers. Graduates from targeted streams such as engineering, accounting and law will continue to be a priority for recruitment into the entry levels of the Defence Acquisition Organisation. All junior Defence project personnel will be given procurement competency training from the time they join.³⁵

- 3.53 As part of the examination of culture, education and training of government purchasing officers, the Committee took evidence, where possible, of activities and strategies of state governments. Some of the initiatives of the Victorian Government Purchasing Board are discussed below.

Victorian Government Purchasing Board initiatives

- 3.54 Since 1995, the Victorian Government has implemented reforms to its purchasing arrangements. Training is high on the list of priorities. The key purchasing reforms include:

- making those doing the purchasing accountable for it;
- building new purchasing systems using new technology;
- lifting professional skill standards and training staff; and
- accrediting agencies as a means of ensuring policies were followed and standards upgraded.³⁶

- 3.55 In regard to its training initiative, the Victorian Government Purchasing Board (VGPB) stated:

Once we have given them the systems, we need to train them on how to use them. There is a range of initiatives there, but the one that is of most interest is the Procurement and Contracting Centre for Education and Research. Essentially, it is a provider of services that are available for all governments. It provides competency based procurement training, from school level right through to masters level, and a recent emphasis in that is on contract management.³⁷

35 Department of Defence, *Defence Industry and Strategic Policy Statement*, Defence Publishing and Visual Communications, Canberra, June 1998, p. 27.

36 Mr Roy Duncanson, Victorian Government Purchasing Board, *Transcript*, p. 476; Victorian Government Purchasing Board, *Getting the Purchasing House in Order*, 1997, p. 3.

37 Mr Roy Duncanson, Victorian Government Purchasing Board, *Transcript*, p. 476.

3.56 One of the motives of the Victorian Government in creating the Procurement and Contracting Centre for Education and Research (PACCER) was to provide the skills and knowledge to meet the emerging priority of contracting and procurement.³⁸ PACCER 'will be the focal point for all purchasing professional development requirements of the Victorian Public Service and, where appropriate, for outer-budget agencies and local governments and instrumentalities'.³⁹ Agencies from other jurisdictions will also be able to access the PACCER services. The VGPB explained why its systems approach to training was more effective than uncoordinated approaches to training:

...we believe that the PACCER way of doing it is a good way of doing it because it is generic, unbiased and all the rest of it. In other jurisdictions where you do not have PACCER, they basically have an ad hoc approach to the way procurement is delivered, and they do not have to do training to get something. In Victoria you need to do training in order to get more procurement power, so there is an incentive to go and do it. That does not apply in other jurisdictions, with the exception of South Australia where the model is being followed.⁴⁰

3.57 Some of the courses offered by PACCER include:

- policy awareness;
- operational purchasing skills;
- legal contract management;
- specification writing and tender preparation;
- tender process;
- service contract management;
- advanced procurement planning;
- managing strategic service procurement; and
- winning government business.⁴¹

38 Procurement and Contracting Centre for Education and Research, *Providing Excellence in Procurement and Contracting*, 1998, p. 3.

39 Procurement and Contracting Centre for Education and Research, *Providing Excellence in Procurement and Contracting*, 1998, p. 3.

