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Report 379

Contract Management in the Australian Public Service

Joint Committee of Public Accounts and Audit

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Chairman's Foreword

The search for excellence in contract management is one of the most pressing challenges for the Australian Public Service. With the move to greater outsourcing of programs and services, public sector agencies must equip themselves with a range of skills, knowledge and experience to ensure that contract management is efficient and effective.

In 1998–99, there were more than 111 000 purchasing transactions of goods and services of value greater than \$2 000 reported by Commonwealth Government agencies, totalling \$7.9 billion. In view of the public monies allocated to purchasing goods and services, and the complexities of managing government contracts, it is essential that this aspect of public administration be given sufficient and ongoing scrutiny.

The Committee's inquiry focused on better practice approaches to contracting fundamentals, the needs of contract management personnel, and the accountability framework. The **key findings and recommendations include:**

- that the *Ombudsman Act 1976* be amended to extend the jurisdiction of the Ombudsman to include all government contractors;
- agencies must establish and maintain an effective contract register;
- agencies must indicate in their Annual Reports if they have exempted any contracts, exceeding \$2000 in value, from notification in the Purchasing and Disposals Gazette;
- that all CEOs under the *Financial Management and Accountability Act 1997* should, whenever claiming commercial-in-confidence, issue a certificate stating which parts of a contract and why these parts are to be withheld;
- agencies should, as part of their internal audit program, review the adequacy and effectiveness of their contract key performance measures and monitoring frameworks; and
- the Department of Finance and Administration, in its next edition of *Competitive Tendering and Contracting Guidance for Managers*, should ensure that advice and guidance on risk management addresses all phases of the contract lifecycle.

The Committee concludes that the implementation of these measure will enhance the quality of contract accountability and administration. In conclusion, and on behalf of the Committee, I would like to thank all those who have contributed to this inquiry.

Bob Charles, MP
Chairman



Contents

Chairman's Foreword	iii
Membership of the Committee	viii
Membership of the Sectional Committee	ix
Duties of the Committee.....	x
Terms of reference	xii
List of abbreviations	xiii
List of recommendations	xv

THE REPORT

1 INTRODUCTION	1
Background.....	1
Reasons for the inquiry.....	2
Objectives, scope and focus	2
The accountability framework	3
Contracting fundamentals.....	4
Contract management personnel.....	4
Contract management	4
Competitive tendering and contracting	7
Contract meaning.....	8
The extent of Commonwealth outsourcing	9
Relevant reports and reviews.....	11
Auditor-General Performance Audits	14
Conduct of the inquiry.....	17
Report structure.....	18

2 THE ACCOUNTABILITY FRAMEWORK	19
Introduction	19
The Commonwealth government accountability framework	20
<i>G a z e t t a l</i> requirements	20
Administrative law implications	23
Conclusions.....	27
Recommendation 1	28
Commercial-in-confidence status	28
Conclusions.....	31
Accountability options	32
Codification of commercial-in-confidence issues	35
Independent assessment of claims for commercial-in-confidence.....	37
A preventative framework.....	37
The JCPAA's preferred option for contract accountability.....	39
Recommendation 2	42
Contract registers	42
Conclusions.....	43
Recommendation 3	43
Exempt contracts	44
Conclusions.....	44
The Gazette Publishing System (GAPs)	44
Conclusions.....	46
Recommendation 4	47
The Auditor-General	47
Access powers	47
Are Auditor-General access powers a disincentive to business?	48
Conclusions.....	53
Recommendation 5	55

3	CONTRACTING FUNDAMENTALS	57
	Introduction.....	57
	Contract specifications	58
	Functional specifications.....	59
	Standard terms and conditions	61
	Conclusions	63
	Performance monitoring	64
	Conclusions	68
	Payment schedules	69
	Conclusions	75
	Contract disputes	76
	Conclusions	80
	Risk Management	80
	Conclusions	86
4	CONTRACT MANAGEMENT PERSONNEL	89
	Introduction.....	89
	Background.....	90
	Technical and legal skills.....	92
	Conclusions	94
	Corporate memory.....	94
	Conclusions	96
	Centralised purchasing units	97
	Conclusions	98
	Training approaches.....	99
	Conclusions	101
APPENDICES		
	Appendix A – List of Submissions.....	103
	Appendix B – List of Exhibits	107
	Appendix C – Witnesses appearing at public hearings	111
	Appendix D – Senator Murray's notice of motion 489.....	119



Membership of the Committee

Chair Mr Bob Charles MP

Deputy Chair Mr David Cox MP

Members	Senator Helen Coonan	Mr Kevin Andrews MP
	Senator the Hon John Faulkner	Mr Malcolm Brough MP (until 7/3/00)
	Senator the Hon Brian Gibson AM	Mr Petro Georgiou MP
	Senator John Hogg	Ms Julia Gillard MP
	Senator Andrew Murray	Mr Alan Griffin MP (until 9/8/99)
	Senator John Watson	Mr Peter Lindsay MP (from 7/3/00)
		Ms Tanya Plibersek MP (until 10/4/00)
		The Hon Alex Somlyay MP
		Mr Stuart St Clair MP
		Mr Lindsay Tanner MP (from 9/8/99)
	Mr Kelvin Thomson MP (from 10/4/00)	



Membership of the Sectional Committee

Chair Mr Bob Charles MP

Deputy Chair Mr David Cox MP

Members Senator Helen Coonan Mr Mal Brough MP (until 7/3/00)
Senator the Hon Brian Gibson AM Mr Petro Georgiou MP
Senator John Hogg Ms Julia Gillard MP
Mr Lindsay Tanner MP (until 7/3/00)

Committee Secretariat

Secretary Dr Margot Kerley

Inquiry Secretary Mr Stephen Boyd

Research staff Ms Rose Verspandonk (until March 2000)
Ms Rebecca Perkin (until April 2000)
Ms Paola Cerrato-D'Amico (from June 2000)

Administrative officer Ms Tiana Gray



Duties of the Committee

The Joint Committee of Public Accounts and Audit is a statutory committee of the Australian Parliament, established by the *Public Accounts and Audit Committee Act 1951*.

