

**AUDIT REPORT NO. 24, 1997-98
MATTERS RELEVANT TO A
CONTRACT WITH SOUTH PACIFIC
CRUISE LINES LTD
DEPARTMENT OF EMPLOYMENT,
EDUCATION, TRAINING AND
YOUTH AFFAIRS**

Introduction

3.1 On 16 May 1997 the then Department of Employment, Education, Training and Youth Affairs (DEETYA)¹ entered into a formal agreement with South Pacific Cruise Lines Limited (SPCL) for the delivery of a ten-week program of pre-employment training for 340 long-term unemployed persons and the subsequent employment with SPCL of all successful participants. Under this contract, the pre-employment training was to be sub-contracted to William Angliss 2000 Pty Ltd (WA2000), a Melbourne-based subsidiary of the William Angliss Institute of TAFE (Technical and Further Education).²

3.2 The contract covered the period 23 June 1997 to 29 August 1997 and was later varied to extend this period to 12 September 1997. The contract price was approximately \$2.8m and DEETYA paid around \$2.2m (80 per cent) to SPCL in advance of the commencement of training. The balance was to be paid once 70 per cent of participants had been in continuous employment for a period of six weeks.³

1 The Department of Employment, Education, Training and Youth Affairs (DEETYA) became the Department of Education, Training and Youth Affairs (DETYA) on 18 October 1998. In October 1998, the employment aspects of DEETYA were located in the new portfolio of Employment, Workplace Relations and Small Business.

2 Auditor-General, *Audit Report No. 24, 1997-98*, p xi.

3 Auditor-General, *Audit Report No. 24, 1997-98*, p xi.

3.3 The training was delivered during the contract period and on 5 September 1997, SPCL advised the Department that it would offer a traineeship to at least 264 trainees. The trainees would commence employment with SPCL on 15 September 1997. However, on 10 September 1997, SPCL issued a press release announcing that it was abandoning the cruise line project, citing the withdrawal of key financial backers due to adverse media and political interest. The Department immediately terminated the contract with SPCL and took action in an endeavour to protect any remaining Commonwealth funds held by SPCL.⁴

3.4 On 12 September 1997, the then Minister for Employment, Education, Training and Youth Affairs asked the then Secretary of DEETYA to refer the SPCL contract to the Auditor-General for investigation. The Auditor-General agreed to the Secretary's request on 17 September 1997 and an audit, under the efficiency audit provisions of the *Audit Act 1901*, commenced the next day.⁵

3.5 *Audit Report No. 24, 1997-98, Matters Relevant to a Contract with South Pacific Cruise Lines Ltd*, found several serious shortcomings in the administration and management of the contract. These included failure to:

- adequately assess the cruise line proposal, in particular to determine whether it offered good value for money to the Commonwealth;
- adequately apply accepted risk management practices to the cruise line proposal/project;
- develop a contract that clearly specified what was to be delivered and the outcomes to be achieved;
- adequately manage the subsequent administration and oversight of the contract with SPCL (up to the date of the termination of the contract); and
- document adequately or seek legal advice regarding the last minute decision to 'transfer ownership' of the contract from original contractor WA2000 to SPCL, or carry out appropriate financial viability checks on the new contractor.⁶

4 Auditor-General, *Audit Report No. 24, 1997-98*, p xi.

5 Auditor-General, *Audit Report No. 24, 1997-98*, p xi.

6 Auditor-General, *Audit Report No. 24, 1997-98*, p xvii.

3.6 As a result of these shortcomings, the audit report concluded that the Commonwealth had been exposed to an unnecessary level of risk. In addition, DEETYA failed to provide full, candid and, in a significant instance, timely advice to the then Minister regarding the SPCL contract.⁷

3.7 Nonetheless, the ANAO put the view that the Department had successfully:

- provided substantial and significant training, at a now accredited and industry accepted level, to more than 300 long-term unemployed persons; and
- coordinated the selection of suitable candidates from more than 2000 applicants in a very tight timeframe.⁸

3.8 The Joint Committee of Public Accounts and Audit (JCPAA) took evidence from representatives of DEETYA, in which the Department acknowledged the serious shortcomings of the SPCL contract administration. Mr Stephen Sedgwick, the then Secretary of DEETYA, stated in his opening remarks to the Committee that:

*Guidelines were not adhered to, proper risk management procedures were not followed, some advice to the minister was inaccurate and the Commonwealth's funds were put at an unacceptable risk.*⁹

3.9 Mr Sedgwick then outlined the improvements which had been made to administrative and management processes as a result of the lessons learned in relation to the SPCL matter. However, he emphasised that the new Job Network arrangements had changed the administrative environment significantly.

