



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Contract management in the Australian Public Service

FRIDAY, 9 JUNE 2000

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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Friday, 9 June 2000

Members: Mr Charles (*Chairman*), Mr Cox (*Vice-Chairman*), Senators Coonan, Faulkner, Gibson, Hogg, Murray and Watson and Mr Andrews, Mr Georgiou, Ms Gillard, Mr Lindsay, Mr St Clair, Mr Somlyay, Mr Tanner and Mr Kelvin Thomson

Senators and members in attendance: Senator Gibson and Mr Charles and Mr Cox

Terms of reference for the inquiry:

To inquire into and report on the management of Commonwealth contracts focusing on:

- the adequacy of contract specifications including the design and framing of the initial contract documentation;
- the adequacy of mechanisms for ensuring management accountability and facilitating Parliamentary scrutiny of contracts, including the method by which the Auditor-General is given access to the accounts of contractors;
- quality assurance and performance monitoring of contracts—adequacy of documentation of contract deletions, side agreements, and amendments;
- risk allocation and risk management
- levels of accreditation and expertise of contract management personnel; and
- the extent to which corporate memory is being preserved in agencies to a level sufficient to protect Commonwealth interests.

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Committee met at 12.01 p.m.

STREET, Mr Denis Edward (Private capacity)

CHAIRMAN—I declare open this public hearing of the Joint Committee of Public Accounts and Audit inquiry into contract management in the Australian Public Service. The search for excellence in contract management is one of the most pressing challenges in public administration. With the move to greater outsourcing of programs, public sector agencies must equip themselves with a range of skills, knowledge and experience to ensure that contract management is efficient and effective. This inquiry will examine the adequacy of contract management across the Australian Public Service. The emphasis will be on the resources, skills and knowledge that agencies bring to bear in providing good contract management. The key objective of the inquiry will be to identify better practice approaches that can be applied across government agencies.

The committee will examine the performance of Commonwealth agencies in delivering efficient and effective contract management. Some of the key areas the JCPAA will focus on include: the adequacy of contract specifications; the adequacy of accountability mechanisms and access by the Auditor-General to contractors' premises and records; quality assurance and performance monitoring of contracts; risk allocation and risk management; levels of accreditation and expertise of contract management personnel, and the extent to which corporate memory is being preserved.

Today the JCPAA will take evidence from Streets Enterprises, Busy Inc., the Australasian Dispute Centre and the Queensland Police Service. Before swearing in witnesses, I refer members of the media who may be present to a committee statement about the broadcasting of proceedings, and in particular I draw the media's attention to the need to fairly and accurately report the proceedings of the committee.

Welcome, Mr Street. Do you have a brief opening statement you would like to make on these matters?

Mr Street—I have a 30-year history in Commonwealth procurement. I was contracts manager for an organisation called Purchasing Australia here in Brisbane, and one of my main clients in the old days was the dear old taxpayer. That is the reason I am spending my own time coming here to talk to you and to be available to answer questions. There are a few things that I think are interesting in the general field of purchasing. I work a little for Central Queensland University in writing courses; I am an external lecturer for them and all that sort of thing. One of the things we teach is that business in general, and this includes government, spends about 55 per cent of its money on goods and services, which is important. The other aspect is that surveys have shown that, where purchasing professionals have not been used in doing purchasing process, approximately 10 to 15 per cent of their budget on goods and services is wasted. As the Commonwealth spends around \$10 billion to \$12 billion, 10 to 15 per cent is significant.

One of the mottos of the purchasing officer—and this deals with some of the things in your terms of reference—is knowing what you are buying, and it deals with specifications and things

like that. One of my proud boasts is that it never cost the taxpayer anything to have me working for them for 30 years. As a professional, I saved more than my weight is worth, many times over. I have a couple of DAS awards for excellence—one of them for saving the taxpayer \$4 million. It took us about 10 minutes to do that. I am basically available to answer questions for you.

Mr COX—What was the incident that caused you to save \$4 million in 10 minutes?

Mr Street—It was a freight contract, a brainstorming session. Because we did our market research first, the brainstorming session took about 10 minutes. We compared what the Commonwealth got at that particular time with what they were paying previously—and we had statistics of something like 65 per cent of the usage—and it was about a \$30 million contract back in the early 1990s. The papers are probably destroyed by now, but it was a saving of a minimum of \$4 million.

Mr COX—What did you change to save the \$4 million?

Mr Street—You talk about writing specifications and things like that in this review, and you look at functionality rather than writing detailed technical specs. In this case we said, ‘What is the functionality of freight?’ The functionality of freight is the delivery time. The longer you can take to get freight delivered, the cheaper it is. People were looking at freight in terms of road and air. *Choice* magazine did a thing some time ago where they sent a parcel by air, supposedly, and it did not get off the ground—they had a device in to measure it. I said, ‘Who cares if it goes by camel?’ What you want to do is get it there in the time you want it there. That is the functionality of freight. By doing that, by getting away with the road and air, we changed the service levels to overnight. You can guess where the Commonwealth sends most of its freight: Sydney-Canberra-Melbourne—the golden triangle, as we used to call it. Overnight is what the Commonwealth usually wants, and it can be done overnight by truck—the ‘bitumen Boeings’, as they call them in the industry. That resulted from 18 months of doing the management of that contract. Thinking in those terms, we had a brainstorming session, and it took us about 10 or 15 minutes to come up with those basic concepts.

I did a paper—a fairly lengthy one—for the government purchasing conference in Sydney in 1998. It covers that issue and a lot of history of government procurement in Australia—the corporate memory thing you are looking at, or knowledge management, as they call it these days. If you want to have a look at that paper at some stage, I could arrange it. It covers risk management and a few of the issues you have covered. I never got to present that paper. I spent weeks writing it and never got to present it, because they cancelled it. They were being too greedy and they were charging \$2,500 a head to go there.

Mr COX—So they cancelled the seminar, did they?

Mr Street—Yes, the week before. Anyway, those are my opening remarks.

CHAIRMAN—Is your statement finished?

Mr Street—Yes.

CHAIRMAN—Remember that we are concentrating in this inquiry not on purchasing per se. We understand that purchasing is part of the continuum, but we are trying to focus in this inquiry on the management of the contracts as received. You said in your response to our inquiry:

The achievement of this depends entirely upon the expertise and experience of the team undertaking the project ... The team must consist of a number of people from each of the finance, technical and procurement areas.

I was surprised that you left project management out of that.

Mr Street—We were talking about the basic writing of the specifications, keeping in mind that if something is going to go wrong in procurement, about 75 per cent of things go wrong at that stage. Project management can be isolated after the event. You have project management specialists. It may be that one of these procurement people might end up being the project manager, but that is what I look at as an absolute minimum—to have that team of three. That is what I have found, in my experience, to have worked very well over the years.

CHAIRMAN—But in a major project, isn't there a need to involve up front, in the beginning of writing the specification, the people who are going to use the product or the service as well as the representatives of the people who are going to manage the contract development section?

Mr Street—Yes. When you are talking about major projects like building submarines and things like that, yes, but for the standard average sort of thing it is the old 18:20 rule; 80 per cent of stuff done by the Commonwealth is not major projects. It is relatively low level stuff. It could be \$50,000 or \$60,000 worth.

Mr COX—Eighty per cent of the projects takes 20 per cent of the time and 20 per cent takes 80 per cent of the time.

Mr Street—Yes, and it is the same with the amount of money spent and things like that. Eighty per cent by volume is 20 per cent of the money. You are definitely correct when you are talking about major projects. Even for the outsourcing of base management that Defence do, they would have that sort of project team set up. The project team in those major things would be possibly six, eight or more people.

CHAIRMAN—Would you agree that if you were outsourcing IT, for instance, your information technology requirements for an agency, a whole department or whatever, it would be critical to involve in the specification stage and perhaps at the tender evaluation stage as well people who are going to have to use the platform in order to be able to do the work?

Mr Street—Undoubtedly. You are talking about a specialist case with outsourcing IT. Again the team would be quite a larger team than this minimum that I have said for the general average project that you could call a project.

CHAIRMAN—You did say, 'I do maintain that purchasing on-the-job training is the most valuable and experience is what really counts.'

Mr Street—Yes.

CHAIRMAN—Would you expand on that for us?

Mr Street—From the perspective that I teach purchasing to state governments, Defence and things like that, I can teach only so much on a course. People have formal courses, and I have done them. I have done contract management, contract admin, or whatever you want to call it, and all those high-level procurement courses, but it is not until you get down to the doing of it—and doing it is important—that you are taught by somebody who has years of experience. When I started in the Public Service in 1969, the people who had been there before me had been there since the war and had 25 or 30 years of experience which they were able to pass on to me. That was entirely valuable. On-the-job is where you have an experienced supervisor, and it is not happening a lot; it is not happening a lot in state government either. The people in the management position who actually sign on the dotted line to commit the government or whatever it happens to be really have not had the training or the experience to do so. It is not mandatory in the state government, for example, for people exercising a delegation to have certification in purchasing, but it is a bloody good idea—pardon the expression. Basically, you have junior people there under the supervision of an experienced person and you explain to them how to do it on a case by case basis.

Mr COX—When you joined the Commonwealth, did you join the Department of Supply?

Mr Street—Yes.

Mr COX—Did they have a formal set of training courses for procurement officers?

Mr Street—Do you know what I did in my first two days? I was given that and told, ‘Sit down and read that.’

CHAIRMAN—What year was that?

Mr Street—That was 1969.

Mr COX—‘Contracts Office Instructions’ is the title.

Mr Street—Yes, and it is still pounds, shillings and pence in there. There is a lot of history in that book.

CHAIRMAN—I believe it might be slightly out of date!

Mr Street—That is a set of instructions from 1940.

CHAIRMAN—Don’t tell us that you were purchasing in 1940.

Mr Street—No, definitely not.

Mr COX—The 1940 one is *Instructions in respect to the purchase and sale of supplies and general contract arrangements* and the other one is *Commonwealth of Australia, Department of Munitions, contracts and contract procedure*.

Senator GIBSON—What date is that?

Mr COX—November 1942.

Mr Street—When Purchasing Australia closed down, they were going to throw these out and I could not do that. They are in the archives, I believe, if you could find them. That was what I did for the first two days—sit down and read that. If you read through them, there is still some useful information there.

After that the manuals actually got bigger until they got to about this size in the early 1980s, and then they shrunk again until I think they are only a couple of pieces of paper now. I am not being cynical, but it was in the late 1970s and early 1980s when the actual process became fairly solid. Some of the comments in the terms of reference here include things about those sorts of issues. Defence have got a manual that is that thick. That is good. That is not bad; it is a good thing. My experience with staff over the years, and I was in management for the last 15 to 20 years, is that they want a sense of direction. They want a set of instructions so they can be right or so they know when they are wrong. That is what those people need. The guidelines are great. The guidelines that the government came out with in the late 1980s—and I know personally the three people who wrote them, although one is dead now—were a philosophy that the organisation was working through in those days. But the rest of the process part got lost in the whole shebang, so to speak.

CHAIRMAN—What started this conversation was a question about on-the-job training. When did you leave the Public Service?

Mr Street—May two years ago.

CHAIRMAN—You might recall that in 1984 the House Standing Committee on Industry, Science and Technology did an inquiry into—

Mr Street—The Bevis report, yes.

CHAIRMAN—As a result of the Auditor-General's report which had some pretty nasty things to say about Australian government credit cards, amongst other things.

Mr Street—Yes.

CHAIRMAN—One of the things that we found was that there was, in our view at least, a culture of preferring anything that was made overseas to anything that was made in Australia, that almost across the whole of government there was an aversion to buying Australian or New Zealand manufactured goods or services, believing them to be inferior or whatever. If you accept that that was true, then your on-the-job experience will not do very much to help us change the culture, will it?

Mr Street—But in fact that was not the culture in the early 1990s. That book was in operation until 1972 right from, probably, World War II. They did it the same way all the time, every time. It was fixed in concrete; they never did anything else. When Gough came to power in 1972 he started looking at things like affirmative action and Australian preference and all those things. We had never heard of those things in the early 1970s when I first started. With the Australian preference things they tried to apply a 20 per cent preference margin but it did not work because people were ignoring it, but there was a culture—and it is ever increasing—of buying Australian. Now the policy that DAS, my organisation, put out—there was a Commonwealth procurement guideline on it—was very wishy-washy. It did not give you the power to do anything. It did not say, ‘Here is the rule you can follow and you can give preference to Australian goods.’ There was always—and I know in Purchasing Australia—a motivation to try to get Australian supplies, to support small business. In fact, with the common use arrangement system I think about 80 per cent of suppliers were small business and Australian people. However, what we were able to do, even in an evaluation process, in setting up the evaluation, was give points for readier access to spare parts, local support and all those sorts of things, and this is what we used to do in the common use arrangements. They were selection criteria. That was a fair way of giving Australian manufacturers the opportunity. And it did not discriminate against overseas suppliers either, by the way. It was a fair way. So, with the on-the-job training, management’s position was buy Australian where possible, where you could.