40 Mr Roy Duncanson, Victorian Government Purchasing Board, *Transcript*, p. 481.

41 Procurement and Contracting Centre for Education and Research, *PACCER Training Calendar*, March–July 1999.

Conclusions

- 3.58 In 1994, it was reported that among government purchasers there was an attitudinal bias which resulted in a reluctance to purchase from Australian suppliers. Since the Bevis Report of 1994, anecdotal evidence suggests that the purchasing culture has improved, although it is not possible to be definitive about this and there is certainly no room for complacency on this matter. Purchasing culture can be influenced by a range of factors including the role and influence of CEOs, the purchasing systems that are in place, the level of accountability and, most importantly, the prevailing attitudes, values and approaches of purchasing officers. Training and education can help to influence the attitudes and approaches of purchasing officers as well as give them a skill base to efficiently and effectively conduct their purchasing responsibilities.
- 3.59 In respect to training and education of purchasing officers, the Commonwealth does not have a systematic approach. Some agencies reported that they have accredited purchasing units and offer training opportunities. However, this is contrasted with the claim by ISONET that the majority of purchasing officers are not accredited and do not receive ongoing formal training. In addition, the requirement in the *Commonwealth Procurement Guidelines* that 'all persons undertaking procurement functions, including those officers overseeing and/or approving procurement activities, meet appropriate Commonwealth Procurement Competency Standards' has been downgraded from 'mandatory' to 'best practice'.
- 3.60 The Commonwealth's reasons for downgrading the training requirement in the CPGs is in line with its devolved approach to purchasing and the focus on results rather than observance of detailed procedures.⁴² What is apparent is the Commonwealth has gone too far in its preference for a devolved model. The lack of a systematic training regime is one manifestation of this approach. It is in contrast to the model used by the Victorian Government which also has devolved arrangements but ensured that there are systems in place to provide guidance and oversight. The Victorian Government Purchasing Board has placed a high priority on training and skills development and backed this up with the creation of the Procurement and Contracting Centre for Education and Research. At the Commonwealth level, the Department of Defence approach to training and achievement of competency standards articulated in its *Defence and Industry Strategic Policy Statement* is also notable.
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42 Commonwealth Procurement Circular, *Changes to the Commonwealth Procurement Framework*, CPC 98/3, 7 August 1998.

- 3.61 In concluding this section, the Committee places a high priority on training needs and competency standards of government purchasing officers. The Committee, therefore, rejects the downgrading of the competency requirement from 'mandatory' to 'best practice' in Commonwealth Procurement Circular 98/3. This decision should be reversed immediately. A systems approach to training and competency standards should be developed for the Commonwealth using the Victorian Government Purchasing Board and Department of Defence initiatives as useful models for comparison.
- 3.62 If the purchasing culture is going to improve then the first place to start is the training and education of purchasing officers. In addition, the Committee received reports about the turnover rates of purchasing officers and insufficient career opportunities. CEOs should focus on these matters as part of their human resource management obligations.

Recommendation 4

- 3.63 **The decision made in Commonwealth Procurement Circular 98/3 to change from mandatory to best practice the requirement that all persons undertaking procurement functions meet appropriate Commonwealth Procurement Competency Standards should be reversed immediately.**

Contract management

- 3.64 In an environment where the Commonwealth is increasingly outsourcing its delivery of goods and services, contract management is considered one of the most complex challenges for the Australian Public Service. This Committee has dealt with the issue of contract management and related issues in previous reports, most notably relating to the Jindalee Operational Radar Network Project and various reports reviewing relevant Auditor-General performance audits.⁴³ The Senate Finance and

43 Joint Committee of Public Accounts and Audit, *A Focus on Accountability, Review of Auditor-General's Reports, 1992-93*, Report 337, June 1995; *Review of Auditor-General's Reports, 1997-98, Second Quarter*, Report 366, March 1999; *Review of Auditor-General's Reports, 1997-98, Third Quarter*, Report 367, March 1999.

Public Administration References Committee has completed two reports on contracting out of government services.⁴⁴

3.65 The ANAO has advised that as part of its 1998–99 forward work program the Financial Control and Administration audit of the Management of Contracts will evaluate agency processes in relation to key better practice principles for managing contracts, focusing on:

- provider performance monitoring framework;
- management information systems for tracking expenditure, milestones and outputs; and
- implementation of purchaser, provider and other contract stakeholder feedback mechanisms.⁴⁵

3.66 A range of publications are available to assist government purchasing officers to manage contracts more effectively. The Competitive Tendering and Contracting unit of DoFA includes on its website the following publications:

- Competitive Tendering and Contracting: Guidance for managers; and
- Management Advisory Board/Management Improvement Advisory Committee (MAB/MIAC) Report No. 23: *Before you sign the Dotted Line: Ensuring contracts can be managed*, May 1997.

3.67 During the inquiry, there were three concerns raised about the contract management framework. The first relates to alleged errors and omissions in contracts and designs. Ballistics Innovations commented that ‘any error that I might point out is usually construed as meaning that I have a commercial interest in changing the original project value, not its performance or place of manufacture’.⁴⁶ The MAB/MIAC stated:

Organisational and program goals need to be clear and concise. If the purchaser cannot articulate what they want done, it is impossible for a provider to understand what needs to be done.

