

# CHAPTER ONE

## INTRODUCTION

### Establishment of the inquiry

1.1 In 1997 the Commonwealth Government announced that information technology (IT) infrastructure across all budget-funded agencies would be outsourced, subject to the outcome of competitive processes to be undertaken within a whole-of-government framework. In a brief and simple statement to Parliament, the Treasurer announced that, as a means of making government more efficient:

The Government has decided that its information technology infrastructure will be put out to competitive tendering, which is to be completed by the end of 1998–99. This is expected to lead to substantial annual savings of around \$100 million in future years.<sup>1</sup>

This move is referred to as the Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative (the Initiative).

1.2 The Minister for Finance explained that the Initiative was intended to improve the delivery of service, to reduce the duplication of management and to standardise and consolidate information technology across Australia.<sup>2</sup>

1.3 Some sections of the Australian community, however, did not share the Minister's optimism about the benefits to be derived from the Government's Initiative. Doubts about anticipated savings and concerns over privacy were expressed. Moreover, as the Initiative moved into its implementation stage, concerns about the effectiveness and efficiency of the Government's IT outsourcing program increased.<sup>3</sup> Questions about the Initiative and its true costs and impact persisted after an inquiry by this Committee in 1997, estimates hearings and a report tabled by the Australian National Audit Office (ANAO) on 6 September 2000.

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1 Senator Rod Kemp, Speech, Budget 1997–98, Statement and Documents, *Senate Hansard*, 13 May 1997, p. 3256. The Minister for Finance informed Parliament on 28 May 1997 that the Initiative would save the Commonwealth 'some \$1 billion over the next seven years'.

2 Question without notice, Information Technology Outsourcing: Privacy, the Hon. John Fahey, House of Representatives, *Hansard*, 18 May 1997, p. 4265.

3 See for example, Tom Skotnicki, 'Outsourcing: All Systems Go', *Business Review Weekly*, vol. 22(43), 3 November 2000; John Broome, Committee, *Hansard*, 17 May 2001, p. 400; Cabinet Submission on Information Technology Infrastructure, April 1997, Attachment B, para. 36 and para. 105, cited in Finance and Public Administration References Committee, *Contracting out of Government Services - First Report: Information Technology*, November 1997, pp. 18-19; and Deloitte & Touche Consulting Group, *Information Technology Outsourcing Survey, A Comprehensive Analysis of IT Outsourcing in Australia*, version 3.1 November, 1997.

1.4 It was against this background of uncertainty about the Initiative that the Senate decided to refer, on 29 November 2000, the following matter to the Finance and Public Administration References Committee for inquiry and report:

The Government's information technology (IT) outsourcing initiative in the light of recommendations made in the committee's report, *Contracting out of Government Services—First Report: Information Technology*, tabled in November 1997, and the Auditor-General's report no. 9 of 2000-2001, and the means of ensuring that any future IT outsourcing is an efficient, effective and ethical use of Commonwealth resources, with particular reference to:

- (a) the need for:
  - (i) strategic oversight and evaluation across Commonwealth agencies,
  - (ii) accountable management of IT contracts, including improved transparency and accountability of tender processes, and
  - (iii) adequate safeguards for privacy protection and security;
- (b) the potential impact on the capacity of agencies to conduct their business;
- (c) savings expected and achieved from IT initiatives; and
- (d) the means by which opportunities for the domestic IT industry, including in regional areas, can be maximised.

### **Conduct of the inquiry**

1.5 The Committee advertised the inquiry in the *Australian Financial Review* on 19 January and in the *Australian* on 23 January 2001, calling for written submissions to be lodged with the Committee by 23 February 2001. The Committee also wrote to Commonwealth Government departments and agencies and to major IT companies to draw their attention to the inquiry and to invite them to make submissions.

1.6 The terms of reference, submissions and other information about the inquiry were also advertised on the Committee's internet homepage at [http://www.apf.gov.au/senate\\_fpa](http://www.apf.gov.au/senate_fpa). A total of 30 submissions were received (Appendix 1). All but three of the written submissions were made public documents.