Mr COX—How do you feel about devolution? One of things that is cropping up across a range of our inquiries, whether to do with procurement contracting, financial management or whatever, is that we have a philosophy of devolution and functions are being devolved quite often to small agencies and those functions are outside their core business whether it is managing foreign exchange or implementing some sophisticated accounting system or managing a contract. Do you spend a lot of time training people in those sorts of small agencies?

Mr Street—The thing about devolvement is that you have created a lot of part-time purchasing people in the purchasing field, among other fields, as you say. It is usually only 10 or 15 per cent that goes to admin officers or somebody like that. They are sending them along to courses because they have not got the skills. At least the course gives them some basic skills, but it certainly does not give them the ability to do some of the jobs they have been allocated to do.

Mr COX—What sort of jobs have they been allocated to do?

Mr Street—I was in Townsville teaching Defence and they do it quite well. There were some middle management people up there doing base management type contracts and they were saying, ‘We’re lost.’ A day and a half basic purchasing course was the first training they had been given in that sort of area.

Mr COX—How big a base management contract were they dealing with?

Mr Street—Lavarack Barracks.

Mr COX—So a full Army barracks?

Mr Street—Yes. These were very intelligent people with qualifications and degrees in other fields, but they did not have that purchasing experience. I am not knocking Defence because they do it better than anybody else by a long way. The submission from DAO, the Defence Acquisitions Organisation, was very good. I have read a lot of those with a critical eye. I must admit that I read Centrelink's and laughed from beginning to end—mainly relating to the area of corporate memory and things like that. Defence are doing it very well, but they still have people who are relatively inexperienced in that sort of thing doing that sort of work.

Mr COX—Those people who are relatively inexperienced are they managing an entire contract for a base with one provider or are they basically subcontracting a whole lot of functions?

Mr Street—Serco is the company that has Lavarack Barracks at the moment. They are managing that whole barracks. They do, however, have the backup support—and this is where Defence has something going for them—of the Defence Acquisitions Organisation, a centralised purchasing organisation, in Canberra that is very good. That works. I am absolutely in favour of people sticking to their core business and purchasing is a specialist area. The 10 or 15 per cent is wasted if not done properly.

Mr COX—What sort of issues would the untrained person in Townsville dealing with Lavarack face that they would have difficulties with?

Mr Street—I have been doing this for 30 years and I would find base management contracts difficult, to be honest. You were talking before about the level of skills and variety of people that you would have to bring in to do it properly. That frightens me. I have done elements of the base management contracts, such as grass cutting, cleaning and so on. If you break them up into little elements like that, it is easy—it is a piece of cake. It is easy to do a grass cutting contract. It is easy to do a cleaning contract. However, if you have a company which is then subbing out the same things that used to be done by the Commonwealth people, you have a management problem for a start. How do you know that they are not ripping you off? I was told by someone at Vic Barracks one day, 'These guys I know, they tell us that they employ solicitors to go through and look for all the loopholes after the event.' That is hearsay. That is what I heard from somebody who is doing it.

Mr COX—But there would be some evidence of that in subsequent litigation or subsequent frustration in terms of lack of service delivery?

Mr Street—I am not sure that we have got that far as yet. I am not sure also that the people who are project managing these base management projects are aware of these sorts of things. Do not take it that I am down on suppliers or anything like that. It is just good business sense. What public servants seem to forget is that suppliers have a right to make a profit. If they do not they do not stay in business too long. That is part of all these issues. These things you have brought up here are not just contract management issues. They are very important purchasing issues. I think you have picked a few beauties here.

Senator GIBSON—You were talking about a contract at the barracks at Townsville. How many dollars are involved in a maintenance contract?

Mr Street—It would be millions.

Senator GIBSON—Several million?

Mr Street—I would think so; I do not know for sure.

Senator GIBSON—It is not tens of thousands.

Mr Street—No. When I was doing the grass-cutting contract 10 or 15 years ago, it was probably \$250,000 or \$300,000 per annum, or something like that. So you put them all together. And it depends on the period, whether it is per annum, per three years or whatever it happens to be.

Mr COX—If you take Amberley Air Force Base 10 years ago, for example, you had 22 F111s and air crew, 60 military style air traffic controllers—who would also do combat tactics and things like that—and a depot level and an operating level maintenance facility, which were quite large. Then there were an absolutely vast number of people who were doing base support; and they were doing base support in everything, right down to being bricklayers. It was sort of total management of a community, a town and a base, and that would be repeated around the country dozens of times. Lavarack would be on a similar scale—formerly done by military personnel; you just go out and give somebody an order to go and cut the grass.

Mr Street—They would have a contract for grass cutting. I did not know whether they had brickies out there or not, but I have spent a lot of time out at Amberley in my time.

Senator GIBSON—The people on each of these bases who are managing these contracts would seek professional advice—

Mr Street—Oh, yes—from solicitors and from DAO in Canberra. I am not saying they are going to get it wrong up there. These people are very good. You asked me about the training situation. They were doing a basic purchasing course and I was teaching it.

Mr COX—Were they civilian defence officers?

Mr Street—Yes. Sometimes the courses I do for Defence are a mix of civvies and people in uniform.

Mr COX—What about other agencies that do not have an organisation that can back them up like the Defence Acquisitions Organisation?

Mr Street—That is my absolute worry. I used to deal with a lot of those people for many years. They were my customers, my clients—I was trying to sell them—

Mr COX—You were doing the purchasing for them?

Mr Street—For common use arrangements, we were arranging those; and then it would become our responsibility, as they were mandatory, to try to convince them to use them rather than hit them with a big stick. You met a lot of those people over that length of time. You got their attitudes and you could pick up fairly well who had the skills and who did not know what they were talking about. There were little pockets here and there. I think most of those people are probably my age and gone anyway. AMSA—the Australian Maritime Safety Authority—had some quality there. Tax had a few people who were not too bad. With Tax, for example, I would do a contract for them, and then they would use what I had prepared for them the last time and do it themselves. They had learned from me in that time by going through the evaluation process. I was teaching them how to do it—which I was quite happy to do. I did a large one for the accrual accounting consultancy.

When we had the evaluation panel, it was in our conference room and there were about four fairly high-level taxation officers from Canberra and Brisbane—ex-private enterprise people and so on. One was the father of one of our cricketers. I gave them about an hour and a half on basic evaluation techniques, like matrix evaluation, and they said, ‘Gee, this is good. We have learned something from the process of doing this.’ That was part of our consulting role. I enjoyed doing that. One of the reasons I like teaching is that I can pass on what I have learned over the years. I was a young bloke of 19 when I started—

CHAIRMAN—In 1940.

Mr Street—It was very helpful, and passing information on is good.

Mr COX—Going back to your experience since 1969, would you say there would still be a role for some sort of support within the Commonwealth that those small agencies could access?

Mr Street—Absolutely. I have read DOFA’s submission, and they want to abrogate everything, they want to get rid of everything. They do not want to look after it anyway. If they do not want it, it needs to be done by somebody else. I am a centralist in the sense of having a centralising purchasing authority of some sort, a team of experts who can give that sort of advice. That is my field, coming out of 30 years of it. I still could be wrong but I do not think I am. There needs to be someone in the Commonwealth, whether it be in DOFA or it could even be in Defence. I think that is the only place that has the talent left at the moment. It could be a role they could play. After all, supply came out of Defence, effectively, and most of my work in the early days was Defence work. Does that answer your question?

Mr COX—Yes. We went through an exercise in the early 1990s with Defence whereby, rather than each service buying items for them down to small stationery items, toilet paper, vegetables and things like that, and sending it out to the bases which might be on the other side of Australia, if it was physically possible for them to go and buy it at the local stationery shop or the local grocer they were allowed to do it.

Mr Street—The Commonwealth arrangements were eventually devoted to doing exactly that thing. To the last committee on government procurement—it is in that book there—I submitted

a copy of an article I wrote back in the early 1990s, and it said that. It said that is the best way to buy in that case. You do not want to use a major supplier just because they are in the city. One of the things the basic defence course teaches is buying a mower in three locations—one is Katherine, one is Canberra and one is Sydney. There is a case study on it. The answer is you go to the nearest dealer and buy that \$500 mower as quickly as you can with your credit card. You do not muck around spending a lot of time. It is good purchasing if you can spend five minutes on the phone to save, say, 10 per cent of \$500. It is not good purchasing to spend a lot of time mucking around. I know people want to be clever and want to say, 'I saved \$5 on this but it took me all day.' That is stupid.

CHAIRMAN—Back on employing solicitors to look for loopholes in contracts, do you really have any anecdotal evidence of that?

Mr Street—Only from what a guy told me last year. He said that.

CHAIRMAN—So it is second-hand?

Mr Street—Yes. That is all it is; it is hearsay.

CHAIRMAN—You do not really know how prevalent that sort of—

Mr Street—Knowing industry, I think it is a pretty true statement, but I cannot prove it, no.

CHAIRMAN—In discussing access to supplier records, which is one of our terms of reference, and whether or not the Auditor-General ought to have access to all contractor records, you said, 'Access to supplier records are a matter of ensuring that tender and contract documents address the point.' I assume you mean that it is specified in the contract.

Mr Street—It needs to be specified in the tender document and the subsequent contract. It has always been a right of the Commonwealth to do that.

CHAIRMAN—The right to do what?

Mr Street—To actually put those sorts of conditions on supply.

CHAIRMAN—Sure. It is the right of any purchaser to put anything in the contract that they want to, so long as they find somebody who will accept the terms and conditions.

Mr Street—Yes. If they do not, they do not do business, do they?

CHAIRMAN—You went on and said:

There must be an audit ability on the Commonwealth's part whether it be performed by the agency or the Auditor-General's staff. Whoever does it must be Cost Accountants by the way.

Can we talk about that a bit?

Mr Street—Yes. A cost accountant is referring to the early days when we had what we called ‘costies’ on staff. They were qualified cost accountants as opposed to being people who were just normal accountants. This means they can look at the elements of cost in what a supplier tenders. It means being able to look at their labour and materials and reasonable overheads and profit margins and things like that, and say, ‘That’s fair and reasonable’, and that type of thing. The bigger the job gets the more complex it gets. I have a book on cost accounting at home and it is about that big. These guys were experts. I have a basic knowledge of costing, but only very basic knowledge. We used to use these people if there was a price variation, for example. We would give it to the cost accountants to go through and they would go through it and look at the supplier’s records and say, ‘Yes, that is fair and reasonable in that particular case.’ You are ex-RAAF, by the sound of it, David, are you?

Mr COX—No, I am not.

Mr Street—I just know a bit about it, obviously.

Mr COX—I had a little bit of time working for the junior minister in Defence when we were doing a lot of reform in this area.

Mr Street—For example, NQEA in Cairns has been looking after the patrol boats for yonks and does a lot of repair work. Some of those refits cost millions of dollars. The costies in the old days helped NQEA set up their accounting system so that when they came to verify the cost increases or variables in those sorts of things they were easily traced.

CHAIRMAN—I must say that I am not all that wrapped in Defence’s ability to do cost accounting, based on a couple of very major contract experiences and my 25 years of cost accounting experience. What would you say the level of expertise is in the Commonwealth across a range of agencies in being able to evaluate the percentage of contract completions and percentage of earned value or to evaluate the cost to complete versus total contract price and amount paid?

Mr Street—I do not know that there is anybody to be honest. There used to be a small financial services section in Sydney which belonged to DOFA. I do not know whether it still exists. I do not know what exists in Defence in respect of cost accountants. You know why I made the point that it has to be a cost accountant not just an ordinary person.

CHAIRMAN—I would maintain it could be engineers, but go ahead.

Mr Street—To verify price variations, et cetera?

CHAIRMAN—Absolutely.

Mr Street—We have a disagreement. The techos get themselves in more strife than anybody else I know of.

Mr COX—The chairman thinks engineers can do everything.

CHAIRMAN—I think that was a slur.

Mr Street—I worked with some engineers who did a specification for a forklift. It was a beautiful forklift when they bought it. The trouble is that it would not go through the door of the factory. That is techos for you. They miss the obvious sometimes. I firmly believe that cost accountants have a huge role in looking after the major projects for the Commonwealth. My experience with these guys over the years is that they are very useful. When you are talking about Australian preference, one did her thesis for her masters back in the late 1970s on Australian preference. She looked up the 20 per cent issue and found out that out of the \$5 billion to \$8 billion the Commonwealth spent in those days it did not get involved in more than \$800,000 worth because people were ignoring it.

Mr COX—Having the preference is not making any difference.

Mr Street—It will not make any difference. Nobody is applying it.