Section 8(1) of the Act describes the Committee's duties as being to:

- (a) examine the accounts of the receipts and expenditure of the Commonwealth, including the financial statements given to the Auditor-General under subsections 49(1) and 55(2) of the *Financial Management and Accountability Act 1997*;
- (b) examine the financial affairs of authorities of the Commonwealth to which this Act applies and of intergovernmental bodies to which this Act applies;
- (c) examine all reports of the Auditor-General (including reports of the results of performance audits) that are tabled in each House of the Parliament;
- (d) report to both Houses of the Parliament, with any comment it thinks fit, on any items or matters in those accounts, statements and reports, or any circumstances connected with them, that the Committee thinks should be drawn to the attention of the Parliament;
- (e) report to both Houses of the Parliament any alteration that the Committee thinks desirable in:
 - (i) the form of the public accounts or in the method of keeping them; or
 - (ii) the mode of receipt, control, issue or payment of public moneys;

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- (f) inquire into any question connected with the public accounts which is referred to the Committee by either House of the Parliament, and to report to that House on that question;
 - (g) consider:
 - (i) the operations of the Audit Office;
 - (ii) the resources of the Audit Office, including funding, staff and information technology;
 - (iii) reports of the Independent Auditor on operations of the Audit Office;
 - (h) report to both Houses of the Parliament on any matter arising out of the Committee's consideration of the matters listed in paragraph (g), or on any other matter relating to the Auditor-General's functions and powers, that the Committee considers should be drawn to the attention of the Parliament;
 - (i) report to both Houses of the Parliament on the performance of the Audit Office at any time;
 - (j) consider draft estimates for the Audit Office submitted under section 53 of the *Auditor-General Act 1997*;
 - (k) consider the level of fees determined by the Auditor-General under subsection 14(1) of the *Auditor-General Act 1997*;
 - (l) make recommendations to both Houses of Parliament, and to the Minister who administers the *Auditor-General Act 1997*, on draft estimates referred to in paragraph (j);
 - (m) determine the audit priorities of the Parliament and to advise the Auditor-General of those priorities;
 - (n) determine the audit priorities of the Parliament for audits of the Audit Office and to advise the Independent Auditor of those priorities; and
 - (o) undertake any other duties given to the Committee by this Act, by any other law or by Joint Standing Orders approved by both Houses of the Parliament.



Terms of reference

The JCPAA will 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.



List of abbreviations

AAT	Administrative Appeals Tribunal
ADS	Australian Development Scholarship
AGS	Australian Government Solicitor
ANAO	Australian National Audit Office
ANZSCC	Australian and New Zealand Standard Commodity Classification
APS	Australian Public Service
ARC	Administration Review Council
CEO	Chief Executive Officer
CPGs	Commonwealth Procurement Guidelines
CPUs	Centralised Purchasing Units
CTC	Competitive Tendering Contract
DEWRSB	Department of Employment, Workplace Relations and Small Business
DHAC	Department of Health and Aged Care
DIMA	Department of Immigration and Multicultural Affairs
DoCITA	Department of Communications, Information Technology and the Arts
DETYA	Department of Employment, Training and Youth Affairs
DoFA	Department of Finance and Administration

DISR	Department of Industry, Science and Resources
DUNS	Data Universal Numbering System
EVM	Earned value management
FACS	Department of Family and Community Services
FOI	Freedom of Information Act 1982
GAPs	Gazette Publishing Systems
IC	Industry Commission
IEA	Institution of Engineers
OASITO	Office of Asset Sales and Information Technology Outsourcing
OGO	Office of Government Online
PAEC	Public Accounts and Estimates Committee
PWC	PriceWaterhouseCoopers
MAB/MIAC	Management Advisory Board/Management Improvement Advisory Board
MBA	Master Builders Association
RFO	Request for offer
SOR	Statement of requirements



List of recommendations

2 THE ACCOUNTABILITY FRAMEWORK

Recommendation 1

That the *Ombudsman Act 1976* be amended to extend the jurisdiction of the Ombudsman to include all government contractors.

Recommendation 2

That all CEOs under the *Financial Management and Accountability Act 1997* should, whenever claiming commercial-in-confidence, issue a certificate stating which parts of a contract and why these parts are to be withheld.

Recommendation 3

That all agencies must establish and maintain an effective contract register.

Recommendation 4

That the Auditor-General conduct a review, as part of an existing or potential performance audit, of agency performance in complying with the reporting requirements of the Gazette Publishing System (GAPs).

Recommendation 5

The Committee reaffirms the need for the Auditor-General to have access to contractors' premises as previously stated by the Committee in Recommendation Five of *Report 368* which stated:

■ The Committee recommends that the Minister for Finance make legislative provision, either through amendment of the Auditor-General Act or the Finance Minister's Orders, to enable the Auditor-General to access the premises of a contractor for the purpose of inspecting and copying documentation and records directly related to a Commonwealth contract, and to inspect any Commonwealth assets held on the premises of the contractor, where such access is, in the opinion of the Auditor-General, required to assist in the performance of an Auditor-General function.

