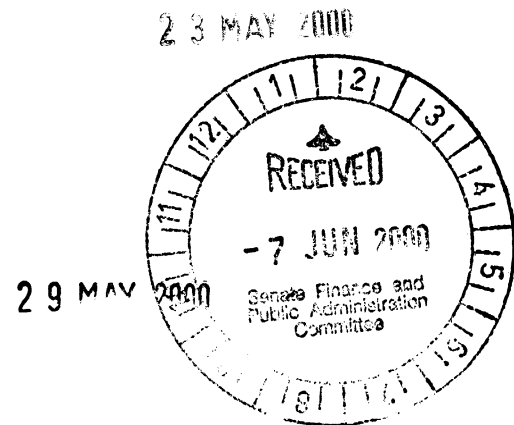




The Hon. Dr David Kemp MP  
Minister for Education, Training and Youth Affairs

**Submission No. 17**

Senator George Campbell  
Chairman  
Finance and Public Administration References Committee  
Parliament House  
CANBERRA ACT 2600



Dear Senator Campbell

Thank you for your letter of 18 April 2000 concerning Senator Murray's general business notice of motion (NoM) No. 489, providing for "Accountability to the Senate in relation to government contracts" (Attachment A). In your letter you sought submissions from all portfolios on the broad question of accountability in relation to Government contracts and on the specific mechanism proposed by Senator Murray to enhance accountability.

#### **Paragraph (1) of the NoM**

This refers to an "indexed list of contracts". The term "contract" is very broad and it would be necessary for Senator Murray to define the actual type of contract arrangement in order to ensure that the administrative costs of broad reporting are not prohibitive. Contracts let by the Commonwealth through my Department fall under the following four categories:

1. Employment contracts;
2. Funding contracts which encompass a large volume of material to be reported on (eg there are approximately 15,000 contracts under our Indigenous Education Direct Assistance Programme). There are also many other funding contracts under other programmes.
3. Contracts for Supply of Goods; and
4. General Contracts for Service of which Consultancy Contracts are a sub-category. We let 114 new consultancies in 1998-99. Under outsourced programme delivery general service contracts, there are approximately 300 active contracts in total.

#### **Paragraph (2)(a) and (2)(b) of the NoM**

My Department already addresses these requirements in two ways:

1. My Department publishes on its Internet site and in its Annual Report a comprehensive list of all consultancy type contracts for service let by the Department in each relevant financial year. Information published includes the name of the supplier, the activity they were commissioned to deliver, the total contract value and notes on whether the procurement conducted for supply of the service was an open tender process, and if not, why; and

2. My Department publishes on the "*Commonwealth Purchasing and Disposal Gazette*" web site ([www.contracts.gov.au](http://www.contracts.gov.au)), all contracts for service (including consultancies) and contracts for goods arranged, including the name of the supplier, the service/good they were commissioned to deliver and the total contract value. This information is publicly available and can be downloaded from the site at any time.

Current reporting requirements outlined in the "PM&C Annual Reporting Requirements" require Departments to report on consultancy usage, and payments to advertising and market research organisations.

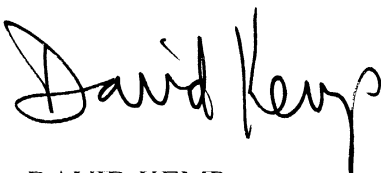
My Department does not publish details of funding contracts or employment contracts in the Annual Report or the "*Commonwealth Purchasing and Disposals Gazette*" because they are not considered procurement activities and are, therefore, not covered by the *Commonwealth Procurement Guidelines*.

Since the matters mentioned in paragraphs (2)(a) and (2)(b) of the NoM are largely met by the "*Commonwealth Purchasing and Disposal Gazette*" function and Department's Annual Reports, I consider that it would be more practical for the Committee's enquiry to simply use information provided from both these external reporting requirements.

#### **Paragraph (2)(c) of the NoM**

My Department's standard contracts do contain confidentiality clauses that apply to both parties. The Department's pro forma Request For Tender and contract documents identify some matters, such as unit prices, infrastructure and specifications of equipment as commercial-in-confidence. To do so is necessary in order to protect the legitimate commercial interests of contractors, encourage and maintain proper competition in the market place and obtain best value for money for the Commonwealth. If the Department were to report against this requirement, every contract arranged containing this information would require a letter of advice from the Australian National Audit office (ANAO). I also note that my Department's standard contracts give the ANAO wide powers of access to contractor's records and premises.

Yours sincerely



DAVID KEMP