CHAIRMAN—When discussing the issue of corporate memory being preserved in agencies to a level sufficient to protect Commonwealth interests, you said it is an area where you have serious reservations and you said that Defence would have some but in other departments there was never a great deal of high level and varied procurement activity. The department of housing and construction would have been one that had a very high level of expertise, I would have thought?

Mr Street—My opinion was not that high of it, to be honest.

CHAIRMAN—You say a survey might be useful. You went on to say:

There are some that would claim that they have but there have been a number of incidents over the past 10 years or so which would indicate to the contrary eg the Coastwatch Contract; the Hughes Case. They were high level procurement activities which were poorly handled.

Could you go through each one of those for us?

Mr Street—The Coastwatch contract was 10 or 12 years ago. SkyWest had been the Coastwatch contractor for a number of years. A company called Amman Aviation tendered for that job. They were awarded the contract but could not perform. They sued the Commonwealth and I think it cost the Commonwealth \$18 million at that stage. I could be wrong with the figures. The trick was that they allocated a contract to Amman Aviation to do Coastwatch work and Amman Aviation did not own any aircraft.

CHAIRMAN—I remember it now.

Mr Street—Talking about cost accountants, one of the cost accountants from the Sydney office of Purchasing Australia was investigating the replacement contract after that one. I remember it well because when the pilots strike was on he was flying to Darwin by Hercules, the poor fellow. I felt very sorry for him flying from Brisbane to Darwin by Hercules—that is a long trip. One of the most interesting contract law cases—contract law started back in English common law where they talk a lot about horses—is the Hughes case about the Civil Aviation

Authority and radar for the airports. It was a stage tender process by public invitation and expressions of interest got down to two suppliers, Hughes and somebody else. They allocated the contract to the other company and Hughes sued them. I do not know whether that case is absolutely complete on the matter of damages as yet. In fact, they were found to have done things which offend the Trade Practices Act, among other things. It was the fact that they had actually lied to Hughes and said, 'For selection criteria, Nos. 1, 2, 3 and 4'—No. 1 was price, No. 4 or No. 5 were industry development—'you were slightly lower than this other company'—slightly lower was about \$80 million.

CHAIRMAN—It was Hughes and Thomsons.

Mr Street—Yes. Justice Finn was the judge and he ruled that there was a process contract in existence. It was rather interesting but badly handled by virtue of the fact that the Civil Aviation Authority at that time lied to them, misrepresented it and have been found to have done it poorly. They are just a couple of cases I can think of.

Mr COX—Do you think it is usually the case, when the Commonwealth gets into a contract dispute, that the public servants are not, on the whole, very good at managing them?

Mr Street—I think if they get themselves into strife they go and hide. I think a lot of them are overconfident in their own abilities. Sometimes it is just like shooting from the hip. You can shoot from the hip if you have plenty of experience, but it is different if you are a relative amateur—we used to say that it takes five years to train a good purchasing person. That is not a contracts person or a project manager; that is just a person to do reasonably simple tenders—about five years.

CHAIRMAN—How significantly different is it in the private sector?

Mr Street—Not much; there is very little difference. As I said there, the only difference is that the accountability is much higher for government buyers. I have a friend who used to work for me who is now working for one of the mining companies out from Townsville. I said to him, 'What difference is there?' and he said, 'There is very little difference between buying for the Commonwealth and buying for a mining company.' After all, they are all bureaucracies.

CHAIRMAN—Realistically, wouldn't you say, if the Commonwealth were going to contract to have a building constructed, for instance, and AMP was going to contract to have a building constructed, that neither would really be expected to have permanent contract management staff that were experienced and proficient in managing building contracts, would they?

Mr Street—That depends on how many buildings they build. If they are doing it all the time, or if they only do one occasionally—

CHAIRMAN—I am assuming that.

Mr Street—In that situation, it is a bit different. You cannot have people sitting around idle. If the Commonwealth, in the days of housing construction, was in the business of building

buildings, which it did a lot of in those days, yes, you would have to have permanent staff. Does that answer the question?

CHAIRMAN—Sort of. It is our responsibility to worry about the Commonwealth, but I tend to think that sometimes we get very critical of the bureaucracy or the agencies without comparing their performance to the way the private sector performs in some of these things.

Mr Street—I am a member of the Australian Institute of Purchasing and Materials Management and have been since 1974. There was far more talent in the public sector, especially in Australia, than there was in a lot of private enterprise. However, a colleague I work with now is 64 and retiring soon and he knows a hell of a lot more about it than I do—and I thought after 30 years I knew a fair bit about it. That is the way it is. There is talent out there, but I do not know where it is. I do not know how much is left in the Commonwealth. When they closed Purchasing Australia they lost a fair bit—that is, the corporate memory type knowledge management. The corporate memory is up here. That is why I laughed when I read some of those submissions which said, ‘We keep these records and these records and these records.’ It is the anecdotal stuff, the stories people tell, the nostalgia they go into and the passion they have for it.

Mr COX—It is the experience.

Mr Street—This book is my corporate memory. That goes back to the jobs I started doing.

CHAIRMAN—That goes back to 1936.

Mr Street—It commences on 25 October 1972. This book shows the different sorts of jobs you used to do. There are a lot of things you probably could not identify. I can go back through that book and pick one of these and tell you what happened. That is corporate memory.

CHAIRMAN—To what extent in the public sector and/or the private sector in Australia does fraud exist in purchasing? Let’s put it this way: to the extent that a purchasing officer will be biased or influenced by a payment in kind or in money for supply of a contract or a purchase order?

Mr Street—In teaching ethics in these courses, I ask for stories: has anybody been bribed? I put my hand up—I have. I think the standard is remarkably high. I think the purchasing people in general—whether they are experienced or just beginning—have a work ethic that is higher than anything else I have experienced. They are incredibly strict on themselves—what they call lean and mean. It is not that nobody in government hasn’t ever taken any bribes or anything like that but it is highly unlikely. In these ethics discussions we talk about free lunches—there are some who have; I have—and taking gifts and things like that. We discuss that in a rational way. It depends on people’s own morality, but I have never had an indication, even though one of my chaps was accused of taking bribes from a maniac, a gambler in one of those shonky sorts of businesses. It was proven to have absolutely no foundation at all. But you can be accused of it. That is the thing that hurts in the public sector—you can be accused of it and nobody will stand up and defend you.

Mr COX—In your 30-odd years in purchasing, how many times did people offer you bribes?

Mr Street—I can only remember one who did it in that way. I felt like saying, ‘Sorry, sir, we do not operate that way.’ When I teach it, I tell them that I say that my price is always \$5 million or more and nobody has ever come up with that amount of money. Everybody has a price. That was the only case. There have been other attempts to influence me many times. The free lunches are a typical case. I had about 20 business lunches in about 30 years. We had a hospitality register, for example, that the boss signed off on whether or not it was permissible. People come from interstate and say, ‘We have these appointments. We will slot you in at lunch time. Can you come to lunch?’ I said, ‘No problem.’ There were some good ones too.

CHAIRMAN—I am glad to hear you say that because you have just confirmed a view I have that we have the cleanest, the most ethical business practices in the world, quite frankly.

Mr Street—The only knowledge I have of one that was ever almost proven was in Western Australia. I was manager there for a while. A gentleman from another country was accused of doing it but he had just joined us for a relatively short time until we got rid of him. But he was accused of doing that. I do not know whether or not it was proven. But it was a different culture.

CHAIRMAN—Thank you very much for your attendance. We appreciate your submission and your evidence, and we will make sure we send you a copy of our report when it is tabled.

Mr Street—I will see if I can find some more books, too. I will see if I can get back to 1925 or something. But if you read that paper I gave you before, there is a fair bit of history in there if you want to read it at your leisure.

CHAIRMAN—Is it the wish of the committee that the document entitled *Government purchasing: one perspective* presented by Denis Street be taken as evidence and included in the committee’s records as an exhibit? There being no objection, it is so ordered.

Mr Street—You will find most of them are pretty straightforward like I am, too.

CHAIRMAN—I was an international marketing manager for a number of years and I dealt in 30-odd countries and all across the States and Australia. My view is that we have the cleanest business practices in the world.

Mr Street—You are absolutely right.

CHAIRMAN—I am pleased, with your 30-odd years experience in purchasing, that you confirm that.

Mr Street—The thing is that in these courses when we talk to these people, if there has been anything shonky going on, they do not tell you in front of the class, they tell you outside when you are having a smoke or something like that. You hear a few good ones—whether it has been attempted, but not that anyone has done it.

[12.53 a.m.]

MALLINSON, Ms Vivienne May, Chief Executive Officer, Busy Inc.

CHAIRMAN—Welcome. We thank you for your submission. Would you like to make a brief opening statement before we ask you our penetrating questions?

Ms Mallinson—I have brought a statement that I have written myself because there are some circumstances with regard to this submission. First of all, some background information: Busy Inc. is a community not-for-profit incorporated association. The association is overseen by a board of management made up of volunteers from the Gold Coast business community. As chief executive, I act in the role of employer representative with delegated powers. That is where I fit into the picture. The responses to the inquiry into contract management in the Australian Public Service were sent by a former member of staff of Busy Inc. who at that time did not have the board of management's authority to respond, so there is a little bit of an issue there.

CHAIRMAN—It sounds like there is a major issue there!

Ms Mallinson—Yes. But, as a statement as regards what was written, whilst as an association we appreciate that there were issues with the first contract round for the provision of entry level services—which is what our response was—we still consider there are some issues. We believe that, with a more effective consultative process, a lot of these issues could be addressed. We were sort of concerned that perhaps the issues that are there get lost in confrontation. That is my statement. I do not know whether that confuses the issue.

CHAIRMAN—I must admit—and I did read all this—that I thought that you probably do not want to work with DETYA any longer.

Ms Mallinson—Can I say that—

CHAIRMAN—Say whatever you like!

Ms Mallinson—relationships with this particular member of staff and the department are not very good. Since that member of staff has left the organisation I think we have worked on those relationships and looked at repairing any damage that was done—I hope. I am a great believer in that if there is a problem you get on the phone or try to talk to people to see if there is a possibility of consultation. I accept that there were issues—and there still are issues—but I see this as part of the evolution of the actual contract itself in that, when they put Job Network out, it was a big reform—I believe it is one of the biggest ever that Australia has gone through. Nobody would expect that to work perfectly from day one.

CHAIRMAN—Some would.

Ms Mallinson—Perhaps I am a realist.

Mr COX—I just believe in accountability.

Ms Mallinson—I agree with what you say: accountability is very important. But I also think with anything so radical or so big and so new there has to be a bedding-in period. And, while I understand the accountability and legalities of having a contract, there are also issues that come up at grassroots level that perhaps people at the accountability-legal side do not fully comprehend. I am not being rude or derogatory there. I just think these are things that evolve and that over time will change, possibly.

CHAIRMAN—Our inquiry is into how the agencies and departments are actually managing the contracts that they negotiate in the first place, and this is a good example of a service contract rather than a contract for goods. It is not a Collins class submarine. In some respects it may be more difficult to evaluate the outcomes of your service contract—that is, to evaluate whether or not the Collins is performing to its original specifications. The submission said, for instance:

However, subsequent unilateral “interpretations” of clauses of the contract by Commonwealth officers has left a lot to be desired. To this end we engaged a lawyer early in 1998 to assist us “battle” with the Commonwealth on matters relating specifically to why they were not paying us for services.

Ms Mallinson—Yes, that was an issue in that we as an organisation—and I know other organisations—were actually carrying out work for which there was no payment because the work had been commenced in the old system and, of course, when the old system was disbanded there was nobody to do it, so it had to be done by somebody. So it was business prior to 1 May when the contract started. And, as you can well imagine, being new to the system, trying to pick up our own policy and procedures, it was biting into our charges in a big way. We went out flying the flag, which probably was not very wise in one sense, but we did think it was a big issue at the time, and it was. Eventually it was settled with all the providers in the New Apprenticeships centres working together, and the government did eventually pay for that service—not 100 per cent; they paid 65 per cent. So I think we did have a valid claim.

CHAIRMAN—So you are trying to tell me that that is a transition issue, not an issue of management of this contract?

Ms Mallinson—Not really; it was just one thing that had got lost in the black hole of what would happen with it and who was responsible for that work.

Senator GIBSON—Several points have been made in this written submission. Which ones would you say are the important ones which we should be concerned about?

Ms Mallinson—To be quite honest, from an organisational point of view, they are more operational interpretation of guidelines issues. They affect the contract, but they are like a separate issue. We work from policy and administration guidelines and sometimes they are not very clear. We have found that we have interpreted something differently to what the contract managers—

Senator GIBSON—Could you give us some examples?

Ms Mallinson—There are so many at the moment.

CHAIRMAN—We can come back to it if you like.

Ms Mallinson—I will come back to it.

Mr COX—Is there documentation that somebody has still employed one of them?

Ms Mallinson—We work from the evidence that we are given. We are like a third party. For example, we process employer incentives, and we can only go on what information we are given. So, from the fraud control aspect of the business, we give our processors a list of what they are to follow and they have to take that on face value. If somebody has given them misinformation, they cannot turn around and question every item because it would be physically impossible.