1.7 In addition, due to a decision by Mr Richard Humphry AO not to retain submissions made to his *Review of the Whole of Government Information Technology Outsourcing Initiative*<sup>4</sup> as records but to return them to their authors, the Committee wrote to each individual and organisation that had made a submission requesting

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4 Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, Commonwealth of Australia, December 2000.

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either the original submission or a copy of the original. The Committee received the 30 submissions made to the Humphry Review, six of which were received *in camera*.

1.8 The Committee held its first public hearing on 5 December 2000. This hearing was followed by nine further hearings, the last being held on 6 August 2001. Details of the hearings and the witnesses who appeared at them are contained in Appendix 2. All were held in Canberra. The Hansard transcripts of evidence taken at the hearings are available on the internet.

1.9 The Committee has continued to receive supplementary submissions and additional information. These later submissions have generally been in response to views expressed in earlier submissions or to evidence given during the public hearings and are indicative of the ongoing nature of this debate. During this inquiry some 170 questions were taken on notice at public hearings and a substantial volume of relevant material was also provided in response to supplementary questions and in response to questioning by other Senate committees at budget and additional estimates since 1997-98.

#### **Interim reports—April and June 2001**

1.10 As the inquiry progressed the Committee became aware of the need to look more closely at particular issues, notably the failure of government agencies and the Minister for Finance and Administration to provide the Committee with information and documents it regarded as central to its inquiry. Indeed, from the outset the Committee met a number of obstacles that prevented it moving steadily forward with its inquiry.

1.11 Consequently, the Committee tabled two interim reports—*Accountability in a Commercial Environment: Emerging Issues*, April 2001 and *Accountability Issues: Two Case Studies*, June 2001.

1.12 The first report detailed a number of instances where the Committee had experienced difficulties in obtaining relevant documentation. The Committee concluded that such difficulties arose from a widespread lack of understanding about parliamentary accountability, particularly in relation to commercial activities.

1.13 The second report elaborated further on the difficulties the Committee was experiencing in conducting its work and fulfilling its obligations to scrutinise the Government and its administration of the Initiative. In particular it looked at the Humphry Review, notably the confusion surrounding the status of submissions made to that Review, and irregularities that occurred during the Health Group tendering process.

1.14 The common thread running through both the majority interim reports was a concern about the lack of accountability. Since tabling its second interim report, the Committee has found little change in the approach taken by the agencies concerned and by the Minister for Finance and Administration.

### *The Humphry Review*

1.15 The Committee does not wish to rake over ground already covered by the interim reports. Nonetheless, it draws particular attention to paragraph 1.63 of the second interim report which refers to questions still unanswered by officers of the Department of Finance and Administration (DOFA) who were seconded to assist the Humphry Review and those who were involved in establishing the status of submissions to that Review. It states:

The Committee has received conflicting and incomplete information from the parties involved and despite repeated attempts for clarification, it still cannot obtain a straight answer from the Department. The Committee is annoyed and frustrated that so much of its time has been taken up with matters that should have been properly elucidated by departmental officers.<sup>5</sup>

1.16 In the report, the Committee called on DOFA to provide all relevant information by Friday 13 July 2001 so the Committee could settle the matter before its final report.

1.17 In response, DOFA explained that, in its opinion, it had provided all relevant information relating to the status of the submissions to the independent review and had ‘no further material to provide to the Committee’. The Committee is clearly not of the same view.

1.18 The Committee appreciates that poor record keeping and lack of documentation may create difficulties for the department to clear up the confusion surrounding the status of the Review records. However, as the staff of the secretariat were DOFA officers and the Humphry Review records are currently held by the department, surely it is capable of clarifying matters. The Committee would expect the department to do its utmost to help the relevant officers with this task and that it has not done so is further evidence that the department has not fulfilled its role in the delivery of a public service.

1.19 Further, the Committee reminds the department and the officers of the Review secretariat that if, as evidence indicates, these documents are Commonwealth records they should be transferred into the custody of the National Archives of Australia for appropriate management as required by the *Archives Act 1983*.<sup>6</sup>

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5 Finance and Public Administration References Committee, *Inquiry in to the Government’s Information Technology Outsourcing Initiative: Accountability Issues—Two Case Studies*, p. 12.