Expectations need to be translated into measurable objectives. This may involve developing a performance information regime. Successful public purchasers identify measurable outcomes.

44 Joint Committee of Public Accounts and Audit, *The Jindalee Operational Radar Network Project*, Report 357, March 1998; Senate Finance and Public Administration Reference Committee, *Contracting out of Government Services*, Second Report, May 1998.

45 ANAO, *Submission*, p. S83.

46 Ballistics Innovations, *Submission*, p. S115.

It is essential to clarify what the contract is designed to achieve and set realistic objectives. Only then can managers begin to determine the requirements to monitor contracts.⁴⁷

3.68 A second concern with contract management is the alleged reluctance of Commonwealth agencies to monitor, audit and seek redress in the event that contractors fail to comply with the requirements of a contract. The Australian Government Solicitor (AGS) indicated that there were standard clauses which provide for remedial action such as the following:

- notification in writing by the client to the contractor of the non-compliance and a direction that appropriate remedial action be taken within a specified time frame;
- withholding progress payments relating to the non-compliance until it is rectified;
- a 'make good' provision – namely, a provision that upon failure by the contractor to rectify the non-compliance within a reasonable time-frame, the agency may make alternative arrangements for remedial action and charge the cost of such remedial action to the contractor;
- termination for default in the event of continued non-compliance, if the non-compliance relates to a matter which can be regarded as being an essential term of the contract; and
- liquidated damages.⁴⁸

3.69 In relation to dispute resolution, MAB/MIAC stated:

Performance monitoring regimes should provide managers with a timely warning if the provider is not complying with the agreed terms and conditions of the contract. Early intervention may avert a potential or minor problem from developing into a dispute. When a problem does arise, the manager should inform the provider as soon as it is detected and establish a method and a timeframe for resolution.⁴⁹

3.70 MAB/MIAC acknowledge in some instances, that it will not be possible to resolve some disputes between contractor and supplier. It is essential, therefore, that there are provisions in the contract to allow for termination.

47 Management Advisory Board/Management Improvement Advisory Committee, *Before you sign the dotted line: Ensuring contracts can be managed*, May 1997, p. ix.

48 Attorney-General's Department, *Submission*, p. S483.

49 Management Advisory Board/Management Improvement Advisory Committee, *Before you sign the dotted line: Ensuring contracts can be managed*, May 1997, p. x.

- 3.71 The third issue raised in relation to contract management is the extent to which contracts can be used to influence content requirements. The ATO indicated that its modernisation re-equipment contract 'had an ANZ clause and this was used to ensure that preference would be given to Australian companies'.⁵⁰ The AGS stated:

The current procurement guidelines allow flexibility in the implementation of Commonwealth policy. Special contract conditions have been designed to assist in the enforcement of Australian content requirements, including conditions that provide for monitoring compliance with Australian content requirements, withholding progress payments or requiring payment of liquidated damages. It is particularly important that contractors' assertions about Australian content are included in the contract developed between the Commonwealth and the contractor. Our role as lawyers is to ensure, where the policy requires Australian content provisions, that the client is made aware of those terms and that they do obtain the appropriate assertions from the supplier and include them in the contract.⁵¹

- 3.72 Evidence was received criticising the Commonwealth for failing to take adequate action where contractors breach local content requirements. It was also alleged that Commonwealth departments were reluctant or afraid to offend international corporations. Adacel Technologies stated:

The more subjective issues in Australian Industry Involvement that have been put in contracts have never been enforced. You can understand perhaps a customer saying, 'If I am going to enforce this I am going to have to monitor the compliance of it and whether three or four little companies out here obtain benefit from that does not affect the outcome of what I am getting from the supplier.' I think, therefore, it is given lip-service.⁵²

- 3.73 In regard to the skills and expertise of purchasing officers to manage contracts, some concerns were raised. The Australian Institute of Purchasing and Material Management Limited (AIPMM) stated:

The previous approach of the Commonwealth provided a higher level of practical support to agencies through advice, guidelines and policies. The current move to provide standards implies a high level of contracting maturity and skills in agencies to