3.10 In the course of the public hearing, the Committee took evidence on the following:

- improvements in DEETYA processes as a result of the cruise ship project;
- action taken by DEETYA in relation to cruise ship project staff;

7 Auditor-General, *Audit Report No. 24, 1997-98*, p xvii.

8 Auditor-General, *Audit Report No. 24, 1997-98*, p xvii.

9 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 17.

- outcomes for the unemployed persons involved in the cruise ship project; and
- relevance of cruise ship project shortcomings for Job Network administration.

Improvements to DEETYA processes as a result of the cruise ship project

3.11 The ANAO identified a particular climate in the then DEETYA Queensland which had influenced the assessment of the cruise ship proposal and administration of the project. Changes to staffing levels and program arrangements, together with the highly attractive proposition of genuine job outcomes for some 300 of DEETYA'S most disadvantaged unemployed clients, with the possibility of more jobs in the future was, in the opinion of the ANAO, significant.¹⁰

3.12 The ANAO acknowledged that an increased focus on outcomes in the public service had impacted positively on efficiency and effectiveness. However, the ANAO drew attention to the fact that sound administrative processes and effective management remained critical to sustaining long-term performance, and it was in that regard that DEETYA had under-performed.¹¹

3.13 In evidence to the Committee, Mr Sedgwick noted that the Department had addressed these issues, and that a 'heightened awareness of the value of good project and risk management', combined with new arrangements for managing labour market assistance programs, had dramatically reduced the risk of a recurrence. He stated that each of the five ANAO recommendations either had been actioned, or was in the process of being actioned, and that this included the application of lessons learnt from SPCL to the range of new tenders then being administered by the Department.¹²

10 Auditor-General, *Audit Report No. 24, 1997-98*, pp 18-19.

11 Auditor-General, *Audit Report No. 24, 1997-98*, p xvi.

12 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 17.

Advance payments

3.14 A significant issue in the SPCL case was the advance payment of \$2.2m (80 per cent of the contract price) to the contractor prior to the commencement of any training. Mr Sedgwick stated that the guidelines for advance payments had subsequently been tightened, allowing a maximum of 50 per cent or \$500,000, whichever was the smaller, to be advanced.¹³

3.15 He added that more emphasis was being placed on enforcing the requirement that advances be paid only in strictly 'exceptional circumstances', and that all projects over \$1 million were now referred to the national office for approval.¹⁴

Risk management

3.16 The ANAO report recommended that the Department express more clearly the importance of risk management in its guidelines, and provide more practical support for program managers in the management of risk.¹⁵ In his evidence to the Committee, Mr Sedgwick stated that the Department had clearly expressed its management principles and the responsibility of managers to apply them, in the Chief Executive's Instructions issued early in 1998. Other measures outlined by Mr Sedgwick to improve risk management included:

- letting a tender to provide training to SES and relevant senior officers in project, program and risk management;
- articulation of value for money, risk management, rigour, accuracy, attention to detail and personal responsibility principles in the Department's corporate plan; and
- a program of discussion addressing the corporate plan, involving staff at every level of DEETYA.¹⁶

13 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, pp. PA 17, 30.

14 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, pp. PA 17, 30.

15 Auditor-General, *Audit Report No. 24, 1997-98*, p. xxv

16 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 18.