6 The letter of appointment signed by the Hon John Fahey, Minister for Finance and Administration, to Mr Richard Humphry (Undated copy) stated: ‘All material created, derived or provided to you for the purpose of your Review shall be and remain the property of the Commonwealth.’ See Finance and Public Administration References Committee, Interim Report, *Accountability Issues- Two Case Studies*, June 2001, pp. 8–13.

## Recommendation No. 1

**Although the secretariat to the Humphry Review no longer exists, the Committee recommends that DOFA, acting as a responsible body and a department of State, immediately undertake the task of obtaining advice from the National Archives of Australia on the status of documents and material received and generated by the Humphry Review. If they are deemed to be Commonwealth records the department should ensure their proper management and disposal.**

### *Production of documents*

1.20 Following the Government's compliance on 4 April 2001 with two Senate orders for the production of documents relating to the Initiative, the Committee was again in the position of having to order the production of documents that were not provided in response to a Committee request. These events have been described in the first and second interim reports.

1.21 On 22 May 2001, the Committee resolved to issue an order under Standing Order 25(15) for the Office of Assets Sales and Information Technology Outsourcing (OASITO) to provide the evaluation reports relating to the Health Group. Due to a number of irregularities during the Health Group tender process, the Committee was concerned that the probity of the process may have been compromised. As a means of satisfying itself of the integrity of the process, the Committee sought access to unexpurgated copies of the evaluation reports. The Minister directed OASITO not to comply and, following further correspondence between the Committee and the Minister, he refused to provide the documents in full on the ground of public interest immunity.

1.22 After receiving advice of the Minister's direction to OASITO, the Committee considered its options for achieving its objective without placing at risk highly sensitive information. It decided to write to the Auditor-General requesting him to consider conducting an audit of the tendering process for the Health Group. On 28 June 2001, the Attorney-General wrote to the Committee that he would conduct the audit. In light of this decision the Committee then agreed not to persist with its order of 22 May. It nonetheless reserves the right, as a committee of the Parliament with the power to send for persons or documents, to do so at any time in the future.

1.23 The Committee remains convinced that the actions of DOFA, OASITO and the Minister for Finance and Administration, in failing to provide adequate, necessary and timely information, has prevented the Committee from fulfilling its reporting obligations to the Parliament. The Committee has noted this obstruction to the process of parliamentary accountability and, while choosing not to pursue the information in the chamber, is highly critical of the agencies and Minister concerned.

1.24 The Committee believes that it has not had adequate access to key documents and has not received clear, full and accurate information in response to some

questions. In its opinion, OASITO resorted, far too often and without grounds, to claims of commercial confidentiality to withhold or delay providing information. Furthermore, both DOFA and OASITO have found great difficulty in providing coherent and clear answers to a number of questions and their delay in providing material has meant that key information was not available in sufficient time for it to be followed up with witnesses.

1.25 Throughout the inquiry, the Committee relied on the good offices of agencies involved in this tendering process to ensure that it was fully and properly informed and that the principles of accountability and fairness were upheld. The Committee believes that it has been ill-served by DOFA and OASITO and by the responsible minister.

### **Structure of the report**

1.26 The Committee decided to follow closely the terms of reference in structuring this report, placing a heavy emphasis on the means to ensure that any future IT outsourcing is an efficient, effective and ethical use of Commonwealth resources. The first section provides the background to outsourcing public sector IT in Australia and the early days of the Government's implementation of the Initiative. The second section of the report looks at the tendering process, the role of probity auditor, contract management and particular aspects of the outsourcing arrangement including privacy, intellectual property, incentives and sanctions, contract confidentiality and accountability. The third section of the report looks at two specific and important aspects of the Initiative—industry development and cost savings. The final chapter draws together the main themes that emerged in the inquiry as outlined in the report and examines their place in the new IT outsourcing environment.

### **Acknowledgments**

1.27 The Committee wishes to express its appreciation to those who contributed to the inquiry by making submissions, providing other information or appearing before the Committee at public hearings.