50 ATO, *Submission*, p. S115.

51 Mr Simon May, AGS, *Transcript*, p. 440.

52 Mr Ian Russell, Adacel Technologies, *Transcript*, p. 449.

undertake their own procurement. Given the increasing complexity of contracting and the lack of centrally provided practical support, the AIPMM is concerned that agencies may not have adequate levels of contract management skills and competencies; nor is there any effective means of monitoring to ensure long term effectiveness.⁵³

3.74 MAB/MIAC, in research for its 1997 report, commented that many organisations did not originally have the requisite skills for contracting. In cases where there is a skill deficiency, MAB/MIAC advised that agencies should consider three options:

- bring in external expertise for short or long term assistance;
- establish and maintain an ongoing process of training existing employees; and
- recruit appropriately skilled staff.⁵⁴

3.75 The AGS indicated that as part of its commercialisation, it provides training to Commonwealth departments and agencies in a range of legal areas including contracting.⁵⁵ It is also noted that the Procurement and Contracting Centre for Education and Research provides a course on legal contract management focusing on:

- the tendering process;
- contracts;
- contract administration; and
- dispute management.

3.76 A final issue explored by the Committee is the appropriateness of the CPGs in dealing with contract management. The CPGs released in July 1997 were 212 pages long and Chapter 9 dealt with terms and conditions of procurement contracts. The current CPGs released in March 1998 are 22 pages and reflect the devolved more flexible arrangement of government purchasing. There is very little comment on contract management. In the value for money chapter, reference is made to the requirement that determination of relative value for money includes, among other things, 'ensuring that any legal agreements entered into are appropriate and

53 Australian Institute of Purchasing and Material Management Limited, *Submission*, p. S533.

54 Management Advisory Board/Management Improvement Advisory Committee, *Before you sign the dotted line: Ensuring contracts can be managed*, May 1997, p. x.

55 Mr Simon May, AGS, *Transcript*, p. 447.

protect the Commonwealth's interests'.⁵⁶ In Chapter 6, relating to support for other Commonwealth policies, buyers are required to ensure that 'where appropriate adequate provision is made in contracts for insurance, security, privacy, and access to records by the Australian National Audit Office' (ANAO).⁵⁷

3.77 In respect to the last point, the ANAO has confirmed on numerous occasions its requirement for access to contractors' records and premises. The ANAO has written to agencies asking that, in making their contracts, they provide for:

- the agency to have access to contractors' records, information and assets directly relevant to contract performance to give the agency an adequate level of control and performance monitoring of contractual arrangements; and
- the ANAO to have an equivalent level of access (but not unfettered access to contractors' premises) to enable the ANAO to fulfil its statutory responsibility to the Parliament.⁵⁸

Conclusions

3.78 During the inquiry, criticisms were made about errors and omissions in contracts, the failure of Commonwealth agencies to seek redress in cases where contractors fail to comply with the terms of a contract, and the inadequate level of contract management skills displayed by government purchasing officers. This is not the first time this Committee has dealt with these types of concerns. In recent times, the Auditor-General's performance audits have revealed significant inadequacies in the way contracts are managed. At the same time, it is the view of this Committee and the Auditor-General that contract management is one of the most challenging tasks facing the Australian Public Service.

3.79 The evidence received by the Committee confirms the need for agencies to focus on training and skill development of its purchasing officers so that they can meet the requirements of contract management. As suggested by MAB/MIAC, and this Committee in its report on the Jindalee Operational Radar Network Project, agencies should, depending on the skill base of the agency, consider bringing in external expertise for short or long term assistance.

56 *Commonwealth Procurement Guidelines, Core Policies and Principles*, p. 4.

57 *Commonwealth Procurement Guidelines, Core Policies and Principles*, p. 21.