3.17 Mr Ian McPhee, National Business Director, ANAO, noted that the ANAO was developing Better Practice Guidelines on risk assessment of new suppliers, for use by the whole public service.¹⁷

End of financial year pressures

3.18 The Committee questioned DEETYA as to whether pressure to spend the annual appropriation by the end of financial year played a part in the decision to pay such a substantial amount of the contract payment to SPCL in advance. The Committee was concerned that concentrating payment at the end of a financial year, in order to use excess funds, was still widespread in the public service.¹⁸ The ANAO also identified end of financial year pressures as a factor in the decisions made by DEETYA in relation to SPCL.¹⁹

3.19 Mr Sedgwick responded that managers sometimes left discretionary payments or commitments to the final quarter of the financial year, in order to ensure that they did not run out of money or receive an unexpected bill at a time when funds were low. He also stated that these problems had reduced as a result of departments now being able to carry over up to ten per cent of their running costs allocation to a new year.²⁰

3.20 Mr McPhee drew a distinction between the carryover provisions available for running costs and program moneys:

*The carryover arrangements generally do not apply to those [program funds] so it is a different issue. The program moneys are the big area where the funds are, not necessarily the running costs.*²¹

17 Ian McPhee, ANAO, *Transcript, 29 April 1998*, p. PA 19. *Selecting Suppliers: Managing the Risk* was published by ANAO in October 1998.

18 *Transcript, 29 April 1998*, p. PA 30.

19 Auditor-General, *Audit Report No. 24, 1997-98*, p. 19.

20 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, pp. PA 30-31.

21 Ian McPhee, ANAO, *Transcript, 29 April 1998*, p. PA 31.

Outcomes and monitoring

3.21 The Committee was concerned about several other aspects of the SPCL contract, including the lack of employment outcomes, the late accreditation of training provided, and the decision to transfer the contract from WA2000 to SPCL without seeking legal advice or adequately documenting the decision.

3.22 Mr Sedgwick acknowledged the gravity of these issues, describing, for example, any explanation of the contract transfer as '... probably beyond most of us'.²²

Committee comments

3.23 The Committee agrees with the ANAO that the SPCL contract administration was seriously flawed. In particular the last minute transfer of the contract from reputable training provider William Angliss 2000 to untried newcomer SPCL, without legal advice or financial viability checks in respect of SPCL, was extremely ill advised. Advancing 80 per cent of the contract payment significantly increased the level of risk involved, without any of the advisable risk management precautions being undertaken.

3.24 The Committee acknowledges that DETYA appears to recognise the significance of these issues and the need to reduce the likelihood of repetition. In this regard the Committee notes that the Department has reduced the amount of payment which can be advanced, clarified the circumstances under which advance payment can be made, introduced requirements for contracts worth more than \$1 million to be approved by the central office, and strengthened the emphasis placed on risk management and personal responsibility principles in its guidelines and staff training program.

3.25 However, the Committee notes that DETYA's guidelines had always stated that advance payments should only be made in exceptional circumstances and that these

22 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 35.

guidelines were contravened by the advance payment to SPCL.²³

3.26 The Committee has, in several previous reports, covered cash management issues, including the need to optimise the net advantage accruing to the Commonwealth when considering prepayments.

3.27 The Committee is therefore inclined to share ANAO's concern that DETYA has increased administrative processes without the necessary assurance that the underlying risks have been appropriately treated.²⁴

3.28 In the Committee's view there is evidence to suggest that if the original guidelines, however inadequate, had been followed in the SPCL cruise ship project, areas of potential difficulty would probably have been identified earlier and fewer problems would have resulted.

3.29 The inaction which followed the identification of problems is of particular concern to the Committee because it suggests that the failures in DETYA were not merely individual but systemic. There was in fact a chain of failures and a degree of indifference which brings into question how well DETYA managers are managing.