Mr COX—Drake appeared before the committee and they made the point that there were inconsistencies between what the department required in different areas around the country in relation to documentation that somebody has a job. Sometimes all the Job Network provider had to do was ring the employer and ask whether X still worked there and then make a claim. In other areas—when I say ‘other areas’ I mean other physical locations—they had to cite a pay slip or something like that.

Ms Mallinson—Our role is slightly different from the Job Network providers. We are now no longer a Job Network provider; we come under DETYA. Before it was DETYA and DEWRSB and we were classed as a Job Network provider. We deal with New Apprenticeships, which is really marketing new apprenticeships to employers and then processing employer incentives. We actually process those incentives. The government pays the employer the money, but we are bound by what information we receive from an employer on the people involved.

CHAIRMAN—Do you have any conflict with the department in terms of what documentation you need to show that they are still employed? Do you ring the employer or send them a letter requesting time sheets?

Ms Mallinson—No, not time sheets. We go on a training agreement being signed up, that there is a contract, a declaration of parties that all the people involved are doing what they should do and have signed, whether it be the training provider, the employer, the new apprentice or a guardian if they are under 18. We have that on our fraud control list to ensure that we have all that information before we process a payment. But it is open to error or to an employer giving false information or whatever, and that is out of our control to a degree.

CHAIRMAN—Do you check with the actual training provider as well?

Ms Mallinson—Yes.

CHAIRMAN—Or are you the training provider?

Ms Mallinson—No, we are not the training provider. That is separate.

CHAIRMAN—You are just the middleman?

Ms Mallinson—That is another stakeholder in the big game.

Senator GIBSON—You are the organiser, basically, of these apprenticeships.

Ms Mallinson—Yes. As I say, our main role is to market New Apprenticeships to employers and to process the incentive payments.

CHAIRMAN—And to find the kids to take the positions?

Ms Mallinson—Not as such. Our role is more to network and liaise with Job Network providers. If an employer comes to us and says, ‘I want an apprentice chef,’ or whatever, we would talk to Job Network providers and ask, ‘Do you have somebody?’ But really that is not the main role of it. It is more the administration/management of it, I suppose.

CHAIRMAN—Do you check with the training provider to see whether they have undertaken the training?

Ms Mallinson—That is one of the things that is a little bit of an issue, but that is a state government thing. We have to have a deed of agreement with the state government to ensure that we are doing things with regard to that side of it because that is policed by the state government. This is where it gets confusing. We have a Commonwealth government contract that is impacted on by the state government because they police the training side of it.

CHAIRMAN—That is right, because the certificates are state certificates, aren’t they?

Ms Mallinson—Yes.

CHAIRMAN—They are now valid all over the country, but they are state certificates.

Ms Mallinson—Yes, and different states have different systems, as it were.

Mr COX—You are providing a subsidy to an employer or administering the provisions of it.

Ms Mallinson—Yes.

Mr COX—I know that you have not been in this for very long but, in terms of your duty of care to the employers who essentially are the applicants for a subsidy, have they ever complained that they have been poorly advised by you about their entitlements or anything?

Ms Mallinson—Indirectly. I think everybody will have had that because you are dealing with human nature, and the actual incentives are so complex. It is not a straightforward payment; it depends on the certificate level. There are lots of additional incentive payments that may be due. If they are rural and regional, they may get additional payments. If they are in non-traditional roles, they may get different payments. It is really complex.

Mr COX—Too complex?

Ms Mallinson—I think so, yes.

Mr COX—It is a bit like a Centrelink role. Suppose that the government suddenly turned around and decided to contract out Centrelink—which I deeply suspect it will—we will then have people who are in a situation of being contracted to provide services to the government: administration, advice to clients and even contracted out payment of subsidies. Do the subsidies go through your books?

Ms Mallinson—No, we just process them. Via computer, they go direct to Canberra. Then they receive the money; it is electronically transferred into the employer's bank account.

Mr COX—There is an issue here: when somebody in a Commonwealth agency provides advice to somebody, they have a duty of care; if they carry that out poorly, any legal liability in relation to that falls on the Commonwealth. But in this situation there is, I guess, a contract issue as to whether the legal liability for providing bad advice falls on the contractor or ultimately flows through to the Commonwealth. Have you been through any issues like that?

Ms Mallinson—Not really. One issue that has come up—it has just come up early or late last week, I believe—is that there may be times when an employer has been paid incorrectly. It may be that they have given wrong information or the guidelines have been interpreted incorrectly; there are various reasons. In the past the department would recover that money from the employer. But we just now have received notification that, as of 1 June, any moneys having to be recovered from an employer, payment of which the department believes has occurred through maladministration by the New Apprenticeships centre, will be recovered from the New Apprenticeships centre. That sounds good in one sense, but how do you define whose fault it is? There are so many people involved that it is very difficult.

One factor that came up is that currently we are getting transfer files from previous New Apprenticeships centres that were not successful in this contract round, and we are still receiving files, which have been in a black hole somewhere, from the previous CES. When we get those files, we have to physically assess every one because we have been told, 'Well, they are now yours and, under your contract, you are responsible for them.' When we assess those files, it may well be that we will find, on our assessment, the employer has been paid incorrectly and we will have to put recovery action in place. On the same day that we received the letter about our being liable for refunding out of our fee for service payments, we received a batch of letters that had gone out from DETYA into recovery mode—to recover employment payments—but they were all old CES files, and I think it amounted to \$30,000-odd. I was concerned that suddenly they were going to take \$30,000-odd from us, because ours is not a big profit or anything like that and that would really impinge on how you were to manage the contract.

Mr COX—When you signed the contract, did it contemplate in any way that you would be taking recovery action against employers?

Ms Mallinson—It did, but not on—

Senator GIBSON—Not in respect of all the old files—

Ms Mallinson—Not into such depth. It was not that you could sort of be ready for that. Suddenly now, we find out that we have all this work, the transfer files et cetera.

Senator GIBSON—So it was a real surprise to you. Is that what you are saying?

Ms Mallinson—It was a much bigger cost than we anticipated. Put it that way.

Mr COX—From the other side, have you had any employer threaten any kind of legal action in relation to bad advice?

Ms Mallinson—No. With the employer, I think the problem is more that they are totally confused about who everybody in this game is. Imagine yourself as an employer with the CES or a New Apprenticeships centre that did not get a contract this time, and they got paid money. Now they are being transferred to this new organisation and not only will they not pay money to them, also they are trying to claim back what they were paid by the previous one. So you can imagine how employers react to that; they feel pretty upset.

Mr COX—If you are the ones who are claiming it back, you are going to have a pretty terrific relationship with those employers, aren't you, as the new provider?

Ms Mallinson—They are not going to come back to us, or to anybody actually. They will just think they have got burned. I accept that it has to be done. This is accountability. If that money has been paid incorrectly, obviously it is public money and there has to be accountability. So I can see that side of it. But from a service point of view, it is not very good.

Senator GIBSON—Earlier on with regard to the contract, rather than what is in here, you said that interpretation of the guidelines is your major concern. Do you think as time goes—say, hopefully with the next round—the contracts will be significantly improved as a result of better interpretation?

Ms Mallinson—I think they will, and I certainly hope so. The way I would work is that I think, 'Well, okay, we've got issues.' But if there is more of a consultative purpose, when the dust settles perhaps we can work on these issues and they will work easier.

For example, at the moment there is one big issue with all the New Apprenticeships centres—and I talk to representatives from every state. In the request for tender, there was additional work for this round of contracts. It said that, between the sixth and the 10th week of the new apprentice, New Apprenticeships centres must make a contact visit to the employer and the apprentice. It said 'must make contact', and then in brackets it said 'normally by visit'. Before the actual contract round, I tried to get a definition—'How are you going to define "normally by visit"?' I know you can take the dictionary definition, but now they have come back and said that every one must be a personal visit.

So, for example, we have got probably about 20,000 files. That means that, between every six and 10 weeks of a traineeship program, we have to go and visit every employer, make sure that we see the employer and the new apprentice. Then mid-term of that as well, we have to go and see every employer and every apprentice. Also, we have the problem with group training

companies who used host employers; they do not want us going to speak to their host employers.

CHAIRMAN—They are what?

Ms Mallinson—Group training companies—they are legally the employer, but they place their apprentices with a host employer. Technically we need to go out and see that new apprentice to say, ‘Is everything all right?’ We can go to the group training company as the employer, but they do not want us visiting the host employer because they feel that is another cog in the wheel and it will upset their relationships. They say, ‘That’s our employer; we don’t want you going.’

CHAIRMAN—I can understand that. Realistically, that is their database.

Ms Mallinson—Realistically, we have no—

CHAIRMAN—They went out and won that database. They won that employer. That is their client.

Ms Mallinson—Yes. They do not want us contaminating, contacting or whatever that employer.

Mr COX—Or actually picking up the individual information as well. There is a potential conflict there.

Ms Mallinson—So we have these issues that are really relevant to how you do the business. They are contractual issues in that it says you must visit ‘normally by visit’. Now, since the contract started, I have had a letter saying that it must be a person-to-person visit, unless there are extenuating circumstances.

CHAIRMAN—Have you met with the department to discuss this?

Ms Mallinson—I think all NACs have. I think we have all contacted the department to say, ‘Look, this is impractical; and what are extenuating circumstances?’

CHAIRMAN—Are they listening to you?

Ms Mallinson—I think they are aware that there is an issue with it. But at the moment we must try to do this, which is practically impossible.

Mr COX—You would need a fleet of cars and a fleet of visitors.

CHAIRMAN—How many employees do you have?

Ms Mallinson—At the moment in the New Apprenticeships centre I have got about 33.

CHAIRMAN—And 33 cars?

Ms Mallinson—No. Some are processing stuff. We have it split. We have a client service centre that does all the processing, and then we have people who work on the road actually talking to employers.

CHAIRMAN—How many people do you have on the road?

Ms Mallinson—Thirteen.

CHAIRMAN—They need to make 40,000 contact visits in six months?

Ms Mallinson—Yes, something ridiculous like that. I am not very good at maths.

CHAIRMAN—I need my calculator, but the mind boggles.

Senator GIBSON—It sounds like a decision that has been made by a department without actually talking to anybody.

Mr COX—Or thinking about it.

CHAIRMAN—Perhaps I may make a suggestion to you: document to the department, in the manner I have just outlined, the average length of time it would take on the road, and how many people you would need in how many cars in order to be able to accomplish the task. Perhaps then they might understand that it is impossible. You would be turning your cars over about every four months.

Ms Mallinson—Yes.

CHAIRMAN—And you would be turning your people over daily.

Ms Mallinson—That also leads into another issue. We are a small organisation, I suppose you could say. We just work the Brisbane region; that is our region. In the contract it says that you can work out of your region, if you get the department's permission, if you are able to service the contract and if the employer wanting to use you operates for a national employer out of three states or for a state employer out of three regions. For example, we have what we call 'corporate clients'. They are larger employers who work, say, all across the state. But under the rigid contact visits, we are not going to be able to service those employers with whom relationships were formed in the last contract round because we cannot go flying somebody up to Cairns or Townsville.

CHAIRMAN—Why not?

Ms Mallinson—I would offer to go when it is warm and nice there and cold down here. But it is from a business point of view that I have said we cannot do that. So, in essence, that means for organisations like ours that only work out of our region it is anticompetitive.

CHAIRMAN—Add that to your documentation. But, realistically, do the maths and the number of kilometres as an estimate of what you would have to do in six months. Send that off to whomever you are dealing with, and perhaps they will see the sense of your argument more quickly.

Ms Mallinson—I think that locally they are aware it is not practical.

CHAIRMAN—It is not possible.

Ms Mallinson—No, it is not possible.

CHAIRMAN—Not with 13 employees and 13 cars.

Ms Mallinson—No.

Senator GIBSON—How big is your business? What is its annual revenue?

Ms Mallinson—Probably the turnover would be about 1½ million. But there is very little fat in that.

Senator GIBSON—Is that all covered in a single contract? Mostly it is one single contract.

Ms Mallinson—Yes.

CHAIRMAN—One of the things in the report, in the third paragraph on page 1, that I was particularly interested in talks about quality assurance and performance monitoring of contracts. It says:

For example, DEWRSB will not be, during the entire contract period, assessing our performance against the contracted “Key Performance Indicators”.

Ms Mallinson—That is now happening in this contract. And DETYA are doing that. That is now happening.

CHAIRMAN—So it is now happening.

Ms Mallinson—Yes. There are key performance indicators and we have just had our monitoring visit.

Mr COX—What sort of key performance indicators are they?