58 Auditor-General, *New Submarine Project, Department of Defence*, Report 34, 1997–98, p. 44.

- 3.80 In relation to performance and accountability to the Parliament, this Committee reaffirms its support for the Australian National Audit Office' (ANAO) to have access to contractors' records and premises and that this be provided for in contracts.
- 3.81 In relation to Australian content requirements, Commonwealth agencies must maximise the power of their contracts to include provisions for Australian industry development. In cases where agencies have little experience in this area, they should seek advice from, for example, the Australian Government Solicitor. *Model Industry Development Criteria for Major Projects* also provide information in relation to industry development criteria and non-compliance with contract arrangements. The *Model Industry Development Criteria for Major Projects* is discussed in more detail in Chapter 4.
- 3.82 The Committee is particularly concerned about allegations that Commonwealth agencies are reluctant to take action in cases where contractors fail to comply with their Australian industry involvement (AII) requirements. The ANAO should pay close attention to this issue in any relevant performance audits. In addition, if individuals or industry organisations have evidence that a contractor is breaching AII requirements then they should report this information to the Chief Executive Officer of the relevant agency or department so that a review can be undertaken.

Endorsed supplier arrangements

- 3.83 Common Use Arrangements (CUAs) are managed on a whole of government basis and enable the Commonwealth to:
- negotiate favourable terms and conditions, including price, based on whole-of-Government rather than individual agency requirements; and
 - influence industry standards to facilitate export potential and greater competitiveness by ANZ suppliers.⁵⁹

⁵⁹ DoFA, *Submission*, p. S202.

- 3.84 The 1997 review of government purchasing found that 18 of the 115 CUAs in place in 1997 accounted for 90% of the estimated CUA turnover. The review further noted that the 'CUA system had not uniformly kept pace with the pace of public sector change, especially the emphasis on outsourcing and acquisition of packages of services rather than commodities'.⁶⁰
- 3.85 The 1997 review concluded that:
- CUAs should operate only in markets that are fundamental to Commonwealth operations and where major savings can be achieved through central negotiation;
 - DoFA should continue to arrange any of these core strategic CUAs;
 - the strategic CUA system would focus on a small number of high value central arrangements, and remaining commissions imposed on CUA suppliers would be abolished, with CUAs being maintained for the Commonwealth's benefit being therefore managed at the Commonwealth's expense; and
 - use of CUAs should be mandated, particularly where the Minister of Finance and Administration concludes that there is little point in suppliers incurring the expense and effort to gain a place on CUAs, unless agencies are compelled to use them.⁶¹
- 3.86 Endorsed supplier arrangements (ESAs) or the pre-qualification system started in November 1994 and pre-qualifies companies for entry into the government market for major office machines, IT equipment and services, and requires industry development commitments.⁶² DoFA reports that 'most industry associations consulted in the 1997 review strongly supported extending the ESA approach to other industry sectors to allow SMEs to achieve the same benefit as endorsed suppliers of IT and major office machines'.⁶³ The Government made the decision that 'where strategic CUAs are not in place a pre-qualification scheme be established for suppliers, in consultation with industry, for market sectors where the government is a major purchaser'.⁶⁴ DoFA stated:

60 DoFA, *Submission*, p. S203.

61 DoFA, *Submission*, p. S203.

62 Department of Industry, Science and Resources, *Submission*, p. S457.

63 DoFA, *Submission*, p. S204.

64 DoFA, *Submission*, p. S204.

The current ESA is being enhanced and streamlined, relying on a significant level of self-assessment by applicants. The new ESA includes features previously handled in CUAs, for example listing dealers and outlets of the endorsed suppliers. Suppliers will not need to seek endorsement every three years, with continued endorsement being subject to regular random reviews of their performance against ESA objectives.⁶⁵

3.87 The CPGs stated that ‘use of the pre-qualification scheme is optional for agencies except in the area of IT and major office machines, where the use of suppliers under the ESA is mandatory’.⁶⁶

3.88 Evidence to the inquiry was received on both sides of the question whether to reduce the number of common use agreements (CUAs). Streets Enterprises identified a number of benefits from CUAs commenting that collective buying arrangements such as CUAs have long been recognised by those who actually understand the principles as an effective way of buying with benefits for buyers and benefits for suppliers’.⁶⁷ In 1992–93, the ANAO, in Audit Report No. 7, *Saving Time and Money with Common Use Contracts*, estimated that CUAs administered by the then Department of Administrative Services saved the Commonwealth between \$58m and \$66m per year through demand aggregation and consequent lower prices’.⁶⁸ The Department of Foreign Affairs and Trade stated:

...we found the common use arrangements very useful indeed, and the ESA arrangements as they relate to IT products, again, very much used indeed. So we would be strong advocates for their reintroduction on some limited scale; perhaps not the same scale as existed previously, but very much for reintroduction of CUAs on certain products. Perhaps this could be a definition problem—the scope of what those subjects could be—but we would happily be involved in that.⁶⁹

3.89 Defence also commented that it was in favour of CUAs because of the efficiency savings created. Defence indicated that it has taken over the administration of certain standing offer arrangements from the Department of Administrative Services which has resulted in an additional resource cost.⁷⁰

65 DoFA, *Submission*, p. S205.

66 *Commonwealth Procurement Guidelines, Core Policies and Principles*, p. 5.

67 Streets Enterprises, Procurement Training and Consultancy, *Submission*, p. S12.

68 ANAO, *Submission*, p. S81.

69 Mr Keith Hardy, DFAT, *Transcript*, p. 557.

70 Mr John Fitzgerald, Department of Defence, *Transcript*, p. 558.

3.90 In contrast, some groups criticised CUAs. The Australian Industry Group indicated that CUAs were inflexible commenting that the 'use of a standard contract Australia-wide for a number of years is not practical as such arrangements are not responsive to regional difference, changes in market conditions, and changes in technology'.⁷¹ The Commercial Furniture and Industry Association of Australia noted its support for ESAs stating:

...the new endorsed supplier arrangements developed by the Department of Finance are a significant milestone in achieving the government's priorities. The new methods of operation and the criteria for endorsement not only maintain much of the necessary elements of the previous procedures but offer small businesses much better access to Commonwealth purchasers.⁷²

3.91 The Australian Information Industry Association (AIIA) welcomed the introduction of the ESA scheme. However, the AIIA commented that 'there is a reasonable amount of anecdotal evidence to suggest that there is still a lot of business going to companies which are not endorsed'.⁷³ The ANAO sounded a note of caution in considering the benefits of the ESA scheme. The ANAO stated:

...there are potentially significant advantages in the establishment of endorsed supplier arrangements/pre-qualified panels for the purchase of a range of goods and services...while individual agencies are able to establish their own pre-qualified panels and Whole of Government arrangements exist or are proposed in a number of areas, the ANAO suggests further investigation is needed as to whether the benefits of broadening this approach is warranted.⁷⁴

Conclusions

3.92 The Committee has noted the arguments for and against the phasing out of some common use arrangements (CUAs) and the expansion of the endorsed supplier arrangements (ESAs). The Australian National Audit Office reported in 1992 that CUAs saved the Commonwealth between \$58m and \$66m per year through demand aggregation and consequent lower prices. In the current inquiry, the Departments of Foreign Affairs and Trade (DFAT) and Defence both commented on the usefulness of

71 Australian Industry Group, *Submission*, p. S66.

72 Commercial Furniture Industry Association of Australia, *Submission*, p. S76.

73 Mr John Macdonald, Australian Information Industry Association, *Transcript*, p. 182.

74 ANAO, *Submission*, p. S82.

CUAs and the additional resource expenditure that has been created since they were phased out. DFAT advocated the reintroduction of CUAs on certain products.

- 3.93 At the same time, there were groups such as the Commercial Furniture and Industry Association of Australia that supported ESAs. The Australian Information Industry Association welcomed the introduction of ESAs but noted its concern with anecdotal evidence that business was going to companies which were not endorsed.
- 3.94 The evidence before the Committee does not allow it to make a definitive decision about the merits or otherwise of scaling back CUAs and expanding ESAs. First, more time is needed to allow the new system to become established before it can be properly evaluated. Therefore, DoFA should proceed with an evaluation of the CUA/ESA framework in the 1999–2000 financial year. The evaluation must include a needs assessment of both Commonwealth agencies and industry. The evaluation should also include an economic analysis of the savings being made through the current system. Only with this information will government be able to make strategic decisions regarding the effectiveness of the current system and consideration of longer term options.
- 3.95 In addition, the Australian National Audit Office should conduct a multi-agency performance audit focusing on the efficiency and effectiveness of the administration of the CUA/ESA arrangements. This would be an appropriate follow up audit to Audit Report No. 7, 1992–93, *Saving Time and Money with Common-use Contracts*.