3.30 The Committee is particularly critical of the apparent attempt to 'construct' a contract which purported to cover the issue of advance payment on condition of 'satisfactory performance'. ANAO made the point that it was unclear how DEETYA could advance funds to SPCL under the clause as it was in no position to form an opinion about SPCL's performance at the time payment was to be made.²⁵

3.31 The Committee remains concerned about the practice of expending program funds prior to the end of the financial year merely to avoid the lapsing of an appropriation. DEETYA Queensland's decision to make such a payment in the SPCL case led exactly to the sort of outcome that Finance Directions were designed to avoid.²⁶

23 Auditor-General, *Audit Report No. 24, 1997-98*, pp. 32-3, 56.

24 Auditor-General, *Audit Report No. 24, 1997-98*, p. 56.

25 Auditor-General, *Audit Report No. 24, 1997-98*, p. 33.

26 Section 8D of the Commonwealth's Finance Direction relating to payment for supplies in advance states that: *[such] an agreement*

3.32 Despite the imminent introduction of accrual budgeting, more attention should be given to the system arrangements which make such pressures common within the public service. As the ANAO noted in its audit report on the new submarine project, payments should be made only on reliable and objective evidence of real progress. Payments limited to actual progress are a tangible way of clearly indicating dissatisfaction with any under-performance and prompting action to achieve full performance.²⁷

3.33 **Recommendation 3**

The Minister for Finance and Administration should address the issue of incentives and penalties related to agency expenditure of Budget appropriations to ensure that agencies' concerns to achieve their expenditure bids do not overshadow the Commonwealth's interest.

Action taken by DEETYA in relation to cruise ship project staff

3.34 Mr Sedgwick outlined to the Committee action taken with regard to departmental officers involved with the SPCL contract. Following the ANAO report, delegations available to those involved with the SPCL contract were limited, and 'a commissioned and external review focused on the accountability of individuals', which recommended action in respect of four officers.²⁸

*The individuals concerned, apart from one who is no longer with us, have all received counselling. I can tell you that this is seared on their souls. They fully understand the gravity of what has happened here.*²⁹

must not be entered into merely to avoid the lapsing of an appropriation or if the early draw down of cash to meet the payment would result in an adverse management outcome for the Commonwealth as a whole.

27 Auditor-General, *Audit Report No. 34, 1997-98*, p. 138.

28 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, pp. PA 27, 18.

29 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 27.

3.35 The fourth officer identified was, as clarified by Mr Sedgwick in later correspondence to the Committee, on secondment outside the Public Service at the time of the Committee hearing. Mr Sedgwick advised the Committee that he had provided the officer with 'guidance about the lessons to be learned along the lines recommended by the external reviewer' and that the officer was no longer in the Public Service.³⁰

Outcomes for the unemployed persons involved in the cruise ship project

3.36 The Committee questioned the ANAO conclusion that the training provided as part of the SPCL contract was 'a valuable outcome of the project, even though well short of the outcome expected by either the participants or the Department'.³¹

3.37 The Committee expressed concern that:

*... there was no significant outcome at all. The significant outcome was that people who were long-term unemployed did not have a job materialise that was promised to them through this training process.*³²

3.38 Mr Sedgwick acknowledged that regarding training as an outcome in itself was a potential flaw in the way Training for Employment Program (TEP) projects were administered. The strong prospect of jobs as well as training was 'one of the novelties, one of the attractions' of the SPCL scheme. He identified a goal of the new Job Network system as refocussing Commonwealth money directly on employment outcomes.³³

3.39 A specific case was raised by the Committee where a woman in her mid-40s had allegedly been through the SPCL training, passed to another training program, then a third program, with all three providers promising job opportunities

30 Letter from Stephen Sedgwick, ANAO, to Committee Secretary.

31 Auditor-General, *Audit Report No. 24, 1997-98*, p. xvii.

32 *Transcript, 29 April 1998*, p. PA 25.

33 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 25.

but failing to deliver.³⁴ Mr Campbell, the then DEETYA First Assistant Secretary Employment and Purchasing Division, stated that the reference probably involved Richells shipping line which took on 'some 15 or 16 of the SPCL trainees' for a planned ferry service between Sydney and Melbourne. He emphasised that this was a different situation from SPCL because:

*... what occurred with regard to the Richells shipping line was referrals of job seekers to job vacancies. There was no program money involved. There was no training money or any subsequent money involved.*³⁵

3.40 In response to the Committee's question about the follow-up action taken by DEETYA with regard to the 300 SPCL trainees, Ms Butler, Assistant Secretary, Project Management Branch, responded that:

*The CES immediately instituted a concentrated program of assistance to the job seekers who were disadvantaged. They did a concentrated vacancy search to try to generate jobs and have extra vacancies notified, particularly in the areas in which those trainees had received training.*³⁶

3.41 Ms Butler further noted that at 21 April 1998, 201 trainees had been placed in employment. Of those, 111 were in full-time employment, twenty in short-term jobs, and seventy in casual or permanent part-time employment. Thirty-one others were no longer on the CES's books.³⁷

3.42 The Committee questioned DEETYA about the accreditation of training received through the SPCL project, and, in particular, the ANAO finding that the course was not accredited until after the training was complete. Mr Sedgwick confirmed that this was true, but also pointed out that each module undertaken for SPCL was already accredited as part of other programs. It was not until after the training was complete that accreditation was obtained for the specific Certificate of Hospitality (Cruise Ship Operations).³⁸

34 *Transcript, 29 April 1998, p. PA 25.*

35 Robert Campbell, ANAO, *Transcript, 29 April 1998, p. PA 25.*

36 Sheila Butler, ANAO, *Transcript, 29 April 1998, p. PA 26.*

37 Sheila Butler, ANAO, *Transcript, 29 April 1998, p. PA 26.*

38 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998, p. PA 27.*

3.43 When questioned about the practice of permitting funding for non-accredited training courses, Ms Butler stated that there were not always accredited courses of relevance to the job opportunities available. She stated that the Training for Employment Program provided training for specifically identified jobs, and it would disadvantage the unemployed if potential job opportunities were not pursued, when alternative training could have prepared the unemployed adequately.

3.44 Ms Butler noted that the program differed from schemes such as Austudy, where courses had to be approved, or the work for the dole scheme where a project involved specified activities.³⁹

Committee comments

3.45 The Committee was not completely convinced by the ANAO's finding that the provision of training to SPCL clients was itself a 'valuable outcome' of the contract.

3.46 However, the Committee acknowledges that the expectation of sustainable employment for participants was very appealing, and, had it eventuated, would significantly have increased the value of the program.

3.47 It is reasonable for the Committee to expect that Commonwealth agencies would not be so overwhelmed by an attractive return, that they would fail to undertake appropriate viability checks and other prudent risk management procedures.

Relevance of cruise ship project shortcomings for Job Network administration

3.48 The Committee took a keen interest in the question of whether lessons learnt from the cruise ship project had been applied to the Job Network tendering process.⁴⁰ In particular,

39 Sheila Butler, ANAO, *Transcript*, 29 April 1998, p. PA 28.

40 In October 1998, the employment aspects of DEETYA were located in the new portfolio of Employment, Workplace Relations and Small Business. The new portfolio has responsibility for Job Network.

the Committee was concerned that despite DEETYA's statements regarding improved processes and outcomes for tender evaluation process, some press reports raised questions about the viability of chosen providers.⁴¹

3.49 Mr Sedgwick presented to the Committee a document outlining the Job Network tender evaluation process, and discussed it further at the public hearing. Features of the process included:

- Blake Dawson Waldron, Lawyers, were appointed to independently monitor procedural integrity;
- a financial viability assessment determined the tenderer's capacity to deliver the service for which they had tendered. The onus was on prospective contractors to satisfy DEETYA of their financial viability. Some were eliminated immediately at this stage, others were required to provide further evidence, and, where that was not produced, the tenders did not proceed;
- a separate assessment was undertaken against selection criteria specified in the Request for Tender (RFT). These criteria were the planning of effective strategies, the level of expertise or experience, and the suitability and accessibility of services. Criteria were weighted differently for each level of FLEX⁴² services;
- quality assurance measures were taken in both financial and selection criteria assessment streams, including provision for disputed assessments to be re-examined by senior executive officers, and rotation of staff between teams to avoid any systemic bias developing;
- only tenders which passed both evaluation streams were advanced. The next step ranked bids according to either price (FLEX 1 and 2 or quality (FLEX 3);
- allocations were made to the highest ranking tenderers who satisfied other conditions, including levels of regional coverage and competition; and

41 *Transcript, 29 April 1998*, pp. 19-24.