Ms Mallinson—That we are doing the contact visits. I am just trying to think of them off the top of my head. We are doing contact visits, that we are meeting the targeted numbers in the contract, that we are within the profile. They are given a profile, for instance, of what age levels are taken up—new apprentices, what industry levels, and what qualification level. That is hard to meet because if an employer comes to us and says, ‘I want an apprentice,’ we cannot say, ‘Sorry, you can’t take that person; they are too old. You’ll have to take this young person, and

they cannot be a certificate II or certificate III because it will put our profile figures out of whack.' We basically have to take what is given; we have to take what is there.

Senator GIBSON—How many apprenticeships are you actually handling in a year, roughly?

Ms Mallinson—Probably about 6,000.

CHAIRMAN—I thought you said you had 20,000.

Ms Mallinson—We have 20,000 files. If you think we are on competency based training now, a nominal time for a trainee is 12 months—but that is nominal—or it can be two years, depending whether it is school based or part time, then you have apprenticeships that can be anything from three to four years, so there is an overlap. You have got what are called active files, some that may become active again and some that are dead files, but you still have to have them and process them and do all the work on them.

Senator GIBSON—So 6,000 new ones in a year.

Ms Mallinson—Yes, probably new ones. But not all will go on. The retention rate varies.

CHAIRMAN—Another point that was made is:

Moreover, DETYA maintains the “policy” and “administration” guidelines we use. They are separate documents and continuously out of synchronisation. That is, policy changes are not generally reflected in the administrative procedures until months after the changes have been made. This makes it difficult for our processing staff to adopt complaint procedures in their daily work.

Can you tell us what that is all about? Can you give us examples?

Ms Mallinson—In the last contract round we had two separate documents: one was policy guidelines, which in terms of value interpreted the policy; the other was administration guidelines—how we actually had to administer it. We did have an instance where they changed a particular policy that we did not find until the week after. It was retrospective so we had to amend all our systems to meet that new policy, but it also meant that in that time period we had been giving out information that was incorrect. That is not happening now; we now have a combined document and we are getting the feedback through. Again I think a lot of this was the bedding in and the settling in of the new system.

CHAIRMAN—And perhaps your employees. When it is talking about DETYA management, it says:

DETYA management seems to be either unaware or unconcerned that our clients—who are clearly theirs also—need timely responses to service needs.

For example, employer requests for waivers of Commonwealth policy guidelines are seldom actioned within a month, are more likely within 2 months, and not uncommon to be actioned later than 3 months. This tardiness of response is often (wrongly) attributed to our services by employers and does not foster public confidence in the training system.

What is that all about—the waiver of Commonwealth policy guidelines?

Ms Mallinson—This does not happen now. But, for example, an employer might appeal a reason for being paid an incentive. Remember, I said that the incentives are very complex, so it is not just you get this money and that is it. Quite often, we may have said to an employer, ‘You’re not eligible for that,’ but they have the opportunity to appeal that. The Commonwealth was able to waiver because the matter was specific circumstances. It could be that they have applied for it not quite within the time frame, all sorts of things. It used to take a long time. Again, the employer needs to understand the roles of the stakeholders. They would ring us and complain because they saw us as the face they were dealing with. They did not understand that it had to go through a process.

CHAIRMAN—One of the things we have been interested in is whether or not goods or services contractors to the Commonwealth would object overtly to a clause in the contract document that, if required, they must open their books for access by the Commonwealth Auditor-General. Would you object to that?

Ms Mallinson—No. I have no reason not to.

Mr COX—The only organisation that objects to it is Defence.

CHAIRMAN—We have not been able to find an employer who has objected yet.

Mr COX—We are gradually beating Defence into submission.

CHAIRMAN—In our brief, we talk about risk allocation and risk management. It is one of the things that we are looking at.

Ms Mallinson—It has to be risk management in this game, I think.

CHAIRMAN—We try to point out to Commonwealth departments that they are no longer operating in a risk free environment, that they cannot be risk averse or they are going to sink. So there is a different paradigm today, but we need to learn too that in accepting that if people are taking a risk, they should manage them, yes, but from time to time there will be a failure.

Ms Mallinson—Yes, that is a given, I think.

CHAIRMAN—Or else we would have to spend a fortune to make sure nothing ever fails, and even that is not perfect. So we believe—and it is generally the Commonwealth’s policy—that the party best able to manage the risk is the one that should take the risk. Do you agree with that?

Ms Mallinson—Yes.

CHAIRMAN—Are you being treated fairly in that respect, or do you think the Commonwealth has attempted to transfer risk to you, some of which they should assume?

Ms Mallinson—I think they have attempted perhaps without realising it. I will give an example, and again this is not happening in this contract round but it happened in the last

contract round. As I said, we are processing employer payments. We also process our own fee-for-service payments, which is like paying yourself, I suppose. In the last contract round, it was suddenly decided that every month we had to print out all the payments that had gone through the system that the government uses. As the CEO, I had to sign a statutory declaration verifying all these payments. I did not sign that, but I wrote a letter saying, 'For me to sign a statutory declaration verifying those payments, I would have to check every single one,' and it was a wad of A4 papers of 120-odd pages with all different payments on. You just could not do it; it would be impossible. How could I sign a statutory declaration verifying that every payment was accurate? I would hope they would be, but by signing that I thought I was committing myself to having physically done it and checked every one.

CHAIRMAN—So what have they done to you out of that?

Ms Mallinson—It died a death. I wrote in the last contract round and said that the wording was wrong.

CHAIRMAN—That is like our use of entitlements. They send us lists from time to time and say, 'This is what you have been charged. Sign off that that is true.' I always wrote, 'To the best of my knowledge.' They gave up and put it on the form because it was self-evident.

Ms Mallinson—It is to the best of your knowledge. I assumed that if my staff had followed the procedures then they would have done it as correctly as possible. But if they have been given wrong information they cannot.

Mr COX—On page 3 of your submission you state:

During the past 18 months we have had three or four separate DEWRSB Contract Managers and various officers acting as principal contacts.

Is that happening as much now?

Ms Mallinson—No, we are now just under DETYA which makes it easier because you have a face that you know. You can get on the phone and say, 'We have got an issue, can we talk about it?' I think it has moved a long way. There will still be issues.

Mr COX—But there was management turmoil in that regard initially?

Ms Mallinson—But then again that was the whole reform process—that is, people moving out of jobs and being moved from departments. You could have expected that. I do not think you could have stopped that happening, in my opinion.

CHAIRMAN—There are no further questions.

Ms Mallinson—I hope I have not wasted your time.

CHAIRMAN—Not at all. We have not had a respondent in this area before. It was very good to hear your views and hear what is happening. It is very positive.

Ms Mallinson—With more consultation most of the issues could be ironed out.

CHAIRMAN—Do take my suggestion and write your letter on the basis of hours per day, kilometres and costs and it will be obvious that 13 people could not do it six months or five years. It is not possible. Prove it and it will blow it out of the water.

Ms Mallinson—Thank you for your time.

[1.43 p.m.]

HINDS, Mr Kenneth John, President, Australasian Dispute Centre

JENKINS, Ms Joanna Frances, Member, Australasian Dispute Centre

WILDE, Mr Dudley Keith, Vice President and Board Member, Australasian Dispute Centre

CHAIRMAN—I welcome representatives of the Australasian Dispute Centre appearing at today's hearing.

Senator GIBSON—I inform the committee that Ken and I worked together on a major project 20 years ago and I know he has been involved in contract dispute resolution then and ever since.

Mr COX—Were you on the same side?

Senator GIBSON—Yes. He was working for me.

CHAIRMAN—With the greatest respect, it is not demonstrable by this report that Ken knows you well since the report refers to 'Brian Gibson MLA' and I thought you were Senator Brian Gibson. You may take that how you like, but I believe in evidence.

Senator GIBSON—All I can confirm is that in a major project which Ken and I were working on together for the company that I was involved with 20 years ago, he did a great job and we had some major disputes at the time.

CHAIRMAN—Have I demonstrated to you that I have read your report?

Mr Hinds—Yes, you have—at least the first paragraph.

CHAIRMAN—Thank you for coming and thank you for your submission. Do you have any opening remarks you would like to make before we interrogate?

Mr Hinds—I have a couple of remarks in a general sense. My background, as Senator Gibson has said, has been in construction management since probably the late sixties. It has basically been a position in which I have been involved with major contracts in recent times. I have been chairing the Sydney 2000 project control group, which is a \$600 million project at Sydney airport that people are aware of. I was the independent member on the New Southern Rail project control working group in Sydney—again, it opened last week—which was a \$750 million project. I just finished doing the work on the project control group for the Ansett new redevelopment which was a \$160 million project. I have previously been the independent member of the project control group for the new parallel runway, amongst other things. So my experience, as well as being in the smaller contracts of \$10 million to \$15 million, is generally these days as an independent member of project boards on contracts of between \$100 million and \$1 billion. That is my personal background.

I was National Councillor for the Institute of Arbitrators and then we formed the body between a number of group members, as you can see in the submission, which included the law associations on the east coast, the bar associations on the east coast, the Royal Australian Institute of Architects, the Institution of Engineers. It was a multidisciplinary idea to get together the various disciplines in respect of contract and disputes. We asked the current Chief Justice of Queensland, Paul de Jersey, to chair a judicial committee. That organisation has been in existence for about four years and has continued to expand and be recognised.

AS4000 is the Australian conditions of contract—the latest conditions of contract. We have now been installed as the dispute nominator in that contract. I, as current president, am the person who does that. There is a new suite of contracts which go with the AS4000 and that has been incorporated, I understand, into the Australasian Disputes Centre. The nuclear reactor in Sydney nominated us. The Housing Industry Association have now included us within the new HIA contracts. We do not get any government funding. We just exist through the membership. We are seen to be in a position of fair neutrality. As a consequence, I think these positions of default dispute nominator and dispute nominator in various contracts have come about because we are seen not to be carrying particular sectarian interests but a fairly wide interest of architects, engineers, lawyers and barristers across the board.

Dudley Wilde, who is my vice president, has also been national president of the Royal Institute of Architects. His background, and Joanna's, is similar to mine. He does dispute resolution and advice work on major projects. Joanna was an associate with Corrs Chambers Westgarth before going into a smaller specialised law firm called Legal Risk Consulting. She is a principal of that firm and a member of the Dispute Centre. That is the background of the people here.

CHAIRMAN—Thank you for that. Very early on in this inquiry we had the Master Builders Association, the Institution of Engineers and the Institute of Architects appear before us. One of the things that interested me was that MBA, I think it was, said that there had been a huge shift in 'government'—in quotes, if you will, and I think they are talking about both state and Commonwealth—policy. When contracting for building construction, they are starting to write more or less functional specifications or putting out drawings and specs but no bills of quantity in an attempt to transfer risk from the government entity to the private sector. Has anybody got any comment?

Mr Hinds—I will comment first. Schedules of rates can be included in contracts in respect of pricing variations so you have some idea of where you are going, but I am not of the view that bills of quantity are of use in contracts. They lead to many, many disputes.

CHAIRMAN—Tell me about it.

Mr Hinds—I do not believe that the government is transferring risk by not including bills of quantity in their contracts because I think that contractors themselves, from my experience over many hundreds of disputes, know the risk profile. They do their own assessments. All you are doing by putting in bills of quantity is nailing yourself to the cross, so to speak. So I do not agree with that position.

CHAIRMAN—Do you agree with that, Dudley?

Mr Wilde—Yes. Historically, quantity surveyors came into being through the builders anyway because they were all pricing the same job, so they decided they would just cut down the costs of doing that. Traditionally that is how that came about.

CHAIRMAN—And some of the risk.

Mr Wilde—Yes.

CHAIRMAN—So you just get a common bill.

Mr Wilde—My experience lately, over some years now, has been that the principals or the client are not providing bills of quantity so it just goes back to the builders.

CHAIRMAN—So that is true in the private sector as well as in the public sector?

Mr Wilde—Yes.

CHAIRMAN—I was also under the impression that certainly within the Commonwealth—and I assume the same is true in the states—there is less and less contracting done, full stop. That is to say, the Commonwealth entity will tend to lease premises rather than build and construct. Would that be your experience—except perhaps for Defence with special purpose stuff?

Mr Hinds—Yes. I think that is correct. But in relation to bridges and roads and highways, given the Commonwealth funding packages that were there—and given the Federal Airports Corporation as an example, or, as they are now, Sydney Airport—there is still lots of contracting being done in relation to civil engineering bridges and infrastructure, if I can put it that way. As for building, I have been involved with four or five of the tax offices—in Tasmania, in Adelaide, in Brisbane and in Sydney—and you are right, they are now being built and basically leased out so it is a developer now who takes on the risk and then does the deal. That means that he can keep, in my view, much closer reign on the contractor.

In some cases the contractors—Hansen and Yunken, whoever it might be—in fact are developers as well as the contractor, so in effect they are not going to sue themselves. At the end of the day I think the government gets a better product with certainty as opposed to what it used to get before when they owned the building, but they did not get the certainty of the cost and, in a number of cases, the time until the job was finished. Often there were major disputes. I was involved in one with the state office block in Adelaide which Baulderstones built. It became an absolute major dispute with the government paying out numerous million dollars. I think the way you are going now is a much more positive and safe course.

CHAIRMAN—I have to say that I was a building contractor for 17 years and I am a fellow of the Institution of Engineers. In their report to us—and you may have seen this on the *7.30 Report* and in other areas of the press—they refer to the *Westralia*, the implosion of the Canberra Hospital and the failure at Esso as demonstrating a skill transfer—how they would

come to this conclusion I do not know—from the public sector to the private sector and denuding the public sector of engineering and architectural skills. Do you have any comment on that?

Mr Wilde—When I appeared before the parliamentary committee on the investigation of Parliament House procurement, that same thing was raised, and I think it will always be raised. I really do not think anything has changed. I do not think good people are dissuaded from entering the Public Service. In fact, I think it is a tragedy if that is a perception, because I think the most successful projects were built by the public works departments, which had good technical officers in them. Professional architects and engineers are not well paid, so I do not think you can use that across the board. I do not think you can use that as an argument. The good people arise in any sphere. I think that the Public Service should encourage good people and perhaps take a few suggestions from the private sector way of going about things.

CHAIRMAN—It is true that the Commonwealth and the states tend to devolve their direct control over operations. In the case of buildings, the Commonwealth probably hardly builds any buildings at all. About all that would be built would be special purpose defence stuff, I think. If it were going to build a building, it would hire someone to manage the project, but generally it would not build a building; it would simply put a thing out for design, construction and lease. The complaint is that some are concerned—and this committee is trying to evaluate the degree to which those concerns are relevant—that the transfer of knowledge and experience from the public sector is to such an extent that there is not enough corporate knowledge and experience left to manage the projects and/or specify the contracts properly in the first place.

Mr Hinds—On the first question, the government generally have produced specialised people. The Federal Airports Corporation is an example, where it has been subject to decimation in the sense of it being privatised other than at Sydney. They had, in my view, some of the best engineers you could believe in respect of pavements, lighting and a whole range of issues that Federal Airports needed, and the private sector could not wait to get their hands on them. They pulled the eyes out of these people and, as a consequence, what is left are the lower common denominator, if I can put it that way without being crude, as opposed to the highest common denominator.

In the sense of the expertise being taken, that has been my experience across the board, not just at the airports but with main roads and whatever. The private sector saw the government's going to supply outsourcing or management outsourcing as dropping the green flag to take all the decent people, in my experience. As a consequence of that, there are some deficiencies. I agree with Dudley on the money issues. That is not the real issue. But the private sector is much more flexible in what they can do—in respect of providing a car or people. There was an ad in the paper recently from the Sydney Harbour Foreshore Authority. They want a capital works manager—and their projects go up to \$10 million, \$15 million or \$20 million—and want to pay \$80,000. That is as much as they can pay under the government—that is state government, not federal government. They are issues that need to be looked at. It has become such a specialised industry. I find that you deal with the management side from the government, where you have a \$60,000 engineer, and the person on the other side of the fence might be a \$200,000 person from Leightons or wherever who has been sent to America and who is up to speed on all the latest techniques, and the government is limiting itself to that because that is where it is.

Some reclassification needs to be done to stop the brain drain. It is a problem. Where everything is equal, I do not have a problem and I agree with Dudley. At the end of the day, you have a look at the claims that are being put in against the government where it is not the case. In a lot of cases, the various departments bring in some consultants. I have had a fair bit to do with Defence and Navy and a suite of contracts. They bring up people who are admirals or whatever within their own organisation as their contracts management personnel. They do not get pilfered by the private sector because, in a lot of cases, the private sector—on what I have been told—is happy to leave them there. It is a double-edged sword. They do not want to get rid of anyone who is helping them, but they want to get rid of anyone who is smart.

Senator GIBSON—What should we in government do for the taxpayer? What is your advice? You have given us lists of recommendations here.

Mr Hinds—We try to be positive. The audit committee needs to have a technical arm. I do not know how the audit committee fits together. I do not know much about government at all. Most of these problems come out of technical issues or architectural issues. The audit committee is made up of numbers of people generally and, in a lot of cases, the risk and the risk management and the exposure comes from people being in the wrong disciplines. So the government has to look at mixing the disciplines better. There are independent people. I have seen on so many projects the project engineer reporting to the project manager or project director. It is Caesar reporting to Caesar.

I will not set up a project with an organisation chart where the programmer, the cost consultant and the independent engineer or architect does not report to someone external to the project, because all that happens is that you create a report and, if you are the project manager, it goes to you and you then edit that report to suit whomever it might be going to. These independent tracks through the system, from the taxpayers' point of view, give you, for one, some big ticks because you have independent people and you are saying, 'We need protection.' Private industry generally talks about appointing people to do health checks on the projects, and they are independent appointments. So they come in as a technical person or as an architect or whatever and look at the program and ask about all the variations et cetera to make sure that the person, whoever the government or the departmental head is, is being kept informed. It is bypassing all of the interference and all of the potential downside risk of things being changed to suit this Caesar to Caesar position, so that it becomes very independent.

Senator GIBSON—In other words, that is the role that you have been fulfilling recently with regard to Sydney airport projects. You are really saying that we should have that sort of structure in all major Commonwealth contracts.

Mr Hinds—I have been there since 1988. I have no dealings with anyone other than either the board or the chief executive, so nobody can influence me—they could but I mean that in fact they do not.

Senator GIBSON—In the past this committee, as I have said to you previously, has looked at a couple of major defence projects including JORN, where there was a major overrun, and the Collins class submarines. In both those major defence projects a lot of the problems—and there were many—were to do with the fact that the actual project managers were turning over at a

rate of every 12 months, 18 months or so, so there was a lack of expertise and also of any history of what had actually happened and was going on. That implies that perhaps at times the relevant government agency should be bringing in an expert project manager to come in to run that, either to train within the organisation or to bring people in on contract to do it. For governments, in a sense it is probably easier to bring people in on short-term contract, because they can probably pay the appropriate contract rate, the market rate, to do that, whereas it is very hard for a government to adjust the whole structure up with people training within the system.

Mr Hinds—As for the audit role for the four of the organisations I mentioned, it is only a one day a month role. It is not an involvement that is a big number, but it is the fact that you can make sure that people are representing what the true position is. The other example that I have found regularly is the fact that they move the baseline, where there is an original budget. One of the things that I used to require at Federal Airports and now do at Sydney airport is that a copy of the extract from the board paper is included with it, so I can look at what the board approved. I am not interested in what anyone else thinks; it is what the board approves. If you take the parallel runway, the board approved 300 million. That then is a breakdown of that 300 million.

I do not report against anything subsequent to that. I keep reporting against that 300 million. If you go to the next step where there is a revision, then things start to get buried. The next minute you find that the original budget has been dropped off. Therefore you are comparing with something down the track and the same in time. If you look at time, again you only deal with one page over the program but you have always got the original program there. Things slip and things change and I think what happens is that people do not ask the right question. They say, 'It's a month behind program,' but it is a month behind revision 6 of the program; it is actually 11 months behind the original program, as an example.

I think that is the sort of regime that the government needs to bring in and have a basic manual for. Take the Department of Main Roads, the airports, the Sydney Cove Authority or the railways. They use common people—people who move around Australia as opposed to those who move around within their state. One of the things that I found while doing work for Main Roads is that, when a contractor found a loophole in Queensland, they then went and applied the same loophole in Tasmania. I found this in every state. Yet the department had no idea it was happening, even though their counterpart in Queensland had just shelled out \$5 million. Then they went and did the same in Western Australia.

On the subject of continuity and the committee personnel, there has to be something there that does it all. I think it should be across the departments. As I said before, we set the centre up because it was across all the disciplines. We had all this vertical integration when I think what we need is horizontal integration. The government needs to look at that sort of integrated issue across the board. As I said, each department can be responsible for what they want to do or what they have got to do, but at the end of the day the government has to pay the bill and therefore you need someone giving that a tick.

Mr COX—So you are finding that, with the devolution of a lot of these functions to small agencies that are not necessarily good at them, they are doing them badly and they need some kind of technical background?

Mr Wilde—Yes.

Ms Jenkins—They need training, they need technical backup and they need to conduct risk analysis at the beginning instead of at the end or in the middle.

Mr Wilde—Almost all of you would know that the culture in the construction and building industry has changed. It is now tiered in such a way that, in reality, almost nobody knows what the other person is doing. The managerial processes are such that the head of the organisation does not really know what is going on. There is a delegation process in builders organisations, and it is the same in government organisations. There is an answering system to the one above, and the one below thinks that the one above needs to know only the right answer and that they are happy if everything is said to be going all right. In my view—and I have seen it in action regularly—there is no real concern about the end result of the project being successful if all of those players down there are looking great and are reporting well, unless all of a sudden a cost blow-out happens. Then everybody is ducking for cover to find out who is really responsible.

The thing that bugs me in the construction and building industry is that a lot of the major disputes should not happen. Why the festering sore of disputation carries through construction projects is beyond me. Incompetent people dealing with it let it happen for various reasons. I agree with Ken entirely. It has to be properly controlled, and you as the principal should be in control. There is no way any building construction firm can tell me that the principal should not be in total control, although they would have it otherwise. It really concerns me at the moment that I see large building organisations controlling their clients, who are paying the bills. They are very good at it.

Senator GIBSON—In your recommendations, on page 3 at B2(iv), you say:

For large projects, a Project Control Group with experienced industry independent member (maybe technical, legal, financial) should meet monthly with standard (but flexible) agenda to review reports from the contractor, the contract administrator and other relevant parties and require action.

Ken, are you saying that is the key to the independent review of major projects?

Mr Hinds—I think so.

Senator GIBSON—We have got to spell it out in fairly simple terms.

Mr Hinds—That is the key. Going back to the runway, there are two keys. One is the independent process and the other is recognising that there is a dispute. I heard you asking the previous witness this. I would not sign off on a contract without a complete disclosure clause. If a contractor wants to sign up on a major contract—even if we are talking the Thiesses and the Boulderstones and everybody in this world—they have got to have a total disclosure clause so that I—or whoever—can get their estimate and every piece of paper. They all squealed about that. We put it in in 1992 when we did the runway contract. They all squealed at that. Nobody even bats an eyelid now. All you have to do is say to the contractor, ‘We are going to have a person go to your organisation and look at your estimate.’ What you, as the government, are told, or what an owner is told, in most cases is just fairytales. They see this clause in the contract that says we have not allowed for that. You have got no access, so you have got to

either take a commercial decision or say, 'All right, if that is the case, we will appoint an independent person to go and look at your books, your estimate or whatever.' I reckon that in 50 per cent of cases it just disappears—with that clause in the book. That is the first thing.

Senator GIBSON—That is a key point.

Mr Hinds—The second thing is the management issue in relation to that. I think you need project control groups with some independent members—on the bigger projects; I am talking from \$100 million or if it is a complex project—that are in attendance and that are not reporting to the local management or whatever. That is the second thing.

The third thing is the dispute resolution provision. Again, if we go back to the runway contract as an example, there was a board of review at two levels. One was the project management level with an independent: the project director for the government department or, in that case, Federal Airports, and the project director for the contractor had to meet, in relation to any matters that arose, with an independent chairman, and that person banged the drum and, in effect, forced them to resolve it. If it did not, it had to go to the chief executive of the department and the chief executive of the contractor with another independent person.

Senator GIBSON—That is a good working procedure.

Mr Hinds—If that did not work, it went to arbitration or litigation. In the \$300 million project we did not have one dispute. We have used the same process on the New Southern Rail.

Senator GIBSON—You have not set out that sort of detail in here.

Mr Hinds—We did not know that that was required. We are happy to do that. The third one, as I said, was Sydney 2000, which is \$600 million. It opened on 31 May. It is on budget, it is on time and there has not been one dispute in the \$600 million. There has to be something said for using those sorts of systems, which are, in my view anyway, open management systems.

CHAIRMAN—Did the requirement that their estimate had to be open to scrutiny by external source have a lot to do with bringing that about?

Mr Hinds—I am saying that that is a common factor in all of this. In the contracts I am talking about, I have not agreed to any of them without that clause in it, and I think it must be a common factor to it.

CHAIRMAN—I can well remember that, in a very competitive building industry, as common practice, you would take off your own bill or you would work to a provided bill, you would rate it, get to a total, put your overheads on top of it and say, 'How much margin do I want?' Then you would discount that price by what you thought you could screw the subbies for—No. 1—and the suppliers—No. 2—and how much you thought you could make out of variations—No. 3. I would have thought that your proposed practice would put an end to all that.

Mr Hinds—It does, in my view, but it also puts an end to a lot of argument because of what is in—

CHAIRMAN—That is what we did. As a matter of practicality we did that—exactly—in contract after contract after contract.