42 FLEX 1 (Job Matching) involves canvassing employers for jobs and matching job seekers to jobs; FLEX 2 (Job Search Training) assists job seekers to improve their job search skills and gain employment; FLEX 3 (Intensive Assistance) provides intensive support to job seekers who are most disadvantaged in the market, to prepare them for employment.

- sophisticated computer modelling and multiple scenario consideration was used to find the optimal allocation outcome.⁴³

Start-up businesses

3.50 The Committee questioned DEETYA about the place of start-up businesses in Job Network, quoting the 70 per cent failure rate of start-up businesses in any field.⁴⁴ As it had with SPCL, the Committee was concerned that this could pose a threat to client service levels.

3.51 Mr Sedgwick responded that the financial viability checks done for Job Network drew on a range of sources of data. These included the Credit Reference Association of Australia (CRAA), Australian Securities Commission (ASC), internal DEETYA records, and work done by a world represented organisation with considerable experience making such assessments, to flag any indicators which would suggest a risk of failure.⁴⁵

3.52 Mr Sedgwick stated that the tender evaluation process also sought evidence that strategies were in place to ensure providers' services would be viable at whatever price for which they were contracted. For FLEX 1, the outcome-based nature of the payment significantly reduced the risk to Commonwealth funds, since no payment was made until an employment outcome was achieved.⁴⁶

3.53 He further noted that the level of competition within each region further ensured that should a particular

43 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, pp. PA 20-22; *Exhibit No. 3*.

44 *Transcript, 29 April 1998*, p. PA 23.

45 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 24; *Exhibit No. 3*.

46 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 24. On 16 December 1998, an adjustment to the Job Network provided for upfront retainers of 30 per cent of expected job matching places for each contract monitoring period, to improve the income and cash flow of Job Network members.

service provider not perform, there would be others in the market to take their place.⁴⁷

Accreditation and standard of training provided

3.54 The Committee was concerned that under the Job Network arrangements, the Commonwealth would lose control over the standard of training provided by contracted employment service organisations.⁴⁸ This was an issue in the case of SPCL, where the training received had been a positive outcome, but where the accreditation of that training had only been achieved very late in the process.

3.55 Ms Butler stated that it was important for the Department not to be 'prescriptive to a point that it prevented job network members providing assistance and training, whether it is accredited or not, which will help a person get employment'.⁴⁹ Tying payment to the achievement of genuine employment outcomes had the advantage of ensuring that training would be chosen for its value in the job market:

... it is the provider's decision in working with the job seeker as to what is appropriate to that job seeker's needs and what will produce the best outcome It comes back to the decision of the provider as to what is the best training to provide to secure an eligible person a sustainable job.⁵⁰

Subcontracting

3.56 The Committee was concerned that at least one case relating to Job Network receiving coverage in the media indicated that even an ill-equipped and apparently unsuitable provider could be awarded a contract, subcontract and make a profit. This raised issues of profiteering, and the level of service subcontractors would be able to deliver for the lower price.⁵¹

47 Stephen Sedgwick, ANAO, *Transcript, 29 April 1998*, p. PA 24.

48 *Transcript, 29 April 1998*, pp. PA 28-29.

49 Sheila Butler, ANAO, *Transcript, 29 April 1998*, p. PA 29.

50 Sheila Butler, ANAO, *Transcript, 29 April 1998*, pp. PA 29-30.

51 *Transcript, 29 April 1998*, p. PA 32.

3.57 Mr Sedgwick stated that the RFT allowed subcontracting with approval, and that DEETYA understood that 'there will be circumstances where the most efficient way to get the full range of services that are needed is to subcontract'.⁵² He argued that the competitive nature of the process significantly reduced the risk of tenderers 'padding' their costs and subcontracting, because:

*... they are going to have to make a quid against other people who are not. There is a natural discipline in the market ...*⁵³

3.58 The Committee followed up this point by questioning whether tenderers were expected to outline plans to subcontract in their original tender document.⁵⁴

3.59 Mr Campbell responded that contractors were required to notify their intention to subcontract. However, because some contractors were offered contracts for less than their bids, DEETYA was prepared to consider approving their subcontracting part or all of their business.⁵⁵

*A very small number of organisations have done that since the end of January ... we [assess] it on a case by case basis, taking into account the organisation subcontracting, its consistency with the tender they put in with regard to meeting their strategies and indeed the organisation they are going to be subcontracting to.*⁵⁶

3.60 Mr Sedgwick stated that while the financial viability and other assessments at the tender evaluation stage gave support to a tender, it was possible that a successful contractor might later present a revised plan to deliver the services in a different way.⁵⁷

3.61 Mr Campbell pointed out that the likelihood of such changes being approved would also depend on the level of services being offered, because the level of financial risk

52 Stephen Sedgwick, ANAO, *Transcript*, 29 April 1998, p. PA 33.

53 Stephen Sedgwick, ANAO, *Transcript*, 29 April 1998, p. PA 32.

54 *Transcript*, 29 April 1998, p. PA 33.

55 Robert Campbell, ANAO, *Transcript*, 29 April 1998, p. PA 33.

56 Robert Campbell, ANAO, *Transcript*, 29 April 1998, pp. PA 33-4.

57 Stephen Sedgwick, ANAO, *Transcript*, 29 April 1998, p. PA 34.

involved for the Commonwealth varied, especially between FLEX 1 (job matching) and FLEX 3 (intensive assistance).⁵⁸

Committee comments

3.62 The introduction of the Job Network system reduced the discretionary powers of the then DEETYA officers with respect to selecting training courses and committing payment for activities before the achievement of employment outcomes. These risks and management decisions were transferred to the successful Job Network tenderers, whose role is to match unemployed clients with suitable training as required, with full payment being made by the Commonwealth only when sustained employment outcomes are achieved.⁵⁹

3.63 The Committee notes that the then DEETYA employment services market tender evaluation process involved considerably more checks and balances than the system which awarded SPCL its training contract. The process for evaluating the credentials of tenderers for the new employment services market tender was extensive and systematic and included specific financial viability checks. The Department seemed aware of the need to ensure there was no repeat of the SPCL experience and it appeared that the lessons learned from SPCL influenced later processes.

3.64 In October 1998, the employment aspects of DEETYA were located in the new portfolio of Employment, Workplace Relations and Small Business (DEWRSB). The portfolio has responsibility for Job Network.

3.65 The Committee is aware that the Government recently provided Job Network agencies with substantial additional financial support aimed at assisting in the transition to a competitive market in employment services.

3.66 While not all risks can be eliminated, particularly for 'start-up' businesses, the Committee is still concerned that, in some cases, the evaluation process appears insufficient to

58 Robert Campbell, ANAO, *Transcript, 29 April 1998*, p. PA 34.

59 Sheila Butler, ANAO, *Transcript, 29 April 1998*, p. PA 29; Library paper p. 4. In October 1998, the employment aspects of DEETYA were located in the new portfolio of Employment, Workplace Relations and Small Business. The new portfolio has responsibility for Job Network.

eliminate contractors with a high likelihood of providing inadequate services.

3.67 The Committee considers that the evaluation processes should be further improved prior to DEWRSB's next tender evaluation exercise.

3.68 **Recommendation 4**

The Department of Employment, Workplace Relations and Small Business should incorporate the Australian National Audit Office's better practice guidelines on risk assessment of new suppliers as part of its evaluation process for future employment services market tenders.

3.69 The Committee considers that DEWRSB must develop watertight contracts and obtain adequate performance information to allow it to assess contract performance. In this regard the Committee notes the inclusion of contract clauses by the former DEETYA which allowed DEETYA to be furnished with information from employment service providers.

3.70 The Committee encourages both DEWRSB and DETYA to develop a strong risk assessment and risk management culture among their staff. There is evidence that the DEETYA staff responsible for the SPCL decisions were simply not aware of the risks involved, because of a lack of expertise in arranging and managing contracts.

3.71 Risk awareness must be a central component of management practice in the public service in an environment of increasing third-party service provision.

Bob Charles MP

Chairman

24 March 1999