Mr Hinds—It is that sort of open position that needs to be thought about. As Brian said—

CHAIRMAN—Well done.

Mr Hinds—I do not know about well done.

Mr Wilde—As to the point about the reduction in disputes, a lot of these disputes just carry on because of the incompetence of those handling it. Really they do not like addressing them early enough and they let them fester. That is just not the way to handle it. Here we are with cases without any dispute.

CHAIRMAN—You cannot also tell me, though, that in many cases architects or contract managers for the client do not often contribute to that process by refusing to approve variations until the death knell.

Mr Wilde—Absolutely.

Ms Jenkins—That is poor contract administration.

Mr Wilde—I could not agree more. That is poor contract administration. I teach my students never to do that.

CHAIRMAN—In your submission you reported instances in which contracts are not signed at all or not signed until several months after the contract has been let. How prevalent is that?

Ms Jenkins—Pretty much 100 per cent, I would say.

CHAIRMAN—What chief executive is letting his organisation get in on the ground without a contract?

Mr Wilde—It is because chief executives, as I said before, are distanced from these middle management groups who tell them what they want to know at a specific time when it is probably too late. The chief executive should get closer to the action.

Ms Jenkins—I also think there is a lack of understanding about the importance of settling down contract terms before they start work. Lots of people think—I think—that a tender with contract conditions in it, and a specification which has been responded to and accepted, is enough, with a letter of acceptance, and that that is the contract. I suppose strictly speaking it is. The problem arises that, after the tender has been submitted and during the negotiation period, there is an exchange of letters and there is a series of meetings where the provisions of the contract have been altered. It is very difficult to work out, three months down the track, let alone two years on when you get to the end of the project, in what sense the contract provisions have been altered and what the actual contract provisions are. And nobody ever bothers to go back and settle them in writing.

CHAIRMAN—It has been said to us by some, and the Commonwealth are particularly guilty of this, that departments are losing their expertise, if you will, and are attempting to transfer risk from the Commonwealth to the contractor, whether it is a goods supply or a service supply contract. In the tender stage, the specification stage, literally they write a specification which virtually no-one could accept and then negotiate downward after that. Is that prevalent?

Mr Hinds—I was involved in some recently where it required—Joanna knows about this—99.5 per cent accuracy on bag tag scrutiny. No-one in the world has more than 93 per cent—and this is an Ansett issue. We are trying to get it up to about 98, but whoever wrote that specification in my view just put a number in of 99.5 knowing that the world standard is 93 per cent. We have then had to go and do exactly what you have just said: negotiate down to get to an acceptable level. But it is after the event. The horse has bolted, the contract has been awarded. You either have to say, ‘We will take some money off you’ or ‘We have to get a useable system.’

A lot of the specifiers seem to go to impossible performance, and a lot of the disputes that I look at have impossible performance. Physically, the test for negligence is what the reasonable experienced engineer or architect would do, but the test in the contract is what someone who is next to God would have to achieve. That, I think, is an issue of reasonableness—that the risk allocation is not just thrown into the contractor’s bag because of it. An issue we were talking about only yesterday was AS4000, where government departments are still using the 1986 and 1992 versions of the Australian standard because there is a good faith clause in AS4000. That is not where you want to be coming from.

CHAIRMAN—What about unlimited liability?

Mr Hinds—That is a pretty open question.

CHAIRMAN—We did a purchasing inquiry a couple of years ago. This is a follow-up to that in a sense and is partly generated by major Defence failures. We have had it said to us by some contractors, whether for goods or services, that frequently Commonwealth contract documents will require unlimited liability for the contractor.

Mr Hinds—There are two issues I think. One is liquidated damages, and I think the law is pretty clear on that—that is, it has to be a pre-estimate of what your damages are going to be. That is one area of limited liability that I do not think the Commonwealth has available to it.

The second issue is the amount of money, if you are going to say to a contractor that he has unlimited liability to supply a piece of equipment and the ship sinks or something like that. I ran a contract organisation for 10 years before I started my consultancy prior to 1974, and you just used to add numbers to the bottom line in respect of the level of liability. You got a few good ones so you made a lot of money on them for the bad one, but you did pay—or you forced the government or client to pay—a lot higher price.

I think you have to look at risk and the basis of realism as opposed to the basis of protecting yourself against every possible concept that will happen. We do some insurance stuff. The insurer looks at a risk profile and says, ‘The chance of that happening is one per cent, 50 per

cent or whatever.' I think when you are putting your contracts together in a risk sense, you need to take that into account. I do not think you can expect a contractor to take on unlimited liability. How do you enforce that? The courts say at the end of the day, 'He might have signed for that, but it was really impossible for him to do it. He was stupid about it.' You do not get your product at the end of the day, the contractor has serious financial problems and nobody wins, so I think there has to be some meeting of the minds in that area.

CHAIRMAN—On page 3 of attachment A of your submission, you comment:

Contract documents often omit to set out how contractor performance and progress will be judged ...

Firstly, what do you mean, and what are the reasons for the omissions?

Mr Hinds—What happens is that, when a contractor fails to perform, there is a show cause notice under the contract which can be issued and often is issued. The argument is: what is the contractor's performance? What did he have to do? What is the progress, et cetera? So although you have this provision in there which says, 'He has to show cause as to why he should not have his contract cancelled,' there is no criteria set out in most contracts as to what he has to do.

As a consequence, they are hollow threats. Someone sends them a letter asking them to show cause and they write back with three pages of waffle. Then you have to say, 'Okay, they say they did not do that and then this happened and so on.' If you had a set of criteria upon which the contractors performance would be judged then it would be black and white. You might need five items or six items and that would be the end of it. That is the same as when you do a tender assessment.

CHAIRMAN—Is that caused by one set of people writing the specifications and a different set of people administering contracts?

Mr Wilde—That is a good point. I think a good document can be administered by anybody. The document is where it all starts. You raised the point earlier about unlimited liability. A major problem with building and construction contracts is that they are regarded by one or other of the parties as being inequitable. The closer you can get the two parties together with that problem the better the contract will be. I do not see any problem with contracts being written in an equitable fashion and not loaded towards one party or another, which they have been over the years. They were either in the principal's camp or the builder's camp. There are is no reason they should not be equitable. Therefore, if it is well written anybody can administer it, in my view.

Mr Hinds—As far as these items are concerned, you set out in the original contract on what basis the contractors is in jeopardy. So you get a law firm, an engineering firm, an architectural firm or a combination putting the document together and it is a simple matter of saying, 'You will show cause if do you not perform.' What does that mean? With say with tender assessments that the basis of the criteria for performance is one, two, three, four. That is the end of the story. It is a foolproof matter. That is what I meant by that statement.

Mr COX—Can you refresh my memory about the third runway at Sydney airport. It came under budget and ahead of time, did it not?

Mr Hinds—We came in three months ahead of time and \$30 million under budget.

Mr COX—What is your impression of the capacity of the Commonwealth Public Service when it is faced with a contract dispute?

Mr Hinds—Fear. I have not experienced the Public Service being able to mount a campaign against a contractor. They think that you have to be a friend of the contractor for a start. You cannot upset the apple cart because you have to use this contractor again in the future. All of these emotive things which should not come into the equation occur. For example, I was involved with the case of the Burdekin Dam against the Commonwealth. We worked our butts off. I worked for the Commonwealth on that. When we got down to the point where I thought the contractor was gone, we settled and gave him \$7 million. We had been in court for three months. In private industry nobody is scared of it. All contractors have a legal budget for construction disputes. As a consequence, they take them on. If you are going to have credit, you have got to take on the disputes and show the contractor that you are the Commonwealth and get some good advice.

I have dealt a lot with the crown law and whatever and some of the people there are just out of university. Here you have a dispute that might be \$30 million and you have somebody who might be 28 years old dealing with the dispute. If you are going to use crown law I think you have to get expertise in those areas. Everyone gets fearful. The contractor's approach is, 'Hey, guys, this is going to cost you \$2 million.' My approach is, 'So bloody what?' But all of a sudden everyone folds their tents and cringe and say, 'Geez, we can't spent \$2 million; we'll be over budget. We'd better get this through some other means.' That is a problem that needs to be addressed.

Mr COX—What was the issue at Burdekin Dam?

Mr Hinds—The Burdekin Dam issue was concrete. It was Leightons and it was film on the concrete. It had been known for three or four years and nothing had been done about it. As a consequence, it became a big dispute. It was in Brisbane. Leightons got Bob Hunter, who was the most senior construction barrister at the bar and is now a judge running the construction list in Sydney, and brought him up here. You can only describe him as a thug. He is a nice friend of mine, but he is a thug. It was a psychological battle against the Commonwealth. They called the witnesses and then it just became a question of how much it was going to cost. At the end it probably cost \$2 million or \$3 million in legal fees and maybe \$7 million in settlement fees—and Leightons get the money at the end of the day.

Mr COX—Is it your judgment that, if the Commonwealth had proceeded, it would have won?

Mr Hinds—No, that is not a fair statement.

CHAIRMAN—He tried you on.

Mr Hinds—If the Commonwealth had proceeded, I think we would have got a couple of million dollars. We had a top operator. We had an ex-judge doing the case. So it was not like we had some arbitrator who was an engineer or whatever. There were a lot of legal points; so I am not suggesting that the Commonwealth would have won, but I am suggesting that the solution that was found, in my view, was on the upper level of any risk analysis as to what the Commonwealth may have to pay at the end of the day.

CHAIRMAN—Thank you very much for your submission, your recommendation and for coming to talk to us. This has been a very good session. We will, of course—as we always do—send you a copy of our report when we table it.

Mr Hinds—If we can be of any further assistance—

CHAIRMAN—We might holler.

[2.45 p.m.]

LEWIS, Mr Ian Clive, Acting Manager, Procurement and Contracts, Logistics Branch, Queensland Police Service

TOLL, Ms Michelle Megan, Acting Manager, Procurement and Contracts, Logistics Branch, Queensland Police Service

CHAIRMAN—I welcome representatives of the Queensland Police Service. Thank you for your submission and thank you for coming to talk to us today. I see you have brought an opening statement. Is it the wish of the committee that the statement be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The statement read as follows—

CHAIRMAN—Your submission was very comprehensive. One of the things that interested me was the fact that, while you have devolved purchasing and contract administration and minor matters out to the field, you tend to control the major works in the central organisation. How long have you been doing that and what led you to those conclusions?

Mr Lewis—The establishment of the logistics branch within the Queensland Police Service—just to give a bit of history—resulted from the Fitzgerald recommendations of the early nineties. There were sweeping changes at high levels within the organisation and a professional logistics/supply manager was appointed to establish a structured and sensible purchasing supply/logistics management regime. That was in about 1991. A conscious decision was made because of the fairly loose arrangements that had been in place previously—and I was not privy to those because I was not with the organisation—to centralise authority and delegations.

Mr COX—So there were actually some questionable practices pre Fitzgerald in the purchasing—

Mr Lewis—I do not know whether you would term them ‘questionable’ but certainly some very loose, unprofessional type arrangements—everybody with a purchase order book, no professionalism, no expertise, no experience, no training.

CHAIRMAN—And no accountability.

Mr Lewis—Little accountability probably, yes. It coincided, interestingly, with the release of the then new state purchasing policy in 1991. Previous to the release of this policy, there was a centralised purchasing wing for Queensland government—an organisation called the State Stores Board, which has continued under various guises since then. But the new state purchasing policy gave responsibility to chief executive officers to make decisions about purchasing within their own departments based on a set of not too stringent guidelines and criteria. We were fortunate enough to have the opportunity to restructure and put new people and processes in place with the Fitzgerald implementation. We were fortunate that that coincided with the release of the new state purchasing policy which gave the commissioner the authority to make in-house decisions about purchasing.

CHAIRMAN—In your submission you state:

An important element of the successful delivery of procurement and contract management services to the wider organisation has been the introduction of Acquisition Strategy Meetings.

Can you tell us who attends those and what happens?

Ms Toll—The requirement is identified and a senior procurement and contracts officer is appointed to carry out the procedure. Then we get members of what we call the technical authority—that is, the people who write the specifications, those with the actual requirement, whether it is radio equipment or IT equipment—to meet with that senior procurement and contracts officer. They then go through the actual requirement of the specification. At that point, they establish the methodology with which we will approach the market, whether it is public

advertising or just invitation to offer. They also identify time lines, opening dates and closing dates of the offers and evaluate how much time will be allowed for that, also allowing a period for contract negotiation and final contract awarding. They also consider any special requirements, site visits or field testing—anything like that. That gets documented down and accepted by both the contract authority, being either the logistics branch or the procurement officer, and the technical authority. That then forms the guidelines for that particular procurement process.

Mr Lewis—I might just enlarge on that a little bit. That actually becomes a formally signed document between the two parties, the contract authority and the technical authority. As well as outlining the process time lines and milestones, one of the important things is that at the very start of the process, once the need has been recognised, the responsibilities and actions which are to be taken by either party are quite clearly laid down. So both parties—the contract authority and the end user, or the person who has written the specification—know what their responsibilities are. The end user is told each time that any contact with the market, once the document has been released, is to be made through the central procurement group.

CHAIRMAN—Let's take a hypothetical. Say that you were placing an outsourcing contract for information technology services or radio services, or whatever. Would you include at that strategy meeting personnel who are likely to be involved in the project management function?

Mr Lewis—Yes, we would. We find within our organisation that a project manager is normally appointed prior to the acquisition taking place, obviously. Once an amount of funds has been allocated to a project, a project manager from, say in this case, our information management division will be appointed to develop and document the requirement. That person then will see the contract or the life of the project through.

Senator GIBSON—How big a project would it be to require the appointing of a project manager?

Mr Lewis—Probably that is a decision out of our hands. Normally it would be one of \$¼ million and upwards.

CHAIRMAN—You have talked a lot about your structured training. Can you expand a bit on that?

Mr Lewis—The Queensland government itself has a fairly well structured training program delivered by the Queensland Purchasing Development Centre. In fact, people in other departments who take part in those courses are given a level of purchasing delegation as a result merely of having done those courses. We see that as just a tool to use as part of our overall training regime. It gives our people some professional development, but we do not necessarily allocate individuals delegations merely because they have conducted training. We insist on some quite stringent in-house training. The external training gives them exposure, I guess, to the higher level policy and procedural type concepts. The internal training and education delivers the requirements of the Queensland Police Service—which are, I guess, quite regimented through design—and also outlines what their responsibilities are and how the organisation

operates. By the mere nature of our organisation, I guess we need to be very careful in relation to adverse media comment and political pressure and that sort of thing.

Mr COX—Do you have a devolved structure of responsibility for purchasing down to a sort of local service area, or is it all done centrally?

Mr Lewis—It is devolved. Briefly, we have a delegation system whereby any contract over the value of \$100,000 has to be signed off once the purchase order is raised. The contract has to be signed off by the logistics manager, who is the manager of the overall logistics branch. My position has authority to sign contracts up to \$100,000, and I have three people working in my section who have authority up to \$25,000. That is all centralised. Outside of that, in each of the eight regions we have an administration and purchasing officer who does not work for me but has a functional responsibility to me, and that person has a \$10,000 delegation. Under that, at police station and police establishment level, the delegation goes down to \$1,000 to enable them to buy photocopy paper, get mowers repaired and things like that. That has been in place since 1991, and, whilst it has met some opposition, it has certainly delivered some good results and has been a good risk management strategy.

Senator GIBSON—Have you lifted those quanta several times since 1991?

Mr Lewis—Interestingly, no, we have not. We are in the process of doing that now, because we recognise that nine years ago \$1,000 was worth more than it is now. We will probably look at doubling those. The delegations of the people working for me have risen from \$10,000 to \$25,000 in recent years.

CHAIRMAN—In your opening statement you said:

... best practice in procurement and contract management by annual participation in a national bench-marking exercise ...

How does that happen?

Mr Lewis—It is a voluntary thing. Western Pacific is the organisation that runs it, out of Perth. In an effort to see how good we are against other like-minded operations that have a significant requirement to purchase infrastructure, capital, goods and services, we decided to participate in these exercises, starting in about 1996. We have had fairly good results. The exercises are reasonably easy to complete, and we extract considerable data from our purchasing system, as well as from various manual records, to provide to the exercise. That is measured and we have come up to the benchmark or close to it on each occasion.

Senator GIBSON—What other organisations are in that system?

Mr Lewis—There are other government departments, mining companies, utility companies. The identity of the companies remains anonymous until such time as a post-benchmarking meeting is held. As I mentioned, we facilitated a post-benchmarking meeting. At that meeting, organisations could see where they could improve, and the same for us where we may not have measured up against them on particular criteria. We would identify each other and just sit around the table and discuss information.

Senator GIBSON—Otherwise it is an annual disclosure, it is?

Mr Lewis—Yes.

CHAIRMAN—What are some of the criteria that you are measuring against?

Mr Lewis—The average number of stockturns per year for inventory; number of purchase orders raised, up to a certain value and over a certain value; the number of contracts entered into, once again dictated by value—

CHAIRMAN—Performance? Disputes?

Mr Lewis—Yes, contract performance and disputes, which I guess is a qualitative thing. That is sort of it, in a nutshell. Another criterion is how much purchasing is done in the regions as compared with centrally and how many dollars are spent through the central purchasing system as opposed to a regional level.

CHAIRMAN—What does that tell you?

Mr Lewis—I think it tells you whether or not the devolvement of purchasing to the lower level is successful.

CHAIRMAN—How is that?

Mr Lewis—It also gives you an opportunity to measure the amount of money being spent. If, for instance, you identify a region where there is an inordinate number of, let us say, \$9,999 purchases, you would have to start thinking that there have to be questions asked about that because it is someone trying to beat the system. It identifies non-conformity, I suppose.

CHAIRMAN—But it is not a quality control mechanism in terms of your ability to write specifications and manage contracts against time benchmarks and dollar benchmarks and quality control—

Mr Lewis—I think that is a fair comment. It is not that sort of exercise, no.

Senator GIBSON—Are any Commonwealth departments or agencies in this benchmarking exercise?

Mr Lewis—Not to my knowledge. There might be some that were not identified to us. At the post-benchmarking forum we had there were about 12 organisations. There were no Commonwealth departments there.

Senator GIBSON—Perhaps we should find out a bit more about it.

CHAIRMAN—We can do that.

Senator GIBSON—That would be good.

CHAIRMAN—In general terms, what sorts of accountability measures do you build into your contracts?

Mr Lewis—Performance measures relate to deliverables, milestones and payments—those sorts of things. One thing we are also very conscious of, and we have identified through this experience, is that a lot of vendors' contracts have some quite dangerous automatic rollover and renewal terms in them. So we go to great lengths to make sure that we do not get caught in those sorts of issues where, for instance, 'Without 90 days notice in writing, this contract will automatically rollover for another 12 months' and so on. In a lot of software maintenance contracts payment in advance is required. It appears that that is an industry norm in the IT area. We are taking quite significant steps to renegotiate those sorts of contracts, because there is no benefit for us as an organisation to pay in advance.

Mr COX—Are they mostly small companies that are providing those software services?

Mr Lewis—Predominantly but not necessarily. There are also large software licensing companies and there are a couple of big names in the relational database management type licences that still like to try to insist on that.

Mr COX—When you say 'relational database' what do you mean?

Mr Lewis—I would say, for instance, an Oracle or an Ingress type situation. Big companies like that still build into their own contracts quite significant pre-payments. We are fortunate enough to have the protection and umbrella of the GITC—the Government Information Technology Conditions. In fact, the GITC is framed by a set of schedules which are attached to each contract. I suppose it is like a checklist. That has been quite beneficial. We have taken that a step further in that, for each individual contract we now enter into—whether it is IT or whatever—that is over \$100,000, we actually establish a formal contract. I listened to the previous speaker talk about tender documents, offer documents, letters of acceptance and the exchange of correspondence during the negotiation phase. We find, as I heard that person say, that that then becomes lost in the quagmire of correspondence; so the contractual provisions, the performance measures and all those sorts of issues are contained in one document. It is often seen that we are a little bit over the top in that respect, but from a risk management perspective and through some unpleasant experiences we have found that it is better to control your own circumstances.

Mr COX—Do you build police stations or does that get done by a Queensland construction department?

Mr Lewis—That gets done by the Department of Public Works.

CHAIRMAN—Do we still have one?

Mr Lewis—Yes. In each state the name changes depending on which government is in. Currently, it is the Department of Public Works.

Senator GIBSON—What does the other government call it?

Mr Lewis—The department of admin services.

CHAIRMAN—So we have still got one of those too.

Mr Lewis—Within the administration division, where logistics branch sits, there is a property facilities branch which manages the outsourcing of those projects to the Department of Public Works and maintains a watching brief over the constructions and those sorts of things. There was a strong suggestion in a recent internal audit that was done that we start having a lot more involvement in that process. That only came to light as recently as a week ago.

Mr COX—Was that because you were not getting buildings that were suitable for the purpose?

Mr Lewis—No, I think it was more of a delegation thing. For instance, the property and facilities branch are managing—although the actual purchasing process is outsourced to the Department of Public Works and Housing—some quite significant capital expenditure, almost \$100 million a year, and possibly making what could be seen as purchasing decisions without purchasing expertise. That was just the opinion of the internal auditors. That needs some more research.

Mr COX—Do you handle purchasing of vehicle fleets?

Mr Lewis—Yes, we do.

Ms Toll—We have a fleet management system, which we are bringing over. We also operate the SAP purchasing and logistics system. We are bringing the fleet management system into line with that, where we will centrally order the motor vehicles. The fleet management system will still run alongside, and that manages servicing, when the vehicles are sold—

Mr Lewis—Acquisition and servicing right through to disposal.

Ms Toll—Yes, that was the word I was looking for. That whole function is managed at our transport area, a specialised area for that.

Mr COX—Do they make the choices about which cars?

Mr Lewis—Yes. We test the market based on specifications provided to us by the people within our transport section, which again is under the logistics umbrella, and establish long-term supply arrangements, standing off arrangements, for various police vehicles. Those arrangements are reviewed regularly. The supply performance is reviewed regularly—pricing and all of those sorts of issues.

Mr COX—I can think of one car firm that is probably desperate to sell you some vehicles at the moment.

Senator GIBSON—From South Australia.

Mr COX—Yes, Mitsubishi.

CHAIRMAN—Let us not have any under the table lobbying here.

Mr Lewis—I did not bring my order book, so I cannot help them.

CHAIRMAN—That is good.

Mr COX—I am sure that they would give your very good deal. That is all.

CHAIRMAN—Does the Queensland Auditor-General have access to your contractor records?

Mr Lewis—Yes. We go through some quite stringent internal and external audits.

CHAIRMAN—I do not just mean you. If you have an IT contract—let us go back to our hypothetical again—to develop an information management system for the department and let us say that for some reason, dispute or otherwise, the Auditor-General would like to have a look at the contractor records to satisfy himself that you have not overpaid at some point in time, to earn value or whatever other system you have, and/or that variations have really been properly signed off, does he have access to go to the contractor's premises and look at the contractor records?

Mr Lewis—I do not know that I can answer that. I do not know that I have been involved in it. He certainly has access to our records.

CHAIRMAN—We know that.

Mr Lewis—It is not something that we built into a contract, for instance. It is not a condition that we say, for instance, up front in the document: 'QPS reserves the right for the QAO to have access to the records.'

CHAIRMAN—Have you ever thought of that?

Mr Lewis—I have not, to be quite truthful. It is worth some thought, though.

Mr COX—Have you had any instances where a supplier contract has gone wrong and the audit trail has stopped with the police service rather than going to the contractor?

Mr Lewis—I think I would have to answer no to that. We have obviously had contracts that have gone wrong, but I do not know that the auditor has been involved in those—not to my knowledge, and I would know.

Senator GIBSON—It sounds like the auditor has been quite impressed with your system, actually, and has not had to chase stuff under your—

Mr Lewis—We have actually also had some CJC involvement in a couple of contract issues, and they too complimented us on our record keeping and that sort of thing.

CHAIRMAN—What approach do you have towards allocation of risk between yourself and your suppliers and contractors?

Mr Lewis—Sensibly that needs to be shared, but at the same time both the legal and contractual position of the Queensland Police Service needs to remain paramount in our considerations, and it does. Allocation of risk and recognition of risk is something I mentioned earlier in identifying the loopholes or fishhooks that supplier contracts have in them, and which many a person or organisation will just sign without taking the ramifications into account. In developing a contract, uppermost in our consideration is to protect the contractual and legal position of the service and we will do the best we can to make sure we build those sorts of risk management protections into the contract.

CHAIRMAN—To the point that it winds up costing the Queensland government more money than it might have otherwise?

Mr Lewis—No, I guess that would be on the basis of comparing risk with associated costs and the possible outcomes that may result as a condition of doing that comparison.

CHAIRMAN—And how do you go about that?

Mr Lewis—It is assessed on an individual basis, depending on the individual project that you were dealing with. We have a formal risk/quality assurance assessment of a number of documented risk factors that may be prevalent in a particular purchase. Based on the likelihood or the possibility of those certain factors happening, then we will make decisions about what sorts of safeguards we build into the contract. It really is done on an individual basis.

CHAIRMAN—We thank you very much for your submission and for answering our questions today. We are very impressed with the way you operate.

Mr Lewis—Thank you for the opportunity of doing it. It was not Michelle and I who put this document together; it was a group effort from the whole section. We come here with the best wishes of our colleagues.

CHAIRMAN—Terrific.

Resolved (on motion by **Mr Cox**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Committee adjourned at 3.12 p